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REFERENCE NO: 003991-0135

October 24, 2024

The Public Utilities Board of Manitoba  
400-330 Portage Avenue  
Winnipeg, MB R3C 0C4  
Attention: Rachel McMillin  
Associate Secretary

Dear Ms. McMillin:

**Re: PHC – October 29, 2024**

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I would appreciate if you would bring this letter to the attention of the Board. I have a long standing prior commitment on October 24, 2024, and unfortunately I will not be able to attend the PHC. Mr. Darren Rainkie will appear in my stead to represent CAC. However, I feel compelled to deal with an unfortunate impediment recently thrust in the way of CAC having unrestricted access to Centra's unredacted GRA filing.

### **MH CSI Requirement**

On October 7, 2024, Centra filed its 2025 GRA Application. On October 10, 2024, MH (Centra) requested a signed Undertaking of Confidentiality (U of C) from me and a signed NDA from Darren Rainkie and Kelly Derksen along with a Personal Risk Assessment (PRA) from all of us.

On October 16, 2024, I responded to MH enclosing the signed NDAs & U of C, but we refused to sign the PRA (see attachment A). On October 18, 2024, in a response MH stated CAC would not have access to the unredacted filing without us signing a PRA (see attachment B).

### **CAC Position**

It is indeed unfortunate that before we even 'get out of the gate' we are faced with an unjustifiable and heavy-handed impediment to CAC's participation. The request (demand) is unwarranted for the following reasons in no order of importance:

Calgary

Airdrie

Regina

Winnipeg

1. This PRA is a new requirement by MH (see attachment C). Until now the signing of a NDA & U of C was more than sufficient and still remains sufficient for the purpose of CSI protection. The justification is that paper copies will no longer be made available stating that "Paper copies can easily be lost or stolen, and the risk of inadvertent disclosure is high." There is no support for such an excessive assertion. I can assure the Board that the risk of some vandal breaking into our offices or into Mr. Rainkie or Ms. Derksen's home, seeking out and purloining MH's filings and selling them to the highest bidder is nonexistent. The gossamer argument has no merit or historical support. As a matter of fact, paper copies are more secure and can be returned to MH on a moment's notice.
2. The PRA is a criminal background check. The heading is "New Hire – Current MH Employee – Contractor – Visitor" none of which labels pertain to myself or CAC consultants. Furthermore the PRA:
  - a. requires personal ID (2 legible valid pieces);
  - b. requires the consent of the applicant to agree to a criminal background check, which, and in of itself, is offensive;
  - c. more broadly allows the Security Department of MH to perform a complete and thorough Background Investigation to ensure that I (we) "have the necessary characteristics to perform as an employee or contractor", whatever that means; and,
  - d. waives any right of action against MH for any harmful use of the information.
3. We are all statutorily regulated. I am a member in good standing with the Law Society of Manitoba. Mr. Rainkie and Ms. Derksen are members in good standing with the Institute of Chartered Professional Accountants of Manitoba. None of us could practice in our respective professions in the province if we had criminal records. Apparently, it is a necessary reminder that I have represented CAC in any manner of hearings and proceedings for 40+ years; Mr. Rainkie was an employee of MH for 23 years (including the acting CEO of the company), and Ms. Derksen was an employee with MH for 23 years.
4. From what I can quickly discern, Regulators in other Canadian jurisdictions where Mr. Rainkie and Ms. Derksen practice (BC, Nova Scotia, New Brunswick) do not require a PRA for intervenor counsel and consultants (who do not represent competitors of the utility) to access CSI for regulatory purposes. For example, the British Columbia Utilities Commission (BCUC) only requires a short Confidentiality Declaration and Undertaking to access CSI (see attachment D) for utilities such as FortisBC Energy Inc. (FEI) (a primary provider of Natural Gas in BC and 6 times the size of Centra) and the Nova Scotia Utility & Review Board (NSURB) and New Brunswick Energy & Utilities Board (NBEUB) do not require a signed PRA for



utilities such as Nova Scotia Power Inc. (NSPI) and Liberty Utility Gas New Brunswick LP (LUGNB). Obviously, FEI, NSPI and LUGNB have similar business operations and similar concerns with respect to CSI MH, but do not require a PRA to be signed. Rather, confidentiality agreements and undertakings are sufficient to protect against the risk of disclosure of CSI, which utility applications are exclusively addressed by electronic means.

