

MANITOBA HYDRO
2017/18 & 2018/19 GENERAL RATE APPLICATION

PUBLIC UTILITIES BOARD DIRECTIVES AND INTERIM ORDERS

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MANITOBA HYDRO
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PUBLIC UTILITIES BOARD DIRECTIVES AND INTERIM ORDERS

10.0 OVERVIEW

Tab 10 outlines the interim Orders for which Manitoba Hydro is seeking final PUB approval (Section 10.1) and provides responses to, and the status of, PUB directives (Sections 10.2 to 10.7).

10.1 FINAL APPROVAL OF INTERIM ORDERS

Manitoba Hydro is seeking final approval of interim and *ex parte* Orders as follows:

- Final approval of Order 59/16 which approved, on an interim basis, an across-the-board rate increase of 3.36% effective August 1, 2016 and final approval of any other interim rate Orders issued subsequent to the filing of the Application and prior to the conclusion of this proceeding;
- Final approval of the Light Emitting Diode (“LED”) rates for the Area and Roadway Lighting class (Outdoor Lighting) approved on an interim basis in Order 79/14;
- Final approval of all SEP interim *ex parte* rate Orders, as outlined in Appendix 10.1, as well as any additional SEP *ex parte* Orders issued subsequent to the filing of this Application and prior to the PUB’s Order in this matter;
- Final approval of CRP *ex parte* Order 54/16, as well as any additional CRP *ex parte* Orders in respect of the CRP issued subsequent to the filing of this Application and prior to the PUB’s Order in this matter; and,
- Final approval of Orders 116/12 and 117/12 that approved, on an interim basis, a 6.5% rate increase to the full cost portion of the General Service and Government rates in the four remote communities served by diesel generation effective

September 1, 2012, and final approval of diesel zone interim Orders 17/04, 46/04, 159/04, 176/06, 1/10, 134/10, 1/11 and 148/11, subject to confirmation that MKO has provided the parties to the agreement with the required affidavits from representatives of signatories to the agreement.

Appendix 10.1 includes a complete list of interim and *ex parte* Orders up to the date of this filing, which require final approval.

10.2 DIRECTIVES FROM ORDER 164/16

10.2.1 2015 Cost of Service Study Methodology Review

2. *Manitoba Hydro shall provide a compliance filing within 60 days of this Order. The compliance filing by Manitoba Hydro shall be a revised version of PCOSS14 Amended that reflects all of the Board's findings and directions in this Order. The compliance filing shall include Manitoba Hydro's electronic model together with the results.*

On February 21, 2017, Manitoba Hydro provided the PUB with a revised version of PCOSS14 reflecting the PUB's findings and directions in Order 164/16 and a link to the revised PCOSS14 electronic model. A copy of Manitoba Hydro's February 21, 2017 submission can be found as Appendix 10.2. Manitoba Hydro considers this Directive to be completed.

3. *Manitoba Hydro shall file, with its next General Rate Application, a new Prospective Cost of Service Study that shall be prepared using the methodology approved in this Order.*

4. *Manitoba Hydro shall include, in its next General Rate Application filing, an electronic version of its COSS model, as revised to comply with the Board's directives in this Order.*

Manitoba Hydro will provide PCOSS18, which reflects the changes in methodology outlined in Order 164/16, as an Appendix in Tab 8 of this Application.

1 An electronic version of the PCOSS18 model will be provided to the PUB and approved
2 interveners subsequent to the Pre-Hearing Conference for this Application.

3
4 **10.3 DIRECTIVES FROM ORDER 59/16**

5
6 **10.3.1 2016/17 and 2017/18 Electric General Rate Application**

7
8 ***4. Manitoba Hydro is directed to file a comprehensive General Rate Application for***
9 ***only electric operations for the 2016/17 and 2017/18 fiscal years by no later than***
10 ***December 1, 2016. Manitoba Hydro is to file its General Rate Application no later***
11 ***than September 1, 2016 should it wish to have revised rates effective April 1, 2017.***
12

13 As discussed elsewhere throughout this Application, in 2016 it was necessary for the
14 newly appointed MHEB to examine and consider a broad array of topics and make an
15 independent determination of how the Corporation should move forward.

