

National Energy  
Board



Office national  
de l'énergie

**Manitoba Hydro  
Manitoba-Minnesota Transmission Project (MMTP)**

**File OF-Fac-IPL-M180-2015-01 02**

**Hearing Order EH-001-2017**

**21 December 2017**

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## Explanation of Frequently Used Terms

The following are some terms used throughout this document and the hearing process. They are not legal definitions.

Manitoba Hydro	The company which has submitted the application for the proposed Project.
Board, NEB or we	National Energy Board
Certificate	Certificate of Public Convenience and Necessity granted under section 58.16 of the National Energy Board Act
CEAA 2012	Canadian Environmental Assessment Act, 2012
CEC	Manitoba Clean-Environment Commission
Commenter	A person who is directly affected, has relevant information or has expertise regarding the Project and who has been approved to provide a letter of comment – see section 2.4.
e-file	Filing documents electronically with the Board – see section 4.2.
evidence	Reports, statements, photographs, and other material or information that Participants submit as part of the record. Evidence is used to support their position on the Application.
File	A formal way of submitting documents to the Board – see section 4.2
final argument	The position of Manitoba Hydro, Intervenors, on the decision we should make and the reasons why the evidence supports the decision. This may be done orally at the hearing or in writing.

Governor in Council	The Governor General acting on the advice of the Federal Cabinet.
Hearing or public hearing	A public process we use to gather and test evidence so we can make fair and transparent recommendations. The hearing includes a written portion and may include an oral portion.
Information Request or IR	A written question about Manitoba Hydro's evidence or about an Intervenor's evidence.
Intervenor	A person who is directly affected, has relevant information or has expertise regarding the Project and whose Application to Participate has been approved. Being an Intervenor is the fullest way to participate in the hearing process.
IPL	International Power Line
List of issues	The List of issues that we propose to consider in this hearing - see Appendix I.
MMTP	Manitoba-Minnesota Transmission Project
NEB Act	National Energy Board Act
Notice of Motion	A document used to raise a question of process or substance, or to ask us to do something. We make a decision about any motions we receive by way of a Notice of Motion – see section 4.5.
oral portion of the hearing	The in-person portion of the hearing - see section 3.13.

Participant	A person who has applied to participate in the hearing and whose application to participate has been approved by us. The term Participants includes Manitoba Hydro, Intervenor, and Commenters.
Permit/CEAA 2012 process	Permit international power line process combined with an environmental assessment process under CEAA 2012.
Pre-determined standing	Board granting of pre-determined standing to those parties who are registered participants in the Permit/CEAA 2012 process – see Appendix III.
Process Advisor	Board staff who help the public, Aboriginal groups and Participants to understand the process and how to participate in the hearing - see section 5.3 and Appendix V.
Project	Manitoba Hydro’s proposed Manitoba-Minnesota Transmission Project (MMTP) - see sections 1.2-1.3.
public registry	An online document repository for the evidence filed in the hearing. It is the record that is available to the public. In most cases the public registry and the record include the same information. However, in exceptional circumstances, the Board may decide that certain information can be filed confidentially. This information is part of the record, but not available on the public registry.
record	The record includes all relevant submissions and evidence filed or given orally in the proceeding, including documents such as the Application and the Hearing Order.
Regulatory Officer	Board staff who assist Participants, manage documentation before, during and after the hearing, perform court clerk duties at the hearing and manage the post hearing process - see section 5.4.
reply evidence	Additional information Manitoba Hydro may file in reply to evidence filed by other Participants.

Reasons for Decision	A decision prepared by us that includes our reasons as to whether or not the Certificate should be granted for the Project. When making the decision, we will take into account whether the Project is and will be required for the present and future public convenience and necessity. If we decide that the Certificate should be issued, its issuance is subject to the approval of the Governor in Council.
serve	Officially providing a document to the applicable Participant, such as Manitoba Hydro, Intervenors. Notice that the document is available on the public registry is usually provided electronically (by e-mail) but the document may need to be provided to Manitoba Hydro, Intervenors by mail or fax - see section 4.3.