5. Lastly, from what I understand neither of the Board members nor its legal counsel or consultants are required to sign a PRA. How does that half measure protect MH? Neither CAC's legal counsel nor its consultants have been obliged to sign a PRA in MH or MPI proceedings

I am attaching a letter directly from CAC (see attachment E) expressing its concern over this unnecessary requirement. I urge the Board to order Centra to provide CAC access the unredacted Application material, in short order, so that we can get on with our engagement.

Yours truly,

**DD WEST LLP**

Per:

A handwritten signature in black ink, appearing to read 'Brian J. Meronek'.

**Brian J. Meronek, K.C.**

BJM / da

- c.c. Jacquie Wasney, CAC Director  
Peggy Barker, CAC Director  
Darren Rainkie  
Kelly Derksen

# **ATTACHMENT**

**“A”**





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REFERENCE NO: 003991-0135

October 16, 2024

Manitoba Hydro  
Legal Services  
22<sup>nd</sup> Floor – 360 Portage Avenue  
Winnipeg, Manitoba, R3C 0G8

Attention: Deanna Hiebert

Dear Ms. Hiebert,

**Re: Centra GRA 2024-2025– Non-Disclosure Agreements**

Further to your email request of October 10, 2024, I am attaching herewith signed Non-Disclosure Agreements of Darren Rainkie, Kelly Derksen and the Undertaking of Confidentiality signed by me. We will not be providing a Personal Risk Assessment ("PRA") as it is inapplicable to us and unnecessary. We look forward to receiving the unredacted version of the GRA Application at your earliest opportunity.

Yours truly,

**DD WEST LLP**

Per:

A handwritten signature in black ink, appearing to read 'Brian J. Meronek'.

**Brian J. Meronek, K.C.**  
BJM /yw

c.c. Brent Czarnecki  
Sven Hombach  
Rachael McMillin  
Darren Rainkie  
Kelly Derksen

Calgary

Airdrie

Regina

Winnipeg

# **ATTACHMENT**

**“B”**



October 18, 2024

DD West LLP  
200-412 Marion Street  
Winnipeg, MB R2H 0V5

VIA E-MAIL: [bmeronek@ddwestllp.com](mailto:bmeronek@ddwestllp.com)

Attention: Brian J. Meronek, K.C.

Dear Mr. Meronek:

**Re: Centra Gas Manitoba Inc. ("Centra") – 2025 General Rate Application ("GRA");  
Personnel Risk Assessment ("PRA") Required.**

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We write in response to your letter of October 16, 2024. In your letter, you state "[w]e will not be providing a Personal Risk Assessment ("PRA") as it is inapplicable and unnecessary."

We have sought instructions and can advise that Centra will not grant access to commercially sensitive information ("CSI") on its corporate SharePoint site until a PRA is completed.

A PRA has not been required for past Centra GRAs because CSI was provided in a paper format. For the current GRA and for future proceedings, Centra will only provide CSI in an electronic format as it better protects against inadvertent disclosure and achieves greater administrative efficiency. Paper copies can easily be lost or stolen, and the risk of inadvertent disclosure is high. Providing electronic access on a SharePoint site allows Centra to provide tailored access to CSI, control who accesses materials, apply/lift redactions as needed, and provide/remove access to documents immediately. In the recent Manitoba Hydro electric GRA, CSI was managed electronically on a SharePoint site which worked well for all parties.

Completing a PRA is a necessary and important part of the corporation's risk management system and is considered standard due diligence. To ease any concerns you may have about the amount of information that is obtained and shared as part of the PRA process, we offer the following details.

**Purpose**

PRAs are conducted for the purpose of ensuring the protection and reliability of corporate facilities, critical assets, and information systems. In particular, those who require authorized electronic access to Manitoba Hydro and Centra cyber assets require a PRA.

