

MANITOBA) **Order No. 106/07**
)
THE PUBLIC UTILITIES BOARD ACT) **August 15, 2007**

BEFORE: Graham Lane, C.A., Chairman
Len Evans, LL.D., Member
Eric Jorgensen, Member

2007 COMPETITIVE LANDSCAPE PROCEEDING
MOTION BY
DIRECT ENERGY MARKETING LIMITED AND
ENERGY SAVINGS (MANITOBA) L.P.
PROVISION OF INFORMATION BY CENTRA GAS MANITOBA INC.

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1.0 Executive Summary

In this Order, the Public Utilities Board (Board) grants the relief sought in a Motion by Direct Energy Marketing Limited (DEML) and Energy Savings (Manitoba) L.P. (ESMLP) (collectively, DEML/ESMLP, or the Retailers, or the Brokers). Centra Gas Manitoba Inc. is required to:

- i) provide drafts or Reports, and answer Information Requests DEML/ESMLP/Centra/NRG IR No. 1 and No. 22;
- ii) provide the SPSS data file or Excel file containing the raw data related to the frequencies or percentages as contained in the Customer Research Report; and
- iii) provide a transcript of the audiotapes from the June 6th and 7th, 2007 focus group sessions, with all personal and identifying information removed.

2.0 Background

On July 24, 2007, DEML/ESMLP filed a motion with the Board for information and documents related to the June 12, 2007 report entitled "*Manitoba Hydro Natural Gas Customer Research Report*" authored by NRG Research Group, and the July 3, 2007 report entitled "*Manitoba Hydro Natural Gas Customer Review Focus Group Report*" June 2007 (collectively the Reports). Both Reports have been filed by Centra in the Natural Gas Landscape Review proceeding before the Board.

3.0 Motion and Response

The Brokers' motion sought three specific aspects of relief:

i) Production of Drafts of the Reports

The Brokers sought production of draft copies of the Reports to test whether the conclusions were independently reached by the consultant, or to determine the extent to which Centra staff had direct involvement in the drafting of the Reports.

Centra opposed production of the drafts of the Reports, submitting drafts of the Reports are not relevant and that filing draft Reports is not a traditional practice in Manitoba. Centra also submitted that the information requested would be used to call into question the credibility of its staff or experts. That indicated, Centra noted it is prepared to file copies of the drafts in confidence with the Board. In reply, the Brokers maintain the relevance of the drafts of the Reports is to assess the independence and objectivity of the market research that has been filed in this proceeding.

For Centra to only file those drafts with the Board, and in confidence, as suggested by Centra, was opposed by the Brokers who indicated that the independence and objectivity of the Researchers in designing and conducting the customer research will be an issue in the proceeding and DEML/ESMLP's efforts to explore such issues would be impeded if they are not provided with the draft Reports.

ii) Production of Source Data

The Brokers advised that its consultant requested copies of the source data for the Reports, apparently contained in an SPSS data or an Excel file, containing the raw data. The information was requested to permit the Brokers to verify the accuracy of the frequencies or percentages that are contained in the data tables and reflected in the Reports.

Centra submitted that production of the requested source data would serve no useful or meaningful purpose to the discovery process, and advised that the authors of the Reports will be witnesses at the up coming hearing and available to answer questions about their work. The Brokers' replied that they too should be permitted to check the Reports for errors, in advance of the hearing, and to have an impartial opinion from their expert as to whether the source data was correctly interpreted.

iii) Focus Groups Tapes/Transcripts

The Brokers requested production of the audio tapes and/or transcripts of the focus group session conducted on June 6 and 7, 2007. Again, the Brokers seek to verify the accuracy, fairness and balance of the comments included by the Researchers in the Reports.

Centra resisted production of these focus group audiotapes/transcripts on the basis that there was a promise to participants that the answers would be kept confidential and be used for research purposes only. Additionally, Centra indicated that it has an obligation to protect participants' personal information, pursuant to provincial legislation. Centra further suggested that all parties were aware of Centra's plans and that it was open to the other parties to conduct their own customer research.

In reply, the Brokers indicated no interest in any personal information about any of the participants, but seek to review the fair opinions of unidentifiable focus group participants about the sale of natural gas in Manitoba. The Brokers requested that the information be provided in a form that separates and removes expressed opinions from potentially identifying personal information.

Another party, intervener to the proceeding CAC/MSOS, indicated agreement with Centra's position, and adopted Centra's reasoning in opposing production of the requested information and documents.

4.0 Board Findings

The Reports filed by Centra are included in the evidence of the Natural Gas Landscape Proceeding. The timing of the filing of these Reports caused some procedural issues, which the Board appreciates the parties attempted to resolve. However, there remains three specific areas of information and/or documents related to the Reports that DEML/ESMLP has requested through its motion that Centra, for stated reasons, resisted production and/or disclosure. The three specific aspects of the Brokers' request are: the drafts of the Reports; the Source Data for the Customer Research Report; and the Focus Group audiotapes/transcripts.

The Board finds that:

- a) all of the requested information/documents are relevant to the proceedings; and
- b) there are no compelling or insurmountable reasons to withhold production.

The drafts of the Reports have been requested in Information Requests and Centra will be required to answer the Information Requests and produce the drafts. Production of the drafts at this time will help to ensure transparency and efficiency during the hearing.

The production of the Source Data, at this time, will permit the Brokers' expert to assess whether the results expressed in the Customer Research Report are consistent with the data collected during the course of the research.

The Board appreciates that participants in the Focus Group were told that the answers would be used only for research purposes, also that Centra appropriately wants to protect the personal information of those participants. Those concerns by Centra can be accommodated by Centra, or its consultant, preparing a typed transcript of the Focus Group sessions wherein the Focus Group participants remain anonymous and unidentifiable, and with no personal information being disclosed in the transcript. With the exception of the transcript, the information requested is available to Centra and will not cause Centra to incur significant expense to produce the information.

At the Cost of Gas proceeding, which resulted in Board Order 175/06, there was reference to customer market research that Centra intended to undertake. The Board directed Centra to expand the scope of the customer research, and develop and file with the Board a plan for such customer research.

At Centra's recent General Rate Application proceeding, it was disclosed that the plan developed by Centra had been implemented and the research was complete except for the filing of the Reports. The concern that the Board had, which resulted in the request for a customer market survey plan to be developed and brought forward to the Board, was to avoid challenges and disagreements over the design and methodology of such research, so as to allow the parties to focus on the results.

It is therefore a concern to the Board that the customer market survey plan was not brought forward for review and that, at least for the Brokers, the independence and objectivity in the design and conduct of the customer research has become an issue in the upcoming proceeding.

