

## **The Manitoba Clean Environment Commission**

### **Pimicikamak Cree Nation Motion**

#### **Respecting:**

#### **The Wuskwatim Generation and Transmission Project**

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### **Background**

In April 2003, Manitoba Hydro (“Hydro”) and the Nisichawayasihk Cree Nation (“NCN”) filed Environmental Impact Statements and *the Justification, Need for and Alternatives* to the proposed Wuskwatim Generation Project with the Manitoba Clean Environment Commission (“CEC”). Also, in April 2003 Hydro filed Environmental Impact Statements and the Justification, Need for and Alternatives to the proposed Wuskwatim Transmission Project with the CEC. These two filings constitute (“the Filing”). On August 28, 2003, the CEC set out a Preliminary Pre-Hearing Schedule to conduct a review of the Filing which provides an opportunity for all interested parties to submit information requests, file evidence prior to the hearing, conduct cross examination, and submit final argument at the hearing.

On July 28, 2003, the CEC received a motion from the Pimicikamak Cree Nation (“PCN”) regarding the Filing. In addition to accepting written responses to the PCN motion from Hydro and NCN, the CEC received written comments from other interested parties and held a hearing on September 30, 2003 to listen to oral argument regarding the PCN motion.

Oral and written submissions were provided by PCN, Hydro, NCN, the Association for the Displaced Residents of South Indian Lake (“DRSIL”), the Boreal Forest Network (“BFN”), the Canadian Nature Federation (“CNF”), the Community Association of South Indian Lake (“CASIL”), the Consumers Association of Canada/Manitoba Society of Seniors (“CAC/MSOS”), the O-Pipon-Na-Piwin Cree Nation (“OCN”), the Tataskweyak Cree Nation (“TCN”), Time to Respect Earth’s Ecosystem/Resource Conservation Manitoba (“TREE/RCM”), Trapline #18, and Manitoba Conservation.

## **The PCN Motion**

The motion requested the following:

1. A decision by the CEC to broaden the scope of its review so as to consider the development that is actually underway, and proposed: “the Whole Project”, which includes the existing Churchill River Diversion and Lake Winnipeg Regulation and Nelson River works and operations (“the Existing Segment”), and presently contemplated future works and operations including the Wuskwatim Project (all of which are “the Future Segment”), and
2. A decision by the CEC finding that Hydro’s assessment filings (the submission on the Need For and Alternatives To the Wuskwatim Project, and the Environmental Impact Statement) are seriously deficient, which disables the Commission from carrying out any review. The filings do not consider and assess what the proponent is actually doing and actually intends to do. Filings misconceive and misrepresent or completely omit fundamental concepts and issues.

## **CEC Findings**

The CEC is of the view that the written and oral submissions put forth by the various parties were helpful, and has carefully considered these submissions in arriving at its decision with regard to the PCN motion.

### ***1. Motion to Broaden Scope***

At this time, the CEC will not conduct an investigation of the Whole Project as suggested by PCN. The CEC considers the development under consideration to be the Wuskwatim Generation and Transmission Project, not the generation and transmission system developed in Manitoba over the past 50 years. However, in keeping with past practice, the CEC will broadly interpret the Terms of Reference provided to it by the Minister, and will consider cumulative impacts of the development in accordance with the Environmental Impact Statement Guidelines on existing and future projects and activities, as well as alternatives.

Therefore, PCN's first motion to broaden the scope of review is dismissed.

### ***2. Motion to Find the Filing Seriously Deficient***

The CEC has set out a process that that will allow testing of the Filing by parties and is confident that many of the concerns regarding the alleged lack of information put forth can be addressed through the pre-hearing schedule including the information request process.

The CEC remains of the view that the process set out in the Preliminary Pre-Hearing Schedule balances the needs of all of the parties to have an efficient, fair and transparent process, and allows sufficient opportunity to test the relevant information. The Schedule includes a full interrogatory process to permit the exchange of questions and answers

between all parties and to identify information deficiencies. All parties are reminded that this interrogatory process can be expanded if necessary should the CEC find that there is insufficient information for it to proceed with the hearing or make its recommendations to the Minister.

The CEC notes that the review of the Filing and the determination of its adequacy by Manitoba Conservation and the Project Administration Team were expected to be completed by the summer of 2003. That review is still underway, and at the September 30, 2003 oral hearing, Manitoba Conservation was unable to provide an estimated completion date.

Therefore, PCN's second motion to find the Filing seriously deficient is dismissed.

In conclusion, the decisions noted herein are final and are not subject to further debate. The CEC will expect the interested parties to vigorously test the material filed. The CEC is of the firm belief that cooperation of the interested parties is required to ensure that the process will provide the necessary information in an effective and efficient manner.

Issued by the Chairman of the Manitoba Clean Environment Commission on October 6, 2003.

*Original signed by*

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Terry Duguid