**Process**

While a PRA does involve a criminal record check, the amount of information that is shared within the corporation is limited and kept confidential. The process is as follows:

1. A completed PRA form and 2 pieces of ID are sent to a designated Manitoba Hydro contact person who reviews the PRA form for completeness and fills in section 2 - ID Verification. The Manitoba Hydro contact person then submits the PRA form and ID to Manitoba Hydro's Corporate Security Department. Once received by Corporate Security, the Manitoba Hydro contact person deletes their copy of the PRA form and ID.
2. Corporate Security sends the PRA directly to the Winnipeg Police Service ("WPS") for a certified criminal record check. A child abuse registry check is not performed. Currently, Corporate Security consists of two investigators and one administrative assistant. Corporate Security treats the PRA process as highly confidential and all records are kept on a separate, secured server that is inaccessible by others in the corporation.
3. WPS sends Corporate Security a spreadsheet back with the name of the applicant with a designation of "Clear" status (indicating no criminal record) or "Not Clear" status (indicating a criminal record).
4. If WPS indicates "Not Clear" status, an investigator in Corporate Security will follow up with WPS to verbally review the criminal record details. Based on the information WPS provides, Corporate Security will consider: (a) the nature and gravity of the offence or offences; (b) the time that has passed since the offence or offences; and (c) the nature of the job or activities sought to be conducted. Corporate Security will use this information to determine whether a PRA should be granted "Clear" or "Not Clear" status. Details of criminal records are not shared with other employees, not obtained in writing and are kept strictly confidential.
5. Corporate Security will inform the Manitoba Hydro contact person if a PRA is "Clear" or "Not Clear". The PRA form, ID, and status remain on file with Corporate Security for a period of 7 years.

A PRA may still receive "Clear" status if an applicant has a criminal record. The offences that are of the greatest concern to the corporation include organized crime, fraud, theft and cybercrime. Other offences (such as a DUI or simple assault) and/or historic charges will rarely, if ever, result in a PRA receiving "Not Clear" status.

All employees (including engineers and lawyers), volunteers, consultants, external legal counsel, Board members, third party contractors, and other third parties that require access to corporate facilities and cyber assets are required to complete a PRA. A person's occupation is not a ground for granting an exemption to the PRA process.

#### **Alternative Option for Criminal Record Check**

If you do not want to complete the PRA process, you may obtain your own criminal record check and provide it directly to one of our Corporate Security investigators for review. Corporate Security will not retain any criminal record information.



Please note that this alternative process generally takes longer than the PRA process and costs to obtain a criminal record check will be borne by the applicant.

**Next Steps**

We ask you to reconsider your position and send a completed PRA form and 2 pieces of government issued ID to the following Manitoba Hydro contact person as soon as possible:

**Name:** TJ Monkman  
**Position:** Regulatory Coordinator  
**Email:** [timonkman@hydro.mb.ca](mailto:timonkman@hydro.mb.ca)

A PRA must be completed by you, Ms. Derksen, Mr. Rainkie and any other co-counsel or consultants representing the Manitoba Branch of the Consumers' Association of Canada ("CAC") that require access to CSI. Once a PRA receives "Clear" status, we will provide credentials for access to the SharePoint site.

Should you have any questions or concerns about the PRA process, please do not hesitate to contact us.

Yours truly,

**MANITOBA HYDRO LEGAL SERVICES**

Per:



**Deanna Hiebert**  
Legal Counsel

**Attachment**

cc. Brent Czarnecki  
Ashley Jansen  
TJ Monkman

# **ATTACHMENT**

**“C”**



**Canadian Personnel Risk Assessment**  
**Manitoba Hydro/Winnipeg Police Service**  
**Application for Criminal Record Search Certificate**  
**New Hire - Current MH Employee - Contractor - Visitor**

Corporate Security Use Only		
Y	N	IC

**NOTE:** Forms and identification should be saved as a single .pdf document. The .pdf file name should be the applicants "LAST NAME, First Name" as printed on their photo ID (i.e. SMITH, John) being submitted.