# 1 This hearing

## 1.1 An overview

The National Energy Board (NEB or the Board) has a responsibility to regulate the construction and operation of certain interprovincial and international pipelines and power lines. We are a three member Panel of the Board who will make a decision on whether the Manitoba-Minnesota Transmission Project (MMTP) should proceed or not and, if it is to proceed, under what conditions it may do so.

Manitoba Hydro has applied to us for a permit to build and operate an international power line (IPL) from Dorsey Converter Station near Rosser, Manitoba to the border of the US, crossing near Piney, Manitoba under section 58.11 of the NEB Act. The applied-for new IPL is a 500-kilovolt alternating current power line with 213 kilometres of new transmission line consisting of approximately 121 kilometres of new right-of-way. Also, Manitoba Hydro has applied to us for approval for certain changes to other IPLs required to accommodate the proposed new IPL.

The MMTP IPL exceeds 345 kV and requires more than 75 km of new right-of-way which means the project falls under the *Canadian Environmental Assessment Act, 2012*,<sup>1</sup> (CEAA 2012) and therefore, must undergo an environmental assessment as set out in CEAA 2012. The Board is the responsible authority under CEAA 2012 to conduct this environmental assessment.

On 19 April 2017, the Board made a decision to continue to assess MMTP with a permit process combined with an environmental assessment process under CEAA 2012 (Permit/CEAA 2012). On 27 June 2017, the Board issued a Notification - Registration to Participate in the CEAA 2012 Environmental Assessment of the Manitoba-Minnesota Transmission Project to provide the public with an opportunity to participate in the environmental assessment of the Project under CEAA 2012. The Board received eight Registrations to Participate in the CEAA 2012 Environmental Assessment of MMTP by the closing of the registration period on 15 August 2017.

Manitoba Hydro also applied to the province and on 31 December 2015, the Manitoba Minister of Conservation and Water Stewardship requested that the Manitoba Clean Environment Commission (CEC) hold a public hearing on the proposed Project. The CEC's Report on the Public hearing with respect to the Project (Report) was filed with the Board on 12 October 2017.

The Board will seek to avoid duplication of measures taken in respect of the applied-for IPL by the applicant and by the province of Manitoba. Avoidance of duplication of effort is achievable by incorporating the record created in the CEC hearing, and the report produced by the CEC as a result of that record. Moreover, we will focus its assessment on the matters set out in CEAA 2012 and the NEB Act, as required.

Based on new information, on 31 October 2017, the Board recommended to the Minister, pursuant to subsection 58.14 (1) of the NEB Act that the Project be designated by order of the Governor in Council under section 58.15 of the NEB Act as an International Power Line (IPL). [\[Letter to Minister of Natural Resources Canada\]](#)



This means that MMTP would be constructed and operated in accordance with a certificate issued under section 58.16 (Certificate provision of the NEB Act). On 15 December 2017, the Governor in Council decided that MMTP will be assessed under the Certificate provision of the NEB Act. We note that, should the IPL be designated by order of the Governor in Council under section 58.15, and should the Board issue a certificate, subject to the approval of the Governor in Council, the application of provincial law for the ongoing operation of the IPL would continue to apply as set out in the NEB Act.

We will hold a public hearing to consider whether to approve this Project or not. During the public hearing we will receive written evidence which can be found on our website. The hearing will also include an oral portion for final argument and reply. There are various ways we gather and test evidence during this hearing. We will review and consider all of the evidence on the record before we make our decision. We rely only on the evidence on the record.

We will release Reasons for Decision setting out our decision and its reasons. This Decision will take into account whether the Project is required for the present and future public interest. If we decide that a Certificate should be issued, we will recommend to the Minister that the Governor in Council approve the issuance of the certificate. The issuance of the Certificate is subject to the approval of the Governor in Council. If we deny the Certificate then the applied-for IPL cannot be built.