16
17 On November 29, 2016, Manitoba Hydro informed the PUB that the Corporation was
18 still in the process of developing its financial forecast to address the risks facing the
19 utility and the conclusions from the MHEB review and therefore, was not in a position to
20 file its GRA by December 1, 2016 as directed.

21
22 The MHEB reviewed approved the Integrated Financial Forecast (IFF16) on April 28,
23 2017. Subsequently, on May 5, 2017, Manitoba Hydro filed its Letter of Application with
24 respect to its 2017/18 and 2018/19 GRA, advising that supporting materials would
25 follow.

26
27 Copies of the correspondence related to this directive can be found as Appendix 10.3.
28 Manitoba Hydro now considers this Directive to be completed.

29
30 **10.3.2 Asset Condition Assessment Reports**

31
32 ***5. Directive 7 from Order 73/15, which required Manitoba Hydro to file the Terms of***
33 ***Reference for an Asset Condition Assessment Report that includes the information***
34 ***set out in Appendix F [sic] of Order 73/15, IS VARIED. The Report does not need to***

differentiate assets based on geography, but must differentiate based on age and remaining life.

During the review of Manitoba Hydro's April 1, 2016 interim rate request, Manitoba Hydro provided information on the various asset management initiatives being undertaken and the status of asset condition assessment methodology reviews. In Order 59/16, the PUB acknowledged the work underway and requested Manitoba Hydro to provide asset condition assessment information for generation, transmission and distribution at the next GRA.

As discussed in Tab 5 of this Application, Manitoba Hydro is actively engaged in maturing its asset management practices. Asset condition assessment (also referred to as asset health) is a foundational element of asset management that is used to:

- Prioritize the replacement/upgrade of degraded assets in the near term;
- Plan the long term investment requirements of major assets; and
- Plan long term population management of high volume asset classes.

Section 5.1 of Tab 5 discusses the work being undertaken by Manitoba Hydro to optimize timing of investments to maximize value and forecast long-term corporate capital requirements. A roadmap is currently under development for achieving these objectives. The roadmap will detail the steps needed to deploy corporate tools and processes, build supporting sub-processes and data structures, populate asset inventories and collect data, and build proficiency in the user groups. Included in the roadmap will be the development of asset strategies to document how condition assessment will be used to manage assets by class. The roadmap is expected to be completed in 2017.

It is worth noting that only a portion of Manitoba Hydro's investments plans are driven by condition assessment. Investments to address degraded asset condition are included in the System Renewal investment category under Sustainment in CEF16 (Appendix 5.4 to Tab 5). As noted in Section 2 of CEF16, System Renewal investments are less than half the total Electric Business Operations Total and only a small fraction of the Major New Generation & Transmission Total. Other significant investment categories in the

Electric Business Operations Total include System Load Capacity, Customer Connections and Mandated Compliance.

Tab 5 of this Application also describes many of the improvement initiatives underway at Manitoba Hydro with respect to asset health methodology and condition assessment.

The report on the asset condition assessment audit for transmission, HVDC and distribution system assets is being provided as Appendix 5.3 of Tab 5. Updated condition assessments for applicable transmission and generation assets will also be filed as part of the response to PUB MFR 92. An asset condition assessment for key distribution system assets is underway with support from an expert consultant. This work is not yet complete but Manitoba Hydro will file the associated report in the course of this regulatory proceeding when it is available.

10.4 DIRECTIVES FROM ORDER 73/15

10.4.1 Bill Affordability Collaborative Process

5. Manitoba Hydro shall lead a collaborative process to develop a bill affordability program harmonized with Manitoba Hydro's other programs supporting low-income ratepayers. Manitoba Hydro shall file proposed Terms of Reference for this collaborative process with the Board (including proposed facilitators and stakeholder participants) by no later than October 31, 2015. If Terms of Reference cannot be agreed upon between Manitoba Hydro and participants, the Board is prepared to receive submissions and adjudicate the issue.

