

Date: July 31, 2003  
From: Peter Miller (TREE/RCM)  
To: Rory Grewar, Secretary to the CEC (sent by email: Rgrewar@gov.mb.ca)  
Re: Matters raised at the July 28, 2003 Pre-hearing Conference on Wuskwatim

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1. Contact information:

Primary contact: Peter Miller (TREE), 133 Riley Crescent, Winnipeg, MB R3T 0J5.  
Phone: 452-9017, fax: 774-4134 (attention: Peter Miller), email: p.miller@uwinnipeg.ca

Backup: Randall McQuaker, Executive Director, Resource Conservation Manitoba,  
70 Albert Street, Unit 2, Winnipeg, MB R3B 1E7. Phone: (204) 925-3770,  
fax (204) 942-4207, email: randall@resourceconservation.mb.ca

2. Information exchange:

Our preferred method of receiving and delivering documents, including transcripts, is by email or web posting, as our consultants are based out of province. However, we would also like to receive major submissions from the proponents and special figures and maps in hard copy.

TREE and RCM did not budget for printing and distribution costs for our submissions, as may also be the case with other intervenors. We would support an initiative by the CEC to resource centralized document distribution as the most efficient and accurate way to get hard copies of documents to all the parties that require them. We note that distribution lists may change in the course of the hearings; that the number of copies required is not always clear; that intervenors without offices, equipment, and personnel geared to paper publication and management may have difficulty handling the new responsibility of document production, binding, and distribution; and that intervenor budgets may not have contemplated this task. A centralized distribution office could keep and update the appropriate address labels and fax numbers programmed into the fax machine and combine multiple documents into a single mailing. We can handle email distributions to multiple recipients without much trouble if we are provided with a list of addresses.

3. Schedule:

Like many other intervenors, we have problems with the schedule proposed by Manitoba Hydro and NCN and think that it is highly unreasonable to expect all research, information exchange, hearings, deliberations, Section 35 consultations, provincial regulatory review and approvals, federal regulatory review and approvals, appeal processes (up to 60 days), and MH/NCN review and approval to be completed by the end

of 2003, in order to retain a 2009 in service date for Wuskwatim. That date has already slipped by, if it requires initiation of construction this January. While the MH/NCN end date might have been viable had the review started a year ago, as earlier contemplated, it would sabotage the review to visit the cumulative impacts of delays during the last several years upon the final four months preceding a fixed deadline. It would also not reflect the level of investment in intervenor funding that the Province has committed for doing a thorough review, rather than a rubber stamp. We need time for that (though we fervently hope that the time will be less than the duration of the PUB rate hearings, which began over 18 months ago and are still under appeal). Please note as well that (1) the funding was not received until mid-July, with notification only a few days preceding that, as most people were involved in or planning their summer vacations, and after the deadline for comments on the original filing, and (2) while extensive pre-filing consultation was done by the EIS team over the last few years, the same cannot be said about the NFAAT, which was outside the EIS team's domain.

Specifically, there are two critical dates related to the TREE/RCM intervention. One is the date when the new DSM study is released (now scheduled for the end of August, though earlier expected in July). The other is the date at which our consultants, Torrie Smith Associates (TSA), can deliver their completed review and study of Manitoba's DSM and distributed generation potentials and their impacts on electrical supply/demand forecasting to 2009 and 2020. This study will be our core submission to the CEC hearings. TSA has indicated that they could complete their report by **December 15, 2003**, assuming an end of August release date for the DSM report and a flat-out effort on their part.

Manitoba Hydro has indicated that preliminary drafts of their DSM study might be available to TSA in advance of the MH DSM report's release. TSA was in contact with a principal consultant for the MH study just prior to his vacation, which ends August 11<sup>th</sup>. TSA indicates that they will be able review their schedule in early September, after assessing the availability and quality of the data that they are seeking from Manitoba Hydro, to see if they can shave some time off the December 15<sup>th</sup> completion date.

The above dates dictate other milestones for the hearing process. Specifically, **the date for the pre-hearing submission of documents, at least for the NFAAT portion, should be no earlier than December 15<sup>th</sup>**, provided that DSM information becomes available as above. Also, **the due date for the receipt of interrogatories by MH/NCN** should be at least three weeks following the delivery of their supplemental submissions, including the DSM study, which, if they hold to their indicated schedule, will be around **September 30<sup>th</sup>**. *Note that we do not accept the CAC/MSOS proposal that the DSM study should be released by Day 36 following the supplemental/deficiency filing, since we regard the absence of this study as the primary deficiency. Its release defines Day 1.*

From the standpoint of TREE/RCM, it would be desirable for MH/NCN to present their material at an early stage of the hearing process and undergo cross-examination prior to the deadline for intervenor submissions. This additional information exchange could assist intervenors in completing their submissions and would use the intervening time

more efficiently if there is a desire to accelerate the process.

Recognizing that the NFAAT consultation and review has been on a slower track than the EIS consultation and review, if the hearings were segmented, it might also be possible to accelerate the process by hearing the EIS portion while awaiting completion of NFAAT submissions, although this may not be the logical order of deliberation and may not fit with other intervenors' schedules.

4. Interrogatories:

As indicated above, the deadline for receipt of interrogatories should be **no earlier than September 30<sup>th</sup>**, if MH/NCN provide their remaining filings no later than the first week in September. We will attempt to submit many of our questions in advance of the deadline to facilitate responses by Manitoba Hydro, while reserving the right to submit further questions up to the deadline.

We agree with the CAC/MSOS proposal that there needs to be an interval for further disclosure or clarification from MH/NCN in response to questions, following the replies to the first round, which may in some cases be inadequate. Remaining differences as to adequacy may have to be settled by motions and determinations by the CEC (Days 41 to 54 of the CAC/MSOS proposal).

One question to be answered is whether the intervenors in turn should answer interrogatories from the parties after making their submissions. There is value in this process, in order to clarify the submissions. However there may also be cost implications, if the requests were to become too onerous. Our consultants are prepared to invest two days in this task, but additional time would have to be compensated.

5. Confidentiality:

The MH/NCN handout distributed at the pre-hearing conference indicates that MH cannot release “commercially confidential information including current export prices and forecasts of likely future prices,” etc. but will be able to provide trends and ranges between high and low values, and related information. MH also indicated to us that there may be confidentiality conditions attached to the early release of end-user data for the DSM analysis. TREE/RCM will try to accommodate reasonable confidentiality conditions compatible with our being capable of engaging in the analysis set out in the work plan. We hope that the approach proposed by MH/NCN will be satisfactory, but we will wait until the information we require is in hand before passing final judgment on this issue. Although we are not anticipating difficulties, it may be unreasonable to require that all challenges should be launched prior to the end of the initial interrogatory process, since it is usually a response to a question that is not forthcoming that precipitates such a challenge.