The steps and deadlines in the hearing, as outlined in this document, are important to make sure the hearing is fair, transparent and efficient, and provides certainty to all participants.

## **1.2 What did Manitoba Hydro apply for?**

On 16 December 2016, Manitoba Hydro applied for:

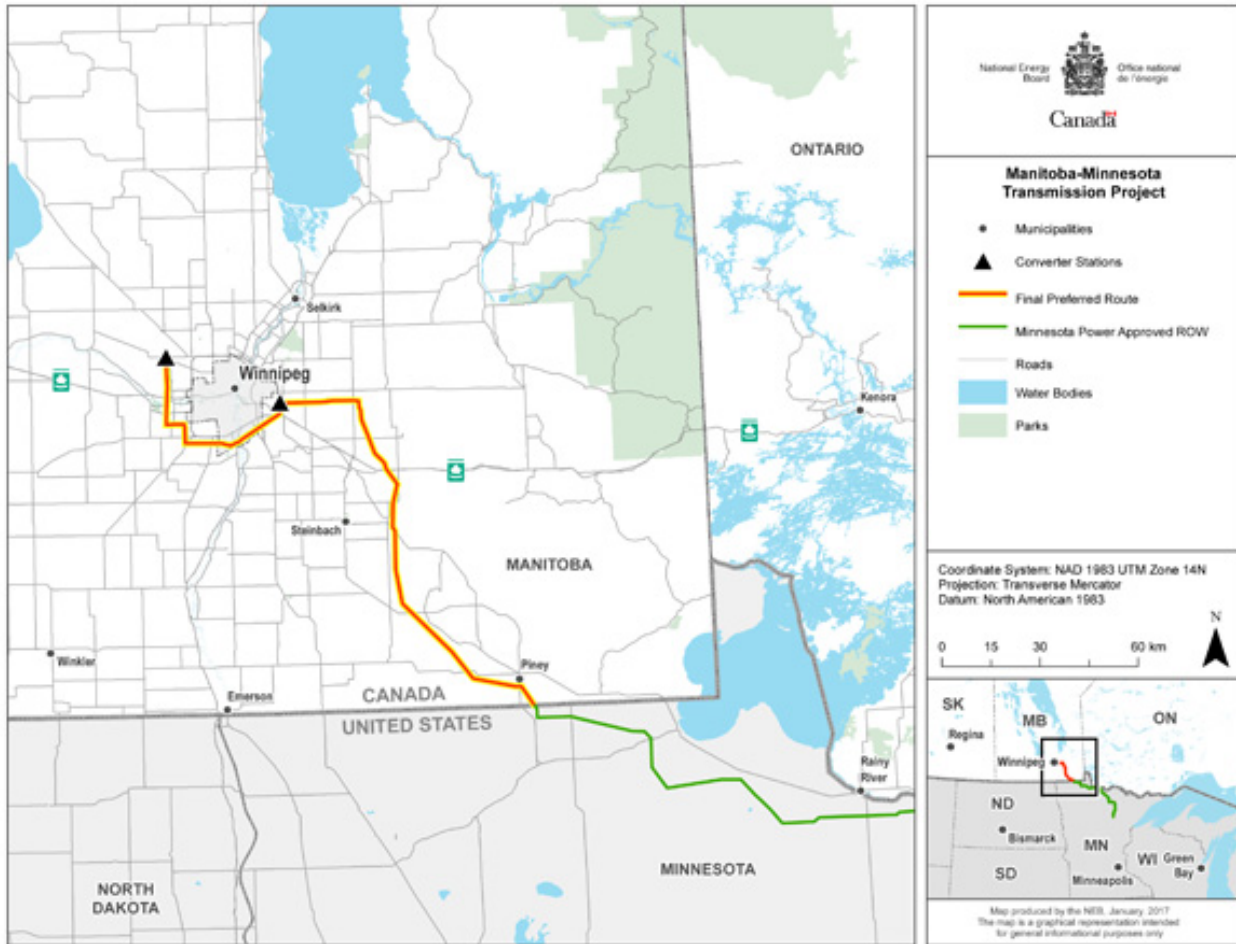
- 1) Dorsey IPL: Pursuant to section 58.11 of the NEB Act, Manitoba Hydro seeks a permit to construct and operate a 500 kV alternating current international power line extending from Manitoba Hydro's Dorsey Converter Station in Manitoba to a point on the international boundary south of Piney, Manitoba.
- 2) Alterations to Glenboro IPL: Pursuant to Condition 13 of Permit EP-196 to alter the Glenboro IPL by the addition of two phase-shifting transformers to the terminal facilities of the IPL and relocating a segment of the IPL.
- 3) Alterations to Riel IPL: Pursuant to Condition 8 of Certificate EC-III-16 to relocate a segment of the Riel IPL and Pursuant to subsection 45(1) of the NEB Act for the plan, profile and book of reference showing the proposed alteration.
- 4) Confidential Material: Pursuant to 16.1 and 16.2 of the NEB Act, due to the confidential nature of some of the material contained in the appendices to this Application.

