

MANITOBA
THE PUBLIC UTILITIES BOARD ACT

Order No. 19/09
March 16, 2009

Before: Graham Lane, CA, Chairman
Leonard Evans, LLD, Member
Monica Girouard, CGA, Member

**CENTRA GAS MANITOBA INC.'S APPLICATION TO
REVIEW AND VARY ORDER 156/08**

Table of Contents

	Page
1. EXECUTIVE SUMMARY	1
2. INTRODUCTION	2
3. BACKGROUND	2
4. APPLICATION TO REVIEW AND VARY	4
5. POSITION OF ESMLP/DEML	7
6. CENTRA'S RESPONSE TO ESMLP/DEML	8
7. FINDINGS	9
8. BOARD DIRECTIVES:	13

1. Executive Summary

By this Order, the Public Utilities Board (Board) approves Centra Gas Manitoba Inc.'s (Centra) request to Review and Vary Order 156/08. The change amends the requirement to physically segregate its Direct Purchase staff and provide for controlled access to their workspace. Also, the Board approves Centra's Standard of Conduct for the sale and marketing of Fixed Rate Primary Gas Service offerings, and permits Centra to continue to develop and market these offerings to small volume consumers in its franchise areas.

Order 156/08 approved Centra's Application to offer Fixed Rate Primary Gas Services, but required additional documentation before Centra was permitted to initially offer these services to consumers. Centra submitted the requested documentation, which was then approved by the Board by way of a letter to Centra, that is with the exception of Centra's proposed Standard of Conduct.

The Standard of Conduct specified that Centra would segregate commercially sensitive marketer information, so that only Centra staff in its Direct Purchase department, as well as select IT, customer service, and managerial staff, would have access. Segregating this information is important so as to best ensure that Centra does not obtain a competitive advantage as a result of having access to the start and end dates of contracts between consumers and marketers.

In Centra's proposed Standard of Conduct, commercially sensitive marketer information is to be electronically protected and controlled. However, this was not in accordance with Order 156/08, which required physical separation of the Direct Purchase staff and controlled access to their workspace. In response, Centra indicated it could not comply with this requirement and applied to the Board to Review and Vary Order 156/08.

After consulting with the marketers and with Centra, the Board accepts Centra's representations and proposed approach and varies Order 156/08, by lifting the

requirement to physically separate Direct Purchase staff from other Manitoba Hydro and Centra departments, and will not require controlled access to their physical workspace.

That said, the remaining restrictions established by Order 156/08 pertaining to controlling access to commercially sensitive marketer information, both paper and electronic, remain in force.

2. Introduction

On December 2, 2009, through Order 156/08, the Board approved Centra's Application for Fixed Rate Primary Gas Services. By that Order, Centra was permitted to begin developing and marketing fixed rate Primary Gas service offerings to Small General Service and Large General Service customer classes.

Centra was required to submit further documentation, including a Standard of Conduct, for approval by the Board. The originally proposed Standard of Conduct did not meet with the Board's approval because of Centra's proposed provisions for controlling access to commercially sensitive marketer information. Finding difficulty with this requirement, Centra applied to the Board to Review and Vary the requirements.

This Order considers the arguments put forth by Centra and the marketers, and provides the Board's findings.

3. Background

By Order 160/07, the Board made changes to the natural gas competitive landscape. Many of those changes are to the rules for acquiring customers that are applicable to existing marketers of fixed rate Primary Gas service offerings. Order 109/08 further codified the rules. Another change resulting from Order 160/07 was that Centra was permitted to apply to the Board to offer fixed rate Primary Gas services. Previously, Centra was restricted to offering only the default Primary Gas product, which has a price set every three months and requires no contract.

By Order 156/08 Centra's Application to offer fixed rate Primary Gas service offerings was approved; the Order included the specifics of how Centra was to develop, price, and market these offerings. Order 156/08 also approved the specific pricing mechanism, including required hedging procedures, the establishment of a Volumetric Risk Premium to protect Centra from a variety of risks arising from fixing the selling price, and a Program Cost Rate, the latter designed to recover Centra's administrative costs in offering fixed rate services.

Order 156/08 also identified certain deficiencies in Centra's Application, and requested that Centra rectify these prior to proceeding with its initial offering. Centra was required to file with the Board the following:

- a revised Program Cost Rate, to include costs incurred through regulatory matters pertaining to the Fixed Rate Offering program;
- a revised hedging policy;
- revised hedging operating principles and procedures;
- revised form of customer contract; and
- a revised Standard of Conduct to include enhanced procedures for protecting commercially sensitive marketer data, procedures for handling customer and marketer complaints, details on customer contact centre scripts, and procedures for internal auditing.

