

MANITOBA) Order No. 12/02
)
THE PUBLIC UTILITIES BOARD ACT) January 29, 2002

BEFORE: G. D. Forrest, Chairman
R. A. Mayer, Q.C., Vice-Chairman
Dr. K. Avery Kinew, Member

**ORDER FOR A PUBLIC HEARING PROCESS REGARDING THE
APPLICATION BY MANITOBA HYDRO IN RESPECT OF:**

- I. A STATUS UPDATE ON MATTERS RELATING TO THE
ACQUISITION OF THE SHARES OF CENTRA GAS
MANITOBA INC.;**
 - II. AN UPDATE AND REVIEW OF MANITOBA HYDRO
FINANCIAL MATTERS AND RATES;**
 - III. A NEW CURTAILABLE RATE PROGRAM; AND**
 - IV. CONFIRMATION OF INTERIM EX-PARTE ORDERS.**
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Background

The Public Utilities Board of Manitoba (the “Board”) held a Pre-Hearing Conference (“PHC”) at its offices in Winnipeg, Manitoba on Monday, January 14, 2002. The PHC was to consider applications for intervenor status, the timetable for the orderly exchange of information and other issues related to the public hearing of Manitoba Hydro’s application in respect of:

- I. A status update on matters relating to the acquisition of the shares of Centra Gas Manitoba Inc (“Centra”).;
- II. An update and review of Manitoba Hydro financial matters and rates;
- III. A new curtailable rate program; and
- IV. Confirmation of interim ex-parte orders.

A Notice of Public Hearing and the PHC, dated December 6, 2001, was filed as Exhibit #PUB-2 at the PHC. The Notice described the various matters Manitoba Hydro filed with the Board including:

- (i) an update on matters related to the acquisition of the shares of Centra and the status of action taken by Manitoba Hydro in response to Board recommendations and directives from previous Orders related to the acquisition of Centra’s shares from Westcoast Energy Inc. by Manitoba Hydro;
- (ii) information, including financial results, forecasts, processes, cost of service methodology revisions and events which have impacted the electrical industry since the Board’s General Rate Order No. 51/96 dated April 15, 1996, to enable the Board to review existing Manitoba Hydro rates, as Manitoba Hydro is not seeking any general rate changes for its electrical customers;

- (iii) application for a new Curtailable Rate Program to replace the current Curtailable Service Program (“CSP”) which is to expire May 1, 2002; and
- (iv) confirmation of various interim ex-parte orders:
- setting monthly reference discount prices for CSP customers;
 - establishing weekly spot market replacement energy rates under the former Dual Fuel Heating, Surplus Energy to Self-Generators and Industrial Surplus Energy Programs;
 - establishing weekly spot market replacement energy rates for Surplus Energy Program customers.

In Order No. 9/02 dated January 24, 2002, the Board approved Intervenor Status for a number of parties, confirmed the scope of the proceeding and approved a timetable for the orderly exchange of information.

This Order deals only with Intervenor Status of other parties that were in attendance at the PHC but were required to file additional information with the Board or were new applicants.

Municipal Gas

In Order No. 9/02, the Board noted that Municipal Gas was seeking intervenor status to monitor the proceeding and that Manitoba Hydro raised no objection to the granting of same.

Municipal Gas is well known to the Board as a broker of natural gas in Manitoba with a substantial interest in matters relating to Centra Gas Manitoba Inc. Accordingly, the Board will grant Municipal Gas intervenor status with a request to advise the Board if the role of Municipal Gas is required to change during the proceeding.

Provincial Council of Women of Manitoba Inc. (PCW)

The PCW attended the PHC but advised the Board that the PCW was yet uncertain as to whether it would apply for intervenor status and that a decision would be taken in this regard on or about January 17, 2002.

On January 18, 2002, the PCW filed an intervenor request form pursuant to the Board's requirements indicating that PCW was interested in all matters before the Board. More specifically, PCW intends to examine if the provisions of Order 146/99 have been followed, especially regarding cross-subsidization between gas and hydro; cost savings and synergies, expansion of gas, conservation programs and integration costs. Further, PCW intends to monitor the update and review of Manitoba Hydro financial matters and rates. PWC also intends to monitor cost of service matters and is particularly interested in the future regulation and public accountability of Manitoba Hydro. While PCW does not intend to produce evidence, they plan to test the evidence filed and present final argument. PCW indicated they will not be applying for costs.

In a letter dated January 22, 2002 Manitoba Hydro indicated that they had no objection to the granting of intervenor status to PCW.

The Board will grant intervenor status to PCW. The Board notes that PCW has intervened on matters relating to the acquisition of Centra Gas Manitoba Inc. by Manitoba Hydro and to some extent, this is a continuation of that matter.

Manitoba Keewatinowi Okimakanak/Natural Resources Secretariat (MKO)

MKO filed an intervenor request form on January 18, 2002. MKO indicated that it represents nearly 50,000 treaty first nations people, all of whom are customers of Manitoba Hydro. 2400 of these people reside in diesel service communities. MKO has regularly participated in the last several reviews of Manitoba Hydro rates and services. MKO indicated that they intend to produce evidence, test others' evidence and present final argument. MKO will be applying for costs.

In a letter dated January 18, 2002, Manitoba Hydro noted that there is a substantial number of participants represented by MKO whose interests are similar to those of the membership of the Consumers' Association of Canada. Manitoba Hydro requested the Board to encourage these two (2) parties to co-operate in order to avoid duplication. With respect to costs, Manitoba Hydro reserved the right to comment on any application for costs that may be forthcoming.