Manitoba Hydro states that the proposed modifications to the Riel IPL and Glenboro IPL are incidental to the construction of the proposed Dorsey IPL and are therefore included in the

“designated project” as set out in CEAA 2012. Manitoba Hydro notes that although the MMTP includes modifications to the Dorsey Converter Station and Glenboro South Station, Manitoba Hydro does not consider the stations themselves to be part of the IPL.

Together, these facilities are known as the Project.

### 1.3 Where is this Project located?



### 1.4 What is this document about?

This document is a hearing order and explains:

- your options to participate in or observe the hearing;
- steps and deadlines;
- procedures;
- where you can get more information; and,
- the issues we propose to consider.

## **1.5 Where can I see Manitoba Hydro’s Application and get more information about the Project?**

If you have Internet access, you can find the application on our website. If you don’t have Internet access, you can find the application in the **National Energy Board Library** 2<sup>nd</sup> floor, 517 Tenth Avenue SW, Calgary, AB T2R 0A8. You can also ask Manitoba Hydro for a copy.

You can find all documents filed in the hearing on our website. The only exceptions are when a document is too large or we have approved it as confidential information. Appendix III shows how hearing documents are organized online and includes tips for using our website.

## **1.6 Where can I get help or more information?**

The Board’s Process Advisor can provide you with information on the process and how to participate in it. Section 5.3 tells you how to contact the Process Advisor. Appendix V explains the role of the Process Advisor.

Our website also has helpful publications about the hearing process and the energy industry in general. Section 5 has information about other sources of help, including Board staff names and contact information.

# **2 Participation**

## **2.1 Can I participate in this hearing?**

Section 55.2 of the NEB Act says that the Board will determine who may participate in this hearing. If you wish to participate, you must fill out the “Application to Participate” form accessible through the Manitoba Hydro Application folder on the NEB website. Refer to #6 in Appendix III for how to get there.

To be eligible to participate, you must demonstrate in your application that:

- you are directly affected by the Project; or,
- you have relevant expertise or information that will assist the Board in making its recommendations in respect of the Manitoba Hydro Application.

You must file your Application to Participate before noon, Calgary time, on 23 January 2018. Section 4.2 of this Hearing Order provides information on how to file your form with us.

For additional guidance on how the Board decides who may participate, see Appendix II.

When you apply, you must indicate how you want to participate. There are 2 options you can choose from:

- becoming a Commenter, or telling us your views in writing in a letter of comment; or,
- becoming an Intervenor.

We will assess all Applications to Participate and decide who may participate and how. We will issue a List of Participants indicating our decisions by 29 January 2018.

## **2.2 How can I stay informed of the hearing?**

Anyone may observe the hearing process. You can observe the hearing process by:

- reading information about this hearing on our website – see Appendix IV
- reading the evidence that has been filed on the public registry
- listening to live broadcasts of the oral hearing through our website
- attending the oral hearing in person
- reading the daily transcripts of the oral hearing
- signing up through the Project website to receive e-mail updates

Section 5.2 tells you how to stay informed using our website.

