

MANITOBA
THE PUBLIC UTILITIES BOARD ACT
THE MANITOBA HYDRO ACT
THE CROWN CORPORATIONS PUBLIC
REVIEW AND ACCOUNTABILITY ACT

Order No. 100/09

June 17, 2009

BEFORE: Graham Lane CA, Chair
Robert Mayer Q.C., Vice-Chair
Susan Proven, P.H.Ec., Member

REQUEST TO REVIEW AND VARY ORDER 32/09
RE MANITOBA HYDRO RATES FOR SERVICE
EFFECTIVE APRIL 1, 2009

SUMMARY

The Public Utilities Board received a request dated April 21, 2009 from Mr. Allan Ciekiewicz to review, rescind, change, alter or vary Board Order 32/09. Order 32/09 sets rates for electricity service by Manitoba Hydro effective April 1, 2009.

The Board herein denies Mr. Ciekiewicz's application.

APPLICATION

Mr. Ciekiewicz, while not having been granted intervener status, was considered a participant in the paper review leading to approved rates for April 1, 2009, by virtue of his participation in the 2008 oral hearing process.

In his application, Mr. Ciekiewicz cited eight premises upon which his application was based.

1. Manitoba Hydro's projections, underlying its application, are unreliable based on a comparison of estimate to actual results since 1999;
2. Manitoba Hydro has not taken acceptable or substantive action to protect itself against drought other than the setting aside of retained earnings;
3. Manitoba Hydro has achieved its targeted debt:equity ratio of 75:25 thereby eliminating the necessity for any further contributions to retained earnings;
4. The rate increase of April 1, 2009, in at least some part, is intended to pre-fund future capital construction projects;
5. The rate increases recently granted Manitoba Hydro, including the April 1, 2009 increase, represented excessive rate increases especially in light of the recession which was extant at the time of the Order;
6. Insufficient consideration had been given in the design of inverted rates to customers who must heat their homes electrically;
7. The assertion that Manitoba Hydro rates are amongst the lowest in North America should not be a consideration in rate design; and

8. It is inappropriate to compare increases in electricity rates to increases being experienced by other customers who use alternate heating sources.

As required under Section 2(d) of the Rules of Practice and Procedure, Mr. Ciekiewicz went on to list his expected remedies as follows:

“Each remedy sought will reference the appropriate Background Part. After review by the Board, it is my expectation that parts of Board Order 32/09 be varied, rescinded, changed, altered to include the following:

- (a) Manitoba Hydro to include clause(s) in all of Manitoba Hydro’s firm export contracts that would excuse Manitoba Hydro from its firm export contract obligations during times of drought or other disasters; and (reference Part 2)*
- (b) as Manitoba Hydro has surpassed its target debt:equity ratio of 75:25 that the Manitoba Government can not receive any dividend payment; and (reference Parts 1, 3)*
- (c) that future Board Orders should not rely on comparisons between residential electric rates and gas rates when deciding a rate increase or decrease for electricity rates; and (reference Part 8)*
- (d) that the conditional rate increase of 2.9% effective April 1, 2009 be rescinded and replaced by either (i) no increase or (ii) instead of an increase, a decrease of the rates that were in effect as of February 2009 by the amount equal to the rate of inflation as of March 30, 2009; and (reference Parts 3, 4, 5, 8)*
- (e) that the present and future consideration of an inverted rate schedule consider, besides the block size and rate portion of each block, the effects of the severity of temperatures during the heating season; and (reference Part 6)*
- (f) that rate increases can not be justified by the continual mention of Manitoba Hydro’s low? Electricity rates as compared to other utilities without documents containing pertinent information, other than rates, to justify such a claim that Manitoba Hydro is the lowest or amongst the lowest in North America. (reference Part 7)”*

PROCEDURAL ENVIRONMENT

Mr. Ciekiewicz’s application was made under Section 36 of the Board’s Rules of Practice and Procedure. In accordance with Rule 36(3), Mr. Ciekiewicz’s application was received within 30 days of the issue of the Order in question.

The Rules go on to say:

“36(4) The Board shall determine, with or without a hearing, in respect of an application for review, the preliminary question of whether the matter should be reviewed and whether there is reason to believe the order or decision should be rescinded, changed, altered or varied.

36(5) After determining the preliminary question under subsection (4), the Board may:

a) dismiss the application for review if,

i) in the case where the applicant has alleged an error of law or jurisdiction or an error in fact, the Board is of the opinion that the applicant has not raised a substantial doubt as to the correctness of the Board’s order or decision; or

ii) in the case where the applicant has alleged new facts not available at the time of the Board’s Hearing that resulted in the order or decision sought to be reviewed or a change of circumstances, the Board is of the opinion that the applicant has not raised a reasonable possibility that the new facts or the change in circumstances as the case may be, could lead the Board to materially vary or rescind the Board’s order or decision;

or

b) grant the application; or

c) order a hearing or proceeding be held.”

BOARD FINDINGS

The Board has carefully reviewed the 14 page application from Mr. Ciekiewicz and has determined that he has raised no issues which the Board was not aware of in considering Order 32/09 and in arriving at its decisions and directives. Nothing in the material submitted has raised any doubt as to the correctness of the Board’s Order or decision.

IT IS THEREFORE ORDERED THAT:

1. The request submitted by Mr. Allan Ciekiewicz to review and vary Order 32/09
BE AND IS HEREBY DENIED;
2. Order 32/09 as issued stands.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"GERRY GAUDREAU, CMA"

Secretary

Certified a true copy of Order No. 100/09
issued by The Public Utilities Board

Secretary