A Bill Affordability Working Group was established in September 2015 to carry out activities contemplated for the collaborative process. These included considering and defining energy poverty in Manitoba; and identifying, considering and evaluating a potential portfolio of measures to help address energy poverty.

The Working Group was comprised of representatives from Manitoba Hydro, the Consumers Association of Canada (Manitoba), Employment & Income Assistance, the Green Action Centre, Manitoba Housing, the Manitoba Industrial Power Users Group,

1 the Manitoba Keewatinowi Okimakinak, the Manitoba Metis Federation, the Social
2 Planning Council of Winnipeg, the Southern Chiefs Organization and Winnipeg Harvest.
3 In addition, PUB staff and advisor representatives participated in an observer capacity.
4

5 The Working Group determined that two sub-committee's should be formed; an
6 Engagement Sub-committee which focused on public outreach in order to allow the
7 public to share their views and participate in the collaborative process, and a Research
8 Sub-committee which would provide input on research considerations.
9

10 On November 13, 2015, Manitoba Hydro filed Terms of Reference for the collaborative
11 process with the PUB. The PUB provided comments on the Terms of Reference, which
12 were incorporated by Manitoba Hydro, by way of letter dated December 4, 2015.
13

14 Manitoba Hydro issued an RFP for process facilitation services in December 2015 and in
15 February 2016, First Person Strategies, a communications and engagement consulting
16 firm, was engaged to facilitate the collaborative process.
17

18 In April 2016, Prairie Research Associates was retained to provide research support as
19 part of the process and to work in conjunction with the Research Sub-committee. Prairie
20 Research Associated developed a research methodology which was accepted by the
21 Working Group.
22

23 On September 30, 2016, Manitoba Hydro provided the PUB with an update on the bill
24 affordability collaborative process. A copy of this correspondence can be found as
25 Appendix 10.4.
26

27 The Bill Affordability Collaborative Process Summary Report & Recommendations was
28 issued in January 2017 and can be found as Appendix 10.5. A summary of input received
29 by Manitoba Hydro from organizations that deliver aspects of its Affordable Energy
30 Program can also be found as Appendix 10.6. Manitoba Hydro's response to the
31 recommendations flowing out of the bill affordability collaborative process can be found
32 as Appendix 10.7.
33

34 Manitoba Hydro considers this Directive to be complete.

1
2 **10.4.2 Affordable Energy Program Reports**

3
4 **6. *Manitoba Hydro shall consider additional measures to increase participation rates***
5 ***in the Affordable Energy Program and to assist all-electric customers, particularly***
6 ***those living in rural Manitoba and aboriginal communities without access to***
7 ***natural gas heating options, and to provide annual reports on the implementation***
8 ***of the Affordable Energy Program and any additional measures developed by the***
9 ***end of June of each calendar year.***

10
11 On July 14, 2016, Manitoba Hydro filed with the PUB its 2015/16 Annual Report on the
12 Affordable Energy Program and Power Smart Programming for all-electric customers. A
13 copy of this report can be found as Appendix 10.8. Manitoba Hydro will continue to
14 provide this report on an annual basis.

15
16 **10.4.3 Asset Condition Assessment Reports**

17
18 **7. *Manitoba Hydro shall file terms of reference for an Asset Condition Assessment***
19 ***Report for approval by the Board that, at minimum, include the information set***
20 ***out in Appendix "F" (sic) of this Order, by no later than October 31, 2015.***

21
22 In Order 59/16, the PUB varied Directive 7 of Order 73/15 to no longer require the Asset
23 Condition Assessment Report to differentiate assets based on geography, but to
24 differentiate based on age and remaining life.

25
26 Please see the response to Directive 5 of Order 59/16 in Section 10.3.2 of this Tab.