## **2.2 What is Standing and what is Participation?**

Standing refers to the ability to participate. Level of participation refers to how someone can participate.

To have standing means that you are allowed to make representations to the Board and that the Board will consider this information before making its decision or recommendation on an application. These representations could be either oral or in writing. Typically, participants with standing in a hearing are Commenters, Intervenors, and the company who made the application (Applicant).

If you are granted standing, the Board will determine whether you will participate as an intervenor or a commenter. That determination may rely on what the NEB Act says, natural justice considerations, or be a discretionary decision based on any number of factors. Practical or logistical factors may include the type of evidence required by the Board (technical versus Traditional Knowledge as an example), the capabilities of participants, and fairness and efficiency of the proceedings. Number of participants and time limits for the assessment process may also be a factor in the levels of participation available and how much time may be allowed for each Participant

Our website also has helpful publications about the hearing process and the energy industry in general. Section 5 of this Hearing Order has information about other sources of help, including Board staff names and contact information.

## **2.3 Have any persons been granted Standing in this hearing?**

The Board has decided to grant standing to all parties who registered to participate in the MMTP Permit/CEAA 2012 process which closed 16 August 2017. These persons are directly affected by the granting or refusing of the Application or they have relevant expertise or information that will assist the Board in making its decisions in respect of the Manitoba Hydro Application so they do not need to again register in the ATP process in January 2018. Persons granted this Pre-decided Standing are to be considered Intervenors unless they notify the Board otherwise. The list of those granted Pre-decided Standing is found in Appendix III.

## **2.4 What is a Commenter?**

If you apply and are approved by us to be a Commenter you are allowed to file one letter of comment on the Project. The letter will be placed on the online public registry, will form part of the hearing record, and we will read and consider it. Any additional letters or submissions will not be included on the record or considered.

Commenters will not be notified of, or receive documents that are filed on the online public registry for this Project. You will need to monitor the registry if you wish to remain aware of new filings on the record. [[Application for the Manitoba-Minnesota Transmission Project](#)]

If you are directly affected and/or have relevant expertise, you should consider whether applying to be an intervenor is a more appropriate way to participate in the hearing process. See Section 2.5.

### **2.4.1 Filing a letter of comment**

If you apply and are approved by us, you can become a Commenter and tell us your views by writing us a letter of comment. Your letter of comment should include:

- your name, mailing address, and phone number;
- the name of your organization, if you represent one;
- hearing number EH-001-2017 and file number OF-Fac-M180-2015 02;
- comments on how you will be impacted positively or negatively by the Project; and,
- any information that explains or supports your comments.

Your letter of comment becomes part of the public registry. You will not be able to ask questions about other Participants' evidence or make a final argument.

### **2.4.2 How can I file a letter of comment?**

Only those who have been approved as Commenters may file a letter of comment. To file a letter of comment, you must by 23 April 2018:

1. Send your letter to us in one of these ways
  - through your online [NEB account](#), which you set up when applying to participate in this hearing process,
  - online using the “electronic document submission” on our website, or,
  - mail, fax or courier it to us - see Section 5.1.
2. You must also send a copy of your letter to the applicant and its counsel at:

Ms. K. Jennifer Moroz  
Barrister & Solicitor  
211 Waverley Street  
Winnipeg, MB R3M 3K4  
Telephone 431-996-9206  
[j.moroz@jennifermoroz.com](mailto:j.moroz@jennifermoroz.com)

and

Ms. Janet Mayor  
Barrister & Solicitor  
Manitoba Hydro Law Division  
22<sup>nd</sup> Floor – 360 Portage Avenue  
Winnipeg, MB R3C 0G8  
Telephone 204-3500-4655  
[jmayor@hydro.mb.ca](mailto:jmayor@hydro.mb.ca)

## 2.5 What is an Intervenor?

Being an Intervenor is the most involved way to participate. It requires a commitment of time and may involve some costs to prepare your evidence and send documents to Participants. It allows you, among other things, to:

- submit written evidence;
- ask questions in writing about others’ evidence;
- submit and respond to motions; and,
- make an oral or written final argument.

