

**MANITOBA** ) **Order No. 13/10**  
)  
**THE PUBLIC UTILITIES BOARD ACT** ) **January 28, 2010**

BEFORE: Graham Lane, C.A., Chairman  
Len Evans, LLD, Member  
Monica Girouard, C.G.A., Member

**INTERVENER STATUS AND PROCESS:**  
**CENTRA GAS MANITOBA INC.**  
**2010 COST OF GAS APPLICATION**

## **EXECUTIVE SUMMARY**

By this Order, the Public Utilities Board (Board):

- a) grants intervener status to Consumers' Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors (CAC/MSOS) and Just Energy (Manitoba) L.P. (JEMPLP); and
  
- b) establishes a timetable and process for the public hearing of Centra Gas Manitoba Inc.'s (Centra) Cost of Gas Application with respect to 2010.

## **BACKGROUND**

In a Public Notice published in daily and weekly newspapers between the dates of January 2 and January 13, 2010, the Board gave notice of Centra's Cost of Gas Application (COG) for the Utility's 2010/11 fiscal year. In that Notice, the Board invited applications for Intervener status.

At the Pre-Hearing Conference (PHC), held at the Board offices in Winnipeg, Manitoba on Friday, January 15, 2010, the Board heard applications for intervener status, heard submissions in favor of, and opposed to a written hearing process with no oral hearing component, and also considered a timetable for the orderly exchange of evidence leading up to an Order by the Board.

## **APPLICATIONS FOR INTERVENER STATUS**

### Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors

CAC/MSOS have long represented general consumer and seniors' issues at regulatory proceedings related to Centra and its parent company Manitoba Hydro. CAC/MSOS sought intervener status expressing an interest in all issues pertaining to Centra's application.

CAC/MSOS indicated an intention to appear throughout the hearing, produce evidence, test evidence, and make final argument. CAC/MSOS noted it was considering engaging a consultant with regard to various cost of gas matters.

CAC/MSOS indicated it would apply for costs and that the proposed hearing budget would be filed following the Board's determination whether or not the hearing process would include an oral public hearing.

Centra had no objection to CAC/MSOS being granted intervener status, but reserved the right to review and comment on CAC/MSOS' proposed budget, when filed.

Just Energy (Manitoba) L.P.

While JEMLP was not in attendance at the PHC, a written Intervener Application was filed.

JEMLP noted an intention to appear throughout the hearing, as required, and provide final submissions, although it indicated no intention of producing witnesses. JEMLP does not intend to apply for costs.

Centra had no objection to JEMLP being granted intervener status.

Resource Conservation Manitoba/Time to Respect Earth's Ecosystems

By way of email to the Board, RCM/TREE indicated that it would not intervene in the current proceeding but requested to remain on the distribution list to receive all the evidence and filings related to the current and future Centra filings.

**Board Finding – Intervener Status**

The Board will grant intervener status to CAC/MSOS and JEMLP.

The Board maintains its discretion as to providing cost awards with respect to CAC/MSOS's intervention, the only intervener seeking a cost award. The granting of a cost award by the Board is discretionary, dependent upon the Board's view of how such an award serves the public interest. Criteria used by the Board in its assessment of cost award applications are set out in the

Board's Rules of Practice and Procedure, which may be found on the Board's website, [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

In addition to the criteria, the Board maintains a tariff with respect to the hourly rates charged by professionals and/or others assisting parties seeking cost awards; guidance is available from Board Staff.

### **ORAL TESTIMONY vs. WRITTEN ONLY HEARING PROCESS**

Centra advocated a written only process, with no oral testimony. Centra's rationale for not wanting an oral hearing component included:

- To further regulatory efficiency, since many issues have recently been canvassed in the General Rate Application that occurred in mid-2009, while the matters at issue in the Cost of Gas Application are fairly straightforward;
- Centra /Manitoba Hydro resources will be strained by the coincident General Rate Application for electric rates;
- "Because we've always done it that way" is not a valid reason considering the cost of the oral hearing;
- Most of the issues that have been canvassed at previous Cost of Gas hearings are not Cost of Gas related, and these issues have just been canvassed in the 2009 General Rate Application; and
- A paper process worked well for Centra's application to offer Fixed Rate Primary Gas Service, and that process involved more philosophical issues than the mathematical determination of the Cost of Gas.

Centra suggested that should the Board choose to have an oral hearing, that it then also eliminates the need for a second round of information requests.

On the other hand, CAC/MSOS advocated a hearing process that includes an oral public hearing component. CAC/MSOS' rationale for wanting an opportunity for oral testimony included:

- Centra has not given a compelling reason to change from past practice;
- The proposed increase in the Cost of Gas exceeding \$10 million is significant and warrants testing through oral testimony;
- Centra signed a new gas supply contract which is the single largest expenditure in the provision of gas service to Manitoba consumers;
- Centra (and the Board) does not know what evidence CAC/MSOS may file, and it may wish to fully test it through oral testimony; and
- The oral hearing can be short (i.e. two days) or it could even be canceled if there is agreement that there are no disagreements on the main issues.

### **Board Finding – Oral Hearing**

The Board concludes that the public interest is best served with an oral hearing.

Although the determination of the Cost of Gas may be largely arithmetic in nature, there are numerous other issues that the Board needs to canvass and believes oral testimony, following Information Requests, will be efficient. These topics include, but are not limited to: the Furnace Replacement Program, Centra's Fixed Rate Primary Gas Service, Lower Income Energy Efficiency Program and other responses to prior Board Directives. The Board is not confident that these issues would be fully canvassed through a written only process of information requests.

### **PROPOSED TIMETABLE**

The proposed timetable is appended as Schedule 'A'.