27
28 **10.4.4 Depreciation Methodology for Rate-Setting**

29
30 **10. *Manitoba Hydro is to continue to use its existing Average Service Life Methodology***
31 ***for calculating depreciation rates for rate-setting purposes until the Board is***
32 ***satisfied that a change in methodology is warranted.***

33
34 In Order 73/15, the PUB found that Manitoba Hydro should retain its existing CGAAP
35 Average Service Life ("ASL") methodology for rate-setting purposes until Directives 8

1 and 9 from Order 43/13 have been complied with and the PUB has been provided with
2 an IFRS-compliant depreciation study based on ASL. As discussed by Manitoba Hydro
3 during the 2014/15 & 2015/16 GRA, the work associated with preparing an IFRS-
4 compliant depreciation study based on ASL would take years and costs upward of \$2.5
5 million. As such, Manitoba Hydro has dealt with the requirements of the depreciation
6 directive in a manner that is consistent with the rate-regulated accounting framework of
7 *IFRS 14 Regulatory Deferral Accounts* by deferring these amounts in a regulatory
8 deferral account.

9
10 *IFRS 14 Regulatory Deferral Accounts* is the IFRS standard that specifies the financial
11 reporting requirements for regulatory deferral account balances for entities that are
12 subject to rate regulation. As stipulated in paragraph 4 of this standard,

13
14 *“All specified requirements for reporting regulatory deferral account balances,*
15 *and any exceptions to, or exemptions from, the requirements of other Standards*
16 *that are related to those balances, are contained within this Standard instead of*
17 *within those other Standards.”*

18
19 Paragraph 8 of IFRS 14 further states that,

20
21 *“An entity that is within the scope of, and that elects to apply, this Standard shall*
22 *apply all of its requirements to all regulatory deferral account balances that arise*
23 *from all of the entity's rate-regulated activities.*

24
25 Paragraphs 4 and 8 confirm that only IFRS 14 is to be applied when determining the
26 appropriate accounting for regulatory accounts under IFRS and that once applied, IFRS
27 14 must be applied to all regulatory accounts such that an entity cannot pick and choose
28 which regulatory accounts will and will not be subject to the requirements of IFRS 14.

29
30 As discussed in Tab 3, Section 3.2, Manitoba Hydro has established a regulatory deferral
31 account in accordance with IFRS 14 to capture the differences between Depreciation
32 Expense calculated for financial reporting purposes (based on IFRS-compliant Equal Life
33 Group ("ELG") depreciation rates) and Depreciation Expense calculated for rate-setting
34 purposes using CGAAP-compliant ASL depreciation rates. In addition to the deferral

1 account and as required by IFRS 14, Manitoba Hydro is also making a corresponding
2 adjustment through the net movement in regulatory balances account such that for rate
3 setting purposes, Manitoba Hydro is continuing to apply the ASL method for
4 determining depreciation expense.

5
6 Consistent with the requirements of IFRS, Manitoba Hydro requires endorsement from
7 its regulator regarding the amortization period for disposition of the deferred amounts.
8 Absent this endorsement, the deferral account balance will continue to grow, pushing
9 the burden of recovery onto future rate payers.

10
11 On February 25, 2016, Manitoba Hydro filed a letter with the PUB seeking confirmation
12 of the corporation's proposed accounting treatment relating to depreciation and
13 overheads ineligible for capitalization as noted by the PUB in Order 73/15. Manitoba
14 Hydro proposed that the review of the disposition of the proposed regulatory deferral
15 account could be considered at the next GRA.

16
17 On April 4, 2016, the PUB issued a letter to Manitoba Hydro indicating that the PUB
18 considered Attachment 46 Scenario 2 filed by Manitoba Hydro in its application for
19 interim April 1, 2016 rates to be consistent with the intent of Order 73/15. Copies of this
20 correspondence can be found as Appendix 10.9. One of the key assumptions requested
21 by the PUB in Attachment 46 Scenario 2 was to amortize the regulatory accounts
22 through Other Comprehensive Income ("OCI") as opposed to net income. As outlined by
23 Manitoba Hydro during the review of its April 1, 2016 interim rate increase,
24 amortization of regulatory balances in OCI is not compliant with the regulatory
25 accounting requirements of *IFRS 14 Regulatory Deferral Accounts*. The following
26 explains the reasons why amortization of the regulatory balances in OCI is not
27 permissible under IFRS.