Centra filed the first four documents with the Board on December 12, 2008, and received approval of these documents from the Board on December 23, 2008. Centra filed a revised Standard of Conduct with the Board on January 30, 2009.

The Board's review of the revised Standard of Conduct determined that it was non-compliant with respect to six issues, five of which Centra addressed in a subsequent revision of February 4, 2009. The five issues that Centra addressed to the Board's

satisfaction were: call centre personnel training, compliance audit frequency and scope, compliance reporting requirements, wording related to pricing and incentives, and elimination of renewal provisions. The Board approved the revised Standard of Conduct with the exception of the provisions for controlling access to commercially sensitive marketer information.

In Order 156/08, the Board specified that there be physical segregation of the Direct Purchase department and staff from other Manitoba Hydro and Centra departments. Centra's interpretation of the Order was that segregating the electronic databases by password-protecting fields containing commercially sensitive marketer information was sufficient. Furthermore, Centra stated that segregating the Direct Purchase department staff and their workspaces from other staff was not practical in the context of the new Manitoba Hydro office building, which is an "open concept" building without either lockable offices or controlled access to floors of the building.

Being unable to comply with the Board's interpretation of 156/08, Centra sought relief from these requirements by filing an Application to Review and Vary Order 156/08.

4. Application to Review and Vary

Centra filed an Application to Review and Vary Order 156/08 on February 13, 2009, requesting that the Board vary the direction in the Order in respect of the requirement to physically segregate the Direct Purchase department staff and to provide controlled access to the Direct Purchase department physical workspace.

In its Application to Review and Vary, Centra sought clarification from the Board whether its interpretation of Order 156/08 was correct, i.e.:

"...that if physical separation and controlled access to the employees were not feasible that, absent such segregated work areas, segregated and protected databases would be sufficient to protect Commercially Sensitive Marketer Information."

Centra requested that if Centra's interpretation of Order 156/08's directions were not correct, the Board vary the requirement.

Centra provided reasons for requesting the variance, the overarching reason being an inability to physically separate the Direct Purchase department physical workspace from other staff and departments within Manitoba Hydro's new building prior to the scheduled introduction of Centra's fixed rate offerings, and that it was neither practical nor economically feasible to control access or physically separate the Direct Purchase department. Employees in the Direct Purchase department process the Direct Purchase transactions generated from the marketing activity of natural gas marketers including Centra.

Centra explained that to physically separate the Direct Purchase department would require renovations to the building and relocation of the planned workspaces. Further, Centra advised that security is such that access is controlled only at the main entrance of the building, not between different areas or floors of the building.

However, Centra indicated that its Direct Purchase department is on the 12th floor of the new building while the Customer Service and Marketing department, which has responsibility for developing the Fixed Rate Offering marketing plans and determination of both the volumes and the timing of the offerings, is located on the 6th floor.

Centra stated that the Customer Service and Marketing department receives and processes the customer applications for Fixed Rate Offering service. Its Direct Purchase department currently processes contract submissions from marketers, and will receive the contracts forwarded from the Customer Service and Marketing department. Centra stated that the Direct Purchase department will treat Fixed Rate Offering contracts and marketer contracts the same; that is, there will not be any preferential treatment afforded to Centra's contracts.

Centra's Proposal

Instead of physically separating and controlling access to the Direct Purchase department workspace, Centra suggested that electronic segregation of commercially sensitive marketer information would be sufficient to protect the interests of the marketers. Centra stated that electronic segregation has already been implemented, and that hard copies and portable storage devices of commercially sensitive marketer information are kept in locked cabinets.

Centra maintained that safeguarding the electronic data would be more secure than controlling physical access to the workspaces. Centra advised that it has undertaken changes to its customer service and billing software to password-protect the fields containing commercially sensitive marketer information, and that it plans to restrict access to these databases such that the vast majority of employees using the billing software will not have access to the sensitive information.

Centra confirmed that a larger number of employees than was identified in the Fixed Rate Offering proceeding will require access to the databases and fields containing commercially sensitive marketer information, and provided an expanded list of employees in its Application, along with the reason for each job position to have access.

Centra affirmed that employees are trained to protect sensitive customer information, and that access to such information is restricted through the *Freedom of Information and Protection of Privacy Act*. Centra further advised that such employees will also be informed as to the requirements of the Standard of Conduct.

Centra stated that its marketing efforts are directed towards informing customers so as to ensure customers understand their Primary Gas choices and options, as opposed to being an effort to convince customers to subscribe with Centra.

Centra stated that the utility is indifferent to which Primary Gas option a customer selects, and that there are no incentives or benefits available to Manitoba Hydro employees that are contingent upon which option a customer chooses.