Mindful of the comments by both CAC/MSOS and Centra, the Board has set three days for the oral hearing – April 13, 14, and 15 and requests all parties diligently work within this timeframe.

The Board envisions one day of cross examination by Board Counsel, one day of cross examination by CAC/MSOS counsel and the third day available for cross examination by JEMLP (recognizing its focused interventions) as well as any testimony by CAC/MSOS witnesses.

Final submissions from CAC/MSOS and JEMLP will be heard, (or alternatively submitted in writing) on April 20 in the morning, with Centra to provide its final submission either in the afternoon of April 20 or, should it chose, the morning of April 21, 2010.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca)

**IT IS THEREFORE ORDERED THAT:**

1. Intervener Status for participation in the hearing process respecting Centra's Cost of Gas Application for 2010 BE AND IS HEREBY APPROVED FOR:

- i. Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors; and
- ii. Just Energy (Manitoba) L.P.

All Parties are to include RCM/TREE, which is conducting a 'watching brief', on the Distribution List to receive all filings in this hearing process.

2. The timetable for the orderly exchange of evidence leading up to and including the oral public hearing is attached as Schedule "A" and will be posted on the Board's website.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."

Chairman

"H. M. SINGH"

Acting Secretary

Certified a true copy of Order No. 13/10 issued by  
The Public Utilities Board

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Acting Secretary

**SCHEDULE "A"**

**Centra Gas Manitoba Inc.  
2010 Cost of Gas Application**

**Timetable**

File Application & Draft Public Notice	December 18, 2009
PUB Approval of Notice	December 22, 2009
Publish Notice in Daily/Weekly Newspaper	January 2 - 13, 2010
Interested Parties to Register for Intervener Status	January 12, 2010
Pre-Hearing Conference	January 15, 2010
Receipt of Information Requests - Round 1	January 29, 2010
File Response to Information Requests - Round 1	February 19, 2010
Receipt of Information Requests - Round 2	February 26, 2010
File Response to Information Requests - Round 2	March 11, 2010
All Parties to be in Receipt of Intervener Evidence	March 18, 2010
All Parties to file Information Requests of Intervener Evidence	March 24, 2010
Intervenors to File Responses to Information Requests	April 5, 2010
Centra Rebuttal	April 9, 2010
Oral Hearing	April 13, 14, 15, 2010
Final Submissions	April 20-21, 2010

**SCHEDULE "B"**

**PROCEDURES TO BE FOLLOWED AT THE  
Centra Gas Manitoba Inc.  
2010 Cost of Gas Application**

1. Hearing: The hearing will be held at the Board's office, 4<sup>th</sup> floor, 330 Portage Avenue, Winnipeg, commencing on April 13, 2010 at 9:00 a.m. and continuing April 14 and 15, if necessary.
2. Hearing Times Each Day: 9:00 a.m. to 12:00 Noon 1:15 p.m. to 4:00 p.m.  
(Amendments may be made by the Board at the hearing)
3. Assigned Sittings: Presenters will be heard commencing at 1:15 p.m., Monday, April 13, 2010, and at 7:00 p.m. that day if necessary.
4. Opening statements will be made by Board Counsel, Interveners' Counsel and by Counsel for Centra.
5. (a) Centra has filed its application and supporting evidence. Further submissions to be served on all parties, including RCM/TREE.  
(b) Centra to introduce witnesses. Board Counsel and Interveners to cross-examine Centra's witnesses.
6. (a) Leading of testimony by witnesses for interveners (if any).  
(b) Witnesses to be available for cross-examination by all parties following each presentation.
7. All interrogatories are to be filed and responded to using the prefixes as assigned by the Board when Interveners are registered (set out in the body of the Order). The party requesting information is to use firstly their prefix followed by the prefix of the party being asked eg. PUB/Centra, etc. Interrogatories are to be numbered sequentially through 1st and 2nd rounds, eg. PUB/Centra 3.
8. All pre-filed evidentiary material to be filed at the commencement of the hearing by Board Counsel using assigned prefixes.
9. All witnesses to be sworn or affirmed.
10. All presenters are to register with the Board's Secretary on or before March 12, 2010.  
(Presenters are not subject to cross-examination, nor is their presentation considered evidence. The Board may ask for clarifications of statements made.)

11. Daily transcripts will be available. Parties are to make arrangements with the Reporter. Transcripts can be found at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca) at no charge.
12. It is the Board's request that all motions be dealt with pursuant to the Board's Timetable.
13. The Board's Rules of Practice and Procedure (available on the Board's website) dealing with the Awarding of Costs will apply to all matters before the Board.
14. The Board indicates its willingness to be available for any problems that may arise during the exchange of information at any time, such time to be arranged through Board Counsel.
15. Five (5) copies of material are to be submitted to the Board's offices, one (1) copy to each of Cathcart Advisors Inc., 21 Fall Ridge Road, Winnipeg, MB R3Y 1X9 and Energy Consultants International, 202 – 1015 Wilkes Avenue, Winnipeg, MB R3P 2R8 and two (2) copies are to be submitted to Board Counsel at the following address: Attention: Robert Peters, Fillmore Riley LLP., 1700 - 360 Main Street, Winnipeg, MB R3C 3Z3.
16. Electronic copies of all material including the evidence of parties are required to be submitted to the Board's e-mail address: [publicutilities@gov.mb.ca](mailto:publicutilities@gov.mb.ca). Where schedules or other attachments accompany an electronic file, that filing must be discrete and include only the item and schedules to which each refers. The electronic files shall be named in accordance with their parties prefix as per #7. All electronic filings shall be in Adobe Acrobat format, with protection securities which will allow them to be included in one Multiple-Files Document and which will allow extracts to be copied from the documents.