28
29 As it pertains to the reporting of the net income impact of the net movement in
30 regulatory deferral accounts, paragraphs 22 and 23 of IFRS 14 state that:

31 .22 "An entity shall present, in the other comprehensive income section of the
32 statement of profit or loss and other comprehensive income, the net movement
33 in all regulatory deferral account balances for the reporting period that relate to
34 items recognized in other comprehensive income,...

1
2 *.23 An entity shall present a separate line item in the profit or loss section of the*
3 *statement of profit or loss and other comprehensive income, or in the separate*
4 *statement of profit or loss, for the remaining net movement in all regulatory*
5 *deferral account balances for the reporting period,*
6

7 As per the requirements of IFRS 14, in order for the net movement in a regulatory
8 deferral account to be presented in OCI, the deferral account must relate to an item
9 that is required to be recognized in OCI as per the IFRS standards. The following
10 information from Deloitte's IAS Plus web site on IAS 1 - Presentation and Disclosure
11 describes what is to be recognized in OCI under IFRS:

12
13 "All items of income and expense recognised in a period must be included in
14 profit or loss unless a Standard or an Interpretation requires otherwise. [IAS
15 1.88] Some IFRSs require or permit that some components to be excluded from
16 profit or loss and instead to be included in Other comprehensive income.
17 Other comprehensive income is defined as comprising "items of income and
18 expense (including reclassification adjustments) that are not recognised in profit
19 or loss as required or permitted by other IFRSs".
20

21 *Examples of items recognised outside of profit or loss*

- 22 • *Changes in revaluation surplus where the revaluation method is used under IAS*
23 *16 Property, Plant and Equipment and IAS 38 Intangible Assets*
24 • *Remeasurements of a net defined benefit liability or asset recognised in*
25 *accordance with IAS 19 Employee Benefits (2011)*
26 • *Exchange differences from translating functional currencies into presentation*
27 *currency in accordance with IAS 21 The Effects of Changes in Foreign Exchange*
28 *Rates*
29

30 Notably, the regulated deferral accounts used in Scenario 2 (i.e. differences in
31 depreciation expense and overhead ineligible for capitalization) are required to be
32 expensed under IFRS and do not relate to items that are required to be recognized in
33 OCI.
34

Effectively, in understanding the relationship between the authority of the regulator and the authority for the accounting of regulatory impacts, the regulator has the authority to influence the timing of when expenditures and revenues may be recognized in net income for rate setting purposes whereas the accounting standards (IFRS) have the authority over how the regulatory impacts are to be presented in the financial statements.

As supported by the requirements of IFRS 14 and by references to information issued by Deloitte, it is not permissible under IFRS 14 to recognize the net movement in regulatory accounts in OCI unless those accounts specifically relate to balances required to be recognized in OCI as required by other IFRS standards. To do so could result in a material misstatement of Manitoba Hydro's financial statements.

10.4.5 DSM Deferral Account

12. Manitoba Hydro is to continue the DSM deferral account to capture shortfalls in Demand-Side Management spending compared to the forecast spending in the Power Smart Plan. The shortfall in Demand-Side Management spending in 2014/15 of \$19 million shall accumulate in the DSM deferral account. To the extent Manitoba Hydro's actual spending on Demand-Side Management in 2015/16 falls below the forecasted spending in the 2015 Power Smart Plan of \$63.4 million, the shortfall shall accumulate in the DSM deferral account. To the extent Manitoba Hydro's actual spending on Demand-Side Management in 2015/16 exceeds \$63.4 million, the excess shall be paid from the balance of the DSM deferral account. The DSM deferral account is to continue with each annual spending target equal to the forecast spending stated in the most current Power Smart Plan, inclusive of funding from the Affordable Energy Fund.

For 2014/15, 2015/16, and 2016/17, Manitoba Hydro has captured the difference between actual and forecast DSM spending in the DSM deferral account.