<b>Section 1 - Identification of the Applicant</b> To be completed by new hire applicant, current employee or contractor employee. <b>NOTE:</b> When completing this section, please write all names in full - <b>NO INITIALS</b>			
Surname (last/family name)	First name	Middle name	
Personal email address	Other names used (maiden, birth, etc.)		
Date of birth (year/month/day)	Birthplace (province or country)	How long have you resided in Canada (years)?	
Current address (unit number, street number, street name)			
City	Province	Postal code	Daytime phone number
Signed by (Candidate - handwritten signature only)		yyyy mm dd	

<b>Section 2 - ID Verification</b> To be completed by Manitoba Hydro Hiring Manager or Project Manager.		<input type="checkbox"/> <b>Renewal PRA</b> - mark 'X' in this box and proceed to mark an 'X' below to identify if renewal PRA is for Current MH employee or Contractor	
PRA being completed for (check one) <input type="checkbox"/> New Hire <input type="checkbox"/> Current MH Employee <input type="checkbox"/> Work Exposure <input type="checkbox"/> Visitor <input type="checkbox"/> Volunteer <input type="checkbox"/> Contractor Capital Project/MHI, specify Order, Network/Activity or Cost Centre number to charge PRA cost to: _____			
MH Contact Person	Contact number	MH Human Resource Advisor (only applicable for new hires or current employees)	Contact number

Include copies of two (2) **legible valid pieces** (not expired) of government issued identification - in which at least one must be photo. Noting that two different pieces of photo ID can be accepted in place of the non-photo ID requirement.

- **1st Piece** - Photo identification (FULL LEGAL NAME - no initials) can only be one of the following: Driver's License, Manitoba Public Insurance Identification Card, Passport, Permanent Residence Card, Aboriginal Status Card
- **2nd Piece** - All of the above photo identification except for the photo ID already submitted, as well as: Provincial Healthcare Card (top & bottom sections), Birth Certificate, Immigration Papers, Citizenship Card, Social Insurance Card (SIN Confirmation letter), Firearms License, National Defense Card, Nexus Card, FAST Card from Canada Border Service Agency, Manitoba Metis Card.

Candidate name		Position applied for or contracting company name		
	<b>TYPE</b> (select from the drop down list)	<b>IDENTIFICATION NUMBER</b>	<b>EXPIRY DATE (IF APPLICABLE)</b> yyyy mm dd	<b>COPY ATTACHED</b>
1st Piece of ID - Photo Only				<input type="checkbox"/> Yes
2nd Piece of ID - Photo or Non-photo				<input type="checkbox"/> Yes

I, \_\_\_\_\_ have examined the identification of  
Print name of Manitoba Hydro Representative  
 \_\_\_\_\_ and I am satisfied that the candidate and person  
Print name of Candidate  
 depicted in the photo identification are one and the same.

Signed by (Manitoba Hydro Rep confirming ID check - handwritten signature only)	yyyy mm dd	<input type="checkbox"/> <b>Yes, I am a Manitoba Hydro Employee</b>
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**Section 3 - Consent Form**

Please complete the following:

**Consent Form****Manitoba Hydro Corporate Security Department****AUTHORIZATION - New Hire - Current MH Employee - Contractor Employee**

I, \_\_\_\_\_, hereby authorize any member of a municipal, provincial or federal law enforcement agency, or any court official, to whom a duplicate or photocopy of this document is provided, to furnish any information, opinions, reports, records or copies which may be requested by Manitoba Hydro Corporate Security Department, in connection with my employment or contractor status with Manitoba Hydro and/or in connection with any criminal charges or record I may have.

I fully understand that Manitoba Hydro Corporate Security Department will perform a complete and thorough Background Investigation to ensure that I have the necessary characteristics to perform as an employee or contractor with Manitoba Hydro. I consent to the collection, use, disclosure, transmittal and examination of all information compiled by Manitoba Hydro Corporate Security Department for that particular purpose.

I agree to waive any right of action against any person or any municipal, provincial or federal law enforcement agency or court official providing information or opinions in compliance with this authorization, and agree to waive any right of action against Manitoba Hydro for actions carried out in accordance with this authorization.

I also confirm that I have been provided with ample opportunity to obtain independent legal advice with respect to this authorization and confirm that I have signed it voluntarily and with a full understanding of its meaning and import.

\_\_\_\_\_  
Signature of applicant (handwritten signature only)

\_\_\_\_\_  
Signature of witness (handwritten signature only)  
*Consent Form Witness is not required to be a Manitoba Hydro employee*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**REQUIREMENTS CHECKLIST**

- Section 1, 2, 3 of the form are completed with handwritten signatures. Digital or electronic signatures on .pdf files cannot be accepted.
- Section 2 of the form ensure the ID verification of the candidate's photo identification has been completed by a Manitoba Hydro employee.
- Form and the two pieces of valid identification as noted in Section 2 have been scanned into one legible .pdf document.
- Review the form to ensure all of the information that has been provided is correct.