The Board notes the exchange of letters from Manitoba Hydro on the Diesel Rate Issue and MKO intervention as well as MKO's response.

Noting that the interests of MKO are in accord with Order No. 9/02, including but not limited to diesel service which has been the subject of prior proceedings and that MKO has specialized knowledge of such services, the Board will grant MKO intervenor status.

With respect to the issue of co-operation and duplication, the Board would reiterate what it stated in Order No. 9/02 which is as follows:

“The Board expects and requires intervenors to cooperate and consult with one another to avoid duplication of interventions. Joint participation is encouraged where parties' positions are not adverse to each other.”

Time to Respect Earth's Ecosystems Inc./Resource Conservation Manitoba (TREE)

TREE participated in the PHC and spoke to their application for intervenor status. Pursuant to the Board's request TREE undertook to provide further membership and financial details regarding their organization.

By way of electronic mail dated January 15, 2002 from Mr. Peter Miller on behalf of Time to Respect Earth's Ecosystems Inc. and January 17, 2002 from Mr.

Randall McQuaker on behalf of Resource Conservation Manitoba and by way of an information sheet from Mr. Miller dated January 18, 2002, TREE provided the additional information.

This information was provided to Manitoba Hydro and in a letter dated January 18, 2002, Manitoba Hydro indicated that given the interest of TREE appears unique to other intervenors, Manitoba Hydro did not have any objection to this group being granted intervenor status. TREE did advise the Board that they will be applying for costs. Manitoba Hydro reserved the right to comment on this matter pursuant to the Board's Draft Rules of Practice and Procedure.

In response to Manitoba Hydro, TREE, in an electronic mail message dated January 21, 2002, indicated that they presume a favourable ruling of the Board with respect to their intervention implies that the Board is satisfied with respect to TREE's financial need and substantial interest.

The Board will grant TREE intervenor status for this proceeding and can confirm that with respect to the Board's criteria for an award of costs, the Board is satisfied that TREE has a substantial interest. However, the Board cannot confirm that TREE has fully satisfied the Board's criteria with respect to financial need. Having examined the financial information forwarded by TREE, the Board is not satisfied that TREE has insufficient financial resources to present its case adequately without an award of costs. The Board relied heavily on the financial statements of RCM as at March 31, 2001.

Canadian Centre for Energy Policy, Inc. (CCEP)

Representatives of CCEP also attended the PHC and spoke to their application for intervenor status. Pursuant to the Board's request, in a letter dated January 15, 2002, CCEP provided further details with respect to its current membership. The membership list includes twenty-one (21) businesses, two (2) of which are non-profit institutions.

In a letter dated January 18, 2002, Manitoba Hydro indicated that it objected to the granting of intervenor status to CCEP. Manitoba Hydro stated that there is already a group of registered intervenors representing the concerns of smaller power consumers such as the members of CCEP, namely the Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors. Manitoba Hydro noted that a membership of 21 small businesses is not likely to be representative of a particular class of ratepayers given that there are approximately 45,000 accounts which may be classed as small businesses. In the event CCEP is granted intervenor status, Manitoba Hydro noted that it will object to any application for costs on the grounds that duplication has not been avoided and CCEP does not represent a substantial number of ratepayers. Manitoba hydro observed that CCEP's interest may be better represented by means of a presentation

In a letter dated January 21, 2002, CCEP responded to Manitoba Hydro's comments. CCEP noted that CAC/MSOS does not purport to, nor do they, represent the concern of businesses. As noted by Manitoba Hydro, this class of consumer includes 45,000 accounts and their views are obviously important for the economic well being of Manitoba. CCEP noted that it has made a commitment to avoid duplication

where possible and accordingly, their intervention will not detract from the efficiency of the hearing.

The Board will grant CCEP intervenor status for this proceeding. The Board wishes to state clearly that the criteria for an award of costs, for example the requirement to have a substantial interest is not necessarily the criteria for granting intervenor status.

The Board accepts that to some extent, a general service small consumer may share many of the same interests of a residential consumer. However, the Board would note that from a cost of service perspective these two (2) classes of consumers are treated separately. The Board would further note that it is not unreasonable to assume that the issues of a large class of consumers are not dis-similar to a small number of consumers in the class who take an interest in the Board's proceeding.

The Board is satisfied that CCEP is fully aware of the Board's criteria for an award of costs. CCEP together with all intervenors will need to govern themselves accordingly with particular emphasis on co-operation and the avoidance of duplication. The Board would note that CCEP, representing business interests will need to examine carefully to what extent its interests may be funded without a cost award.

IT IS THEREFORE ORDERED THAT:

- (1) Intervenor status shall be awarded to the following applicants:
- (a) Municipal Gas (Municipal)
 - (b) Provincial Council of Women of Manitoba Inc. (PCW)
 - (c) Manitoba Keewatinowi Okimakanak Inc./Natural Resources Secretariat (MKO)
 - (d) Time to Respect Earth's Ecosystems, Inc./Resource Conservation Manitoba (TREE)
 - (e) Canadian Centre for Energy Policy, Inc. (CCEP).

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"G. O. BARRON"
Secretary

Certified a true copy of Order No. 12/02
issued by The Public Utilities Board

Secretary