1 **10.4.6 Capital Expenditures Quarterly Reporting**

2
3 ***13. Manitoba Hydro shall file detailed quarterly reports for all Major New Generation***
4 ***and Transmission projects, including the ones currently under development. These***
5 ***reports are to outline the proposed budget (at time of contract), budget changes***
6 ***and reasons for such changes, and the revised projected in-service costs. Where***
7 ***capital costs have increased materially, Manitoba Hydro is to explain how such***
8 ***increases will impact domestic revenue requirements and projected impacts on***
9 ***Manitoba Hydro's financial forecasts and targets.***

10
11 Please see Appendix 10.10 for copies of Manitoba Hydro's Quarterly Major New
12 Generation & Transmission Capital Reports for the quarters ended December 31, 2015
13 and March 31, 2016. The quarterly reports for fiscal 2016/17 have been filed in strict
14 confidence with the PUB due to the commercially sensitive nature of the information
15 contained within.

16
17 Please refer to Section 5.2 of Tab 5 for an update on Manitoba Hydro's Major New
18 Generation & Transmission Capital Projects.

19
20 Manitoba Hydro continues to file Quarterly Major New Generation & Transmission
21 Capital Reports with the PUB in accordance with this directive.

22
23 **10.4.7 O&A Quarterly Reporting**

24
25 ***14. Manitoba Hydro shall file quarterly updates regarding its Operation, Maintenance***
26 ***& Administration (OM&A) expenditures and the actual OM&A expenditures***
27 ***compared to Manitoba Hydro's target.***

28
29 Please see Appendix 10.11 for copies of Manitoba Hydro's Operating & Administrative
30 ("O&A") Expense Quarterly Reports for the quarters ended March 31, 2016, June 30,
31 2016 and September 30, 2016.

32
33 Manitoba Hydro's most recent O&A Quarterly Report for the quarter ended December
34 31, 2016 can be found in Appendix 6.5 of Tab 6.

Manitoba Hydro continues to file O&A Expense Quarterly Reports with the PUB in accordance with this directive.

10.4.8 Details of Capital Projects over \$1 million

15. Manitoba Hydro shall identify and provide details of individual capital projects with a value greater than \$1 million in future Capital Expenditure Forecasts.

Please see Appendix 5.4 of Tab 5 of this Application.

10.5 DIRECTIVES FROM ORDER 43/13

10.5.1 Interim Application Filing Requirements

5. That Manitoba Hydro file with the Board, as part of any future interim application for rate increases, the following information on a monthly basis for the previous three months, and on an on-going basis until a rate Order in respect of the Application is issued:

- (a) Hydraulic generation monthly data (GWh) for the Winnipeg River System, Grand Rapids, Upper Nelson River Generating Station(s), Lower Nelson River Generating Station(s), and Wuskwatim Generating Station;***
- (b) Monthly adjusted system energy-in-storage curves and Lake Winnipeg water levels;***
- (c) Average monthly flow data for the Winnipeg River, Saskatchewan River, and Upper Nelson River (Kelsey Generating Station) and Lower Nelson River (Kettle Generating Station);***
- (d) Monthly extra-provincial energy exchange data (volumes and prices) for National Energy Board-filed sales and purchases (by permit / license number), Midwest Independent System Operator day-ahead and real-time sales and purchases, and Canadian sales and purchases; and***
- (e) Monthly updates to Manitoba Hydro's financial results relative to its forecast.***

Manitoba Hydro has provided the information from (a) to (d) up to March 2017 as Appendix 7.4 of this Application. Manitoba Hydro will provide monthly updates to this information until a rate Order in respect of the August 1, 2017 interim rate request is issued by the PUB.

With respect to item (e) above, please see Appendix 6.4 of Tab 6 of this Application for the MHEB quarterly report for the nine months ended December 31, 2016.

10.5.2 Comparison of ELG vs. ASL under IFRS

8. That Manitoba Hydro file updated depreciation rates and schedules based on an International Financial Reporting Standards-compliant Average Service Life methodology with the next General Rate Application.