**ROUTING INSTRUCTIONS**

- Proceed to the [Personnel Risk Assessment - Request Form](#) to submit the PRA Request. Access to this link is located on the front page of the MPower Corporate Security web site.
- Upon receipt, you will receive an automated email confirmation.
- Require assistance, email the \_\_\_\_\_ (CorporateSecurityPRA@hydro.mb.ca) mailbox.

Any false or incomplete information may result in rejection of this application. The personal information on this form will be collected and shared for the purposes outline in Section 36-47 of the Freedom of Information and Protection Privacy (FIPP) Act and for other legal requirements, where they are consistent with the FIPP Act.

Personal Information collected on this form is protected by The Freedom of Information and Protection of Privacy Act and will be used only to respond to this request. Inquiries about the use and protection of this personal information should be directed to the Access and Privacy Coordinator.

# **ATTACHMENT**

**“D”**



## Confidentiality Declaration and Undertaking Form

In accordance with the BCUC's Rules of Practice and Procedure, please provide a completed form to the party who filed the confidential document and copy Commission Secretary at [commission.secretary@bcuc.com](mailto:commission.secretary@bcuc.com). If email is unavailable, please mail the form to the address above.

### Undertaking

I, \_\_\_\_\_, am representing the party \_\_\_\_\_ in the matter of

In this capacity, I request access to the confidential information in the record of this proceeding. I understand that the execution of this undertaking is a condition of an Order of the BCUC, and the BCUC may enforce this Undertaking pursuant to the provisions of the *Administrative Tribunal Act*.

<b>Description of document:</b>	
---------------------------------	--

I hereby undertake:

- (a) to use the information disclosed under the conditions of the Undertaking exclusively for duties performed in respect of this proceeding;
- (b) not to divulge information disclosed under the conditions of this Undertaking except to a person granted access to such information or to staff of the BCUC;
- (c) not to reproduce, in any manner, information disclosed under the conditions of this Undertaking except for purposes of the proceeding;
- (d) to keep confidential and to protect the information disclosed under the conditions of this Undertaking;
- (e) to return to the applicant, \_\_\_\_\_, all documents and materials containing information disclosed under the conditions of this Undertaking, including notes and memoranda based on such information, or to destroy such documents and materials within fourteen (14) days of the BCUC's final decision in the proceeding; and
- (f) to report promptly to the BCUC any violation of this Undertaking.

Signed at \_\_\_\_\_ this \_\_\_\_\_.

Signature: \_\_\_\_\_

Name (please print): \_\_\_\_\_ Email \_\_\_\_\_

Representing (if applicable): \_\_\_\_\_



# **ATTACHMENT**

**“E”**



**Consumers' Association of Canada  
Association des consommateurs du Canada  
Manitoba**

October 23, 2024

Rachel McMillin  
Associate Secretary  
The Public Utilities Board of Manitoba  
400-330 Portage Avenue  
Winnipeg, MB. R3C 0C4

Dear Ms. McMillin:

**Re: Manitoba Hydro (MH) PRA Request**

As directors of CAC Manitoba Inc., ('CAC') we have been advised by our legal counsel as to the requirement of Manitoba Hydro (MH) for legal counsel and consultants to sign a PRA (a criminal record check) before being granted access to pertinent information concerning gas supply and transportation arrangements. We view this demand as unprecedented and invasive. CAC has never been asked in any other proceedings (MH or MPI) to submit to such a pre-condition for access to information. We are very concerned over the inappropriateness of this demand and fully support the position being taken by our legal counsel and consultants in this regard. We have always had and continue to have the utmost trust in the professionals we retain. After all, as a consumer advocacy organization, building and maintaining strong and effective marketplace relationships are key to our work.

We are especially concerned that the important role CAC has played for decades in all types of proceedings before the Board will be severely compromised if CAC cannot access the CSI material and the blame will rest on the shoulders of MH. We trust the Board will do the fair and right by rejecting MH CSI pre-condition.

Yours truly,

CAC (Manitoba) Inc.

Per: \_\_\_\_\_

*J. D. Wasney*  
Jacqueline Wasney, Director

21-222 Osborne Street South, Winnipeg MB R3L 1Z3  
204-284-1876