5. Position of ESMLP/DEML

Energy Savings Manitoba L.P. (ESMLP) and Direct Energy Marketing Limited (DEML) are natural gas marketers licenced by the Board to sell natural gas fixed rate Primary Gas supply contracts to consumers within Centra's franchised areas.

In response to Centra's Application to Review and Vary Order 156/08, ESMLP and DEML submitted a joint letter requesting that the Board deny Centra's Application. ESMLP and DEML expressed concern over a perceived lack of protection Centra afforded to commercially sensitive marketer information, and requested that the Board require Centra to comply with Order 156/08 (Centra would be required to physically separate its Direct Purchase staff from other staff, and provide controlled access to their workspace).

ESMLP and DEML stated that Centra had not provided evidence that physical separation of the Direct Purchase staff couldn't be achieved, and that Centra had failed to provide a cost estimate or project timeline.

Centra stated that it cannot segregate Direct Purchase staff prior to introduction of the Fixed Rate Service, while ESMLP and DEML requested that implementation of Centra's Fixed Rate Service be delayed until such time as Centra complied with Order 156/08 and segregated the staff.

ESMLP and DEML stated that Centra underestimated the need for separation between the regulated and fixed rate service areas of its business. As there are no locked offices or controlled access areas within the new Manitoba Hydro office building, ESMLP and DEML held that Centra has not complied with either the spirit or intent of Order 156/08, which requires physical separation with controlled access. ESMLP and DEML maintained that locked cabinets do not provide the same security as a locked door, as employees can inadvertently leave sensitive data on their desks or leave computers unattended.

The marketers highlighted the fact that Centra identified additional positions that now require access to commercially sensitive marketer information. As these positions were not identified in the Fixed Rate Offering proceeding, ESMLP and DEML questioned whether the new list is a complete list, as well as questioned the total number of employees requiring access.

ESMLP and DEML contended that password protecting fields within a database is insufficient security for commercially sensitive marketer information, and recommended electronic segregation of the data through the use of encryption and electronic vaulting.

In addition to requesting that Centra be required to physically segregate its staff and provide controlled access to their workspace, the marketers requested that the Board direct Centra to cease marketing its Fixed Rate Offerings until such time as Centra is able to comply with Order 156/08. Lastly, the marketers stated that the cost consequences of complying with Order 156/08 should be allocated to the Fixed Rate Offering program, and not to all ratepayers.

6. Centra's Response to ESMLP/DEML

Centra responded to the concerns expressed by ESMLP and DEML by stating that access will be controlled and restricted to both electronic and paper versions of commercially sensitive marketer information, as required by Order 156/08, and that access will be controlled to the information itself and not to the workspace or employees.

Centra advised that Direct Purchase staff are trained to not leave commercially sensitive marketer information on their desks, but in locked cabinets, and that the computer screens of Direct Purchase staff are programmed to lock after a short time, and require a password to unlock.

Centra reiterated that while commercially sensitive marketer information includes the start and end dates of customer contracts this information is required by billing staff and cannot be encrypted or vaulted.

Centra advised that the additional employees that the utility identified after the Fixed Rate Offering proceeding as requiring access are mostly involved in testing, updating, and operating the billing system, as well as making billing adjustments.

Centra contended that it has complied with the spirit and intent of Order 156/08 by segregating and controlling access to commercially sensitive marketer information, and, as for physical separation of employees, the Direct Purchase staff that deal with Commercially Sensitive Marketer Information on a daily basis are located on a separate floor from the staff that develop and market Centra's Fixed Rate Offerings.

7. Findings

The Board understands the concerns of the marketers. Throughout the Competitive Landscape proceeding and the Fixed Rate Offering proceeding, the marketers stated that Centra, as the incumbent utility, had competitive advantages over the marketers and if allowed to offer fixed rate Primary Gas services would hold an unfair competitive advantage.

Yet, as the local distribution company, Centra requires commercially sensitive marketer information in order to bill marketer customers under its Agency, Billing, and Collection service. The Board is aware that abuse of this information could provide a competitive advantage to Centra, as it would involve making use of when marketer customers' contracts are expiring to target marketing efforts towards these customers in an effort to switch them to Centra's Fixed Rate Offerings.

In the course of developing its Fixed Rate Offerings, Centra must estimate the number of customers likely to contract with Centra and the corresponding volumes, to hedge. And, knowledge of the number of expiring marketer contracts could assist Centra in planning the offering.

Clearly, the department within Centra that estimates the potential number of customers and decides the corresponding volumes to hedge would gain an unfair competitive advantage if it were allowed access to commercially sensitive marketer information, such

that it could refine its customer and volume forecasts. Therefore, controlling access to commercially sensitive marketer information is imperative, and thus was the impetus behind the Board's direction in Order 156/08.