9. That Manitoba Hydro file with the Board, with the next General Rate Application, a chart showing a comparison of the impact on its Integrated Financial Forecast (i.e. 'Budget') of asset depreciation pursuant to the Average Service Life methodology (without net salvage) and the Equal Life Group methodology (without net salvage), applying both methodologies to all planned major capital additions.

In Order 73/15, the PUB directed Manitoba Hydro to retain the existing ASL methodology for rate-setting purposes until Directives 8 and 9 from Order 43/13 have been complied with and the PUB has been provided with an IFRS-compliant depreciation study based on ASL.

Further to this Directive, please see Section 10.4.4 in this Tab for Manitoba Hydro's response to Directive 10 from Order 73/15.

10.5.3 Adequacy of Manitoba Hydro's Financial Reserves

10. That Manitoba Hydro file, with its next General Rate Application, a detailed quantitative and probabilistic risk assessment and review of all of its operating and financial risks in order to allow the Board to assess the adequacy of the

reserves. Commercially sensitive information in the report is to be redacted from the public version and filed in confidence with the Board.

Manitoba Hydro's Report on the 2015 Financial Target Review and the KPMG Report are provided as Appendix 4.2 and Appendix 4.1, respectively, of Tab 4. Manitoba Hydro's uncertainty analysis methodology is further discussed in Section 4.5 of Tab 4. The additional uncertainty analysis undertaken by Manitoba Hydro along with the scenario analysis contained in the KPMG report is intended to address this Directive. Manitoba Hydro considers this Directive to be completed.

10.5.4 Surplus Energy Program Changes

15. That Manitoba Hydro's Option 1 Surplus Energy Program rate offering BE AND IS HEREBY APPROVED ON AN INTERIM BASIS, to be reviewed by the Board at a Cost of Service/Time of Use hearing.

Manitoba Hydro is seeking endorsement from the PUB of modifications to the Terms and Conditions of Option 1 of the SEP that were accepted on an interim basis in Order 43/13, as outlined in Tab 9 of this Application.

10.6 DIRECTIVES FROM ORDER 134/10

10.6.1 Confirmation of Diesel Settlement Agreement and Interim Rates

3. MH file with the Board and all Parties to this Diesel Zone Application:

- (a) Confirmation that the Settlement Agreement (from the 2004 Minutes of Settlement) has been fully executed;***
- (b) A true copy of the fully executed Settlement Agreement;***
- (c) Confirmation of payments or adequate funding arrangements for the capital costs incurred by MH, by community, since 2004; and***
- (d) Indication of capital costs still in dispute, if any, and the process and timeline for resolution of such dispute(s).***

1 **4. MH, supported by the written consents of INAC, MKO, the four First Nations and**
2 **CAC/MSOS, is to seek an Order of this Board to confirm, as final, all Diesel Zone**
3 **rates approved on an interim basis since 2004, including those interim rate**
4 **approvals in Board Orders 17/04, 46/04, 159/04, and 176/06.**

5
6 Manitoba Hydro has in previous applications advised the PUB that on January 24, 2011
7 Manitoba Hydro received an email from MKO attaching PDF copies of the Settlement
8 Agreement and related authorizing documents. On February 28, 2011 Manitoba Hydro
9 provided to the PUB, PDF copies of the Settlement Agreement as forwarded by MKO.

10
11 On June 16, 2011, MKO advised Manitoba Hydro and Aboriginal Affairs and Northern
12 Development Canada ("AANDC") that MKO had received most of the originals. Missing
13 were three original Band Council Resolutions and one original Certificate of Independent
14 Legal Advice. Manitoba Hydro was advised by MKO that these documents could not be
15 located by either MKO or the First Nations.

16
17 To remedy this situation, AANDC proposed that for each of the four documents, a sworn
18 declaration by one of the signatories to the document attesting that either the fax copy
19 or the PDF (depending upon the circumstances) is a true copy of the original document
20 and that the document was signed on that particular date was to be provided. Manitoba
21 Hydro and MKO concurred with the proposed remedy and action was to be taken by
22 MKO in this regard.

23
24 On October 28, 2011, Manitoba Hydro received from MKO, PDF copies of three of the
25 four sworn declarations. Specifically, Manitoba Hydro received PDF copies of the sworn
26 declarations from representatives of MKO, Tadoule Lake and Barren Lands. Manitoba
27 Hydro has not been advised by MKO as to whether it has yet secured a sworn
28 declaration from Shamattawa.

29
30 During the 2012/13 & 2013/14 GRA, Manitoba Hydro informed the PUB that AANDC
31 advised that a compensation issue had arisen between AANDC and MKO, which did not
32 involve Manitoba Hydro. Manitoba Hydro was not privy to the exact details but was
33 advised that the issue was related to the Settlement Agreement.

34

1 As to capital costs listed in items c) and d) Manitoba Hydro can confirm that two
2 payments have been received from AANDC: on March 31, 2011 it received a cheque
3 from AANDC in the amount of \$2,296,447, and on April 4, 2012 a cheque in the amount
4 of \$5,763,738 for a total payment to date of \$8,060,185. On April 4, 2013 a cheque was
5 received from AANDC in the amount of \$1,753,477. This represents the majority of
6 outstanding capital items since March 31, 2004 except for soil remediation for which
7 contribution was due from AANDC.

8
9 With respect to the consents described in Directive 4 above, in December of 2011,
10 Manitoba Hydro forwarded consents to AANDC, MKO and CAC as requested by the PUB.
11 AANDC has not provided an executed copy of the consent, CAC has indicated that prior
12 to providing its consent, it would require a final copy of the Settlement Agreement.
13 MKO has not provided its position. Manitoba Hydro maintains the position that the PUB
14 does not require any third parties consent to exercise its jurisdiction and that there is no
15 further process required in order to finalize the interim orders, subject to receipt of the
16 true copies of the Settlement Agreement.

17
18 Until Manitoba Hydro and AANDC are in the possession of the true copies of the
19 Settlement Agreement, there exists a remote possibility that the agreement could be
20 unwound which includes return of significant capital contributions paid. In this event,
21 Manitoba Hydro would not want rates that were set on the basis that capital
22 contributions have been received, to have already been finalized.

23
24 During the 2014/15 & 2015/16 General Rate Application, the PUB indicated in its
25 Procedural Order 18/15 (page 21) that MKO was approved to intervene in that
26 proceeding on the issue of "The finalization of Diesel Rates, provided MKO has provided
27 Manitoba Hydro and Canada with all required settlement documents." No documents
28 were provided to Manitoba Hydro during the course of the 2015 proceeding.

29
30 More recently, in its letter of April 24, 2017, the PUB indicated that at the upcoming
31 Pre-Hearing Conference, the PUB would expect MKO to provide the prerequisite
32 documents to finalize Diesel Zone rates.

33

To Manitoba Hydro's knowledge, MKO has not produced true copies of the Settlement Agreement to date.

10.7 DIRECTIVES FROM ORDER 150/08

10.7.1 Independent Benchmarking Study

6. *MH to undertake and file with the Board, by a date to be fixed by the Board after its review of the study outline to be filed by MH by June 30, 2009, an independent benchmarking study of key performance metrics, using the most currently-available data and including:*

- (a) *Primary key drivers of OM&A in each operational division [Board preference is for a divisional break-down to allow for a comparison with other utilities, even if the comparison needs to be limited to specific divisions/activities],***
- (b) *Comparable other Canadian Utility data for each of the drivers;***
- (c) *Key comparison indicators, including staffing levels;***
- (d) *A comparison with and discussion of industry best practices; and***
- (e) *Potential improvement areas.***

The Board expects to be apprised of the scope of the benchmarking study in advance of it being undertaken, and will anticipate being provided a study outline on or before June 30, 2009, to allow the Board the opportunity to provide direction and/or comment.

Manitoba Hydro expects to provide an update to this Directive prior to the Pre-Hearing Conference for this Application.