Centra's Application maintains that controlling access to such information is most effectively accomplished by controlling access to the electronic information and physically locking any paper copies of this information. In Centra's opinion, physically segregating the workspaces brings no major improvement.

The marketers, on the other hand, state that physical separation is essential to controlling access to their information, and that even password-protected database fields do not accomplish the necessary electronic segregation of the data.

The Board agrees with the marketers that it is imperative that commercially sensitive information be protected and restricted from the departments in Centra that control and decide on the scope of Centra's Fixed Rate Offerings. The question before the Board is whether Centra's proposal for electronically restricting commercially sensitive marketer information is sufficient, or whether physical segregation as proposed by the marketers is required.

The Board finds that Centra's proposal for electronically segregating commercially sensitive marketer information is sufficient to protect the marketers' interests and can reasonably be expected to prevent abuses by Centra's marketing and Fixed Rate Offering staff.

Electronic protections will prevent both intentional and inadvertent access by inappropriate Centra and Manitoba Hydro staff. The Board accepts Centra's contention that there is no motivation for Centra or Manitoba Hydro employees to access this information for improper purposes, as there is no benefit to employees if customers contract with Centra. The Board accepts that Manitoba Hydro employees, and Manitoba Hydro and Centra as well, are or have been financially indifferent to whether a customer contracts with Centra, contracts with a marketer, or remains on Centra's default supply.

The Board will approve Centra's Application to Review and Vary the direction contained within Order 156/08, in respect of the provisions of the Standard of Conduct pertaining to the physical separation of Direct Purchase staff and controlling access to their physical workspace.

At the time that it issued Order 156/08, the Board was neither aware of the configuration of Manitoba Hydro's new office building, nor as to which Centra departments would ultimately occupy the various floors and areas of the building. Also, Centra had not sufficiently informed the Board of its plans and procedures for controlling and protecting access to commercially sensitive marketer information. Based on Centra's recent submissions, the Board is satisfied that the information will be suitably protected.

Furthermore, Centra confirmed during the Fixed Rate Offering proceeding that its marketing efforts would be focused on educating consumers regarding their options for purchasing Primary Gas. Their marketing efforts would not attempt to "sell" their product as being superior to either the Primary Gas products of marketers or that of Centra itself. Centra confirmed that it would not selectively target its marketing efforts either towards or away from existing marketer customers, but instead would randomly target Small General Service and Large General Service consumers.

The Board's interest remains the public interest; that being the motivation for allowing Centra to enter the fixed rate and fixed term Primary Gas market. In Order 160/07, the Board found that a truly competitive marketplace for natural gas had not formed in Manitoba. Centra's entry into this market will increase customer choice, offer new products, and provide a benchmark price for consumers.

Centra's proposed entry into this market was reviewed in the course of the Fixed Rate Offering proceeding, and issues such as the proper allocation of costs were then canvassed. The Board is satisfied that Centra's cost allocation methodology and Volumetric Risk Premium will hold default system supply and marketer customers harmless over time from the net cost consequences of Centra's entry into this market.

As electronic segregation and protection of sensitive information is sufficient, the Board sees no need to require Centra to physically separate its Direct Purchase department from other Centra and Manitoba Hydro departments. This would incur needless expense and not benefit the public interest.

Centra's Standard of Conduct codifies the requirements and activities of Centra and Manitoba Hydro staff, including the treatment and protection of Commercially Sensitive Marketer Information. The Board hereby approves Centra's Standard of Conduct as filed with the Board on February 5, 2009.

The Standard of Conduct confirms that all forms of electronic commercially sensitive marketer information is to be protected by password or login ID, such that only those positions listed in Attachment 1 of the Standard of Conduct have access to this Information. Physical separation of the Direct Purchase staff from other Centra and Manitoba Hydro staff, especially marketing and fixed-rate offering staff, is not required. Nor is controlled access to the Direct Purchase department physical workspace required, although Centra must maintain all hard copies of commercially sensitive marketer information and portable storage devices in locked cabinets when not in use. Each time when Manitoba Hydro/Centra Direct Purchase department staff leave their workspace, they are to ensure that their computer terminals are secured and all sensitive information is locked away. The Direct Purchase department is to remain on a separate floor from the marketing and fixed rate offering departments.

8. BOARD DIRECTIVES:

BE IT ORDERED THAT:

1. Centra Gas Manitoba Inc.'s Application to Review and Vary Order 156/08 BE
AND IS HEREBY APPROVED.
2. Centra Gas Manitoba Inc.'s Standard of Conduct as filed February 5, 2009 BE
AND IS HEREBY APPROVED.

The Public Utilities Board

"GRAHAM LANE, CA"

Chairman

"G. GAUDREAU, CMA"

Secretary

Certified a true copy of
Order No. 19/09 issued by
The Public Utilities Board

Secretary