If you give evidence, you must:

- in writing, answer any written questions about your evidence; and,
- attend the oral hearing if anyone plans to ask questions about your evidence.

Intervenors will be notified of, or receive all documents that are on the public registry [[Application for the Manitoba-Minnesota Transmission Project](#)]. This includes the Application, evidence, notices of motion and all related materials. You can find the public registry on our website. For more information on how to find documents on our website, see Appendix IV.

## **2.6 Can I withdraw?**

If you are approved to be a Participant, you may withdraw at any time in the hearing process by telling us in writing.

## **3 Steps in the hearing**

This section describes the steps in the hearing process. Appendix VI shows the timetable of events and deadlines.

### **3.1 Board sets a time limit**

The Board determined that this Application was complete and the assessment could begin. The Chair of the NEB has specified that the time limit for us to decide about the Project is no later than March 2019. The time limit represents the maximum time for us to complete our assessment, subject to any modifications allowed under the NEB Act.

### **3.2 We release a Hearing Order including the List of Issues and the Persons granted Pre-decided Standing**

The issues that we will consider in this hearing are listed in Appendix I.

The list of persons granted Pre-decided Standing for this hearing is set out in Appendix III.

### **3.3 We receive applications to participate**

Refer to section 2.1 for how to apply to participate in this hearing. If you are not granted Pre-decided Standing, you must apply to participate as a Commenter or an Intervenor. If you are granted Pre-decided Standing, you do not need to register and will be considered an Intervenor unless you notify the Board, in writing that you would like to be a Commenter.

Applications to participate must be filed with us and served on Manitoba Hydro by noon, Calgary time, on 23 January 2018.

### **3.4 We issue the List of Participants**

We will release the List of Participants (Commenters and Intervenors) soon after the deadline for Applications to Participate (ATP). The List of Participants will indicate how Manitoba Hydro, and Intervenors wish to be served with documents.

If you are a Participant, you must notify us if your contact information changes by signing into your NEB Account using your GCKey. Locate “Manitoba-Minnesota Transmission Project”, select Manage Contacts. You can also notify us of the changes by submitting documents by e-filing according to the instructions found in section 4.2.

### **3.5 Manitoba Hydro serves the Application**

Immediately after we release the List of Participants, Manitoba Hydro must serve a copy of its Application and all related documents on each Intervenor who has not already received a copy.

### **3.6 Intervenors file Information Requests to Manitoba Hydro**

All Intervenors may ask questions of Manitoba Hydro. Their questions are to be in writing and these are referred to as Information Requests. Every Information Request must be relevant to one or more of the issues identified in Appendix 1.

To submit Information Requests to Manitoba Hydro, an Intervenor must, by 19 February 2018:

- file the Information Request with us;
- serve it on Manitoba Hydro and its counsel; and,
- serve it on all other Intervenors.

The Board may also, at any time, ask Information Requests of Manitoba Hydro.

### **3.7 Manitoba Hydro responds to Information Requests**

By 26 February 2018, Manitoba Hydro must:

- file responses to all Information Requests with us; and,
- serve a copy on all Intervenors.

### **3.8 Intervenors file written evidence**

By 19 March 2018, Intervenors who want to file evidence must:

- file written evidence with us; and,
- serve a copy on Manitoba Hydro and all other Intervenors.

The evidence must be relevant to one or more of the issues identified in Appendix I.

### **3.9 Aboriginal groups may participate in Oral Traditional Evidence**

The Board understands that Aboriginal peoples have an oral tradition for sharing lessons and knowledge from generation to generation. The Board is of the view that it would be valuable to hear oral traditional evidence that would assist the Board in understanding how the Project may impact Aboriginal communities' interests, including rights. The Board therefore wishes to extend an invitation to Aboriginal Intervenors to provide oral traditional evidence. Oral traditional evidence is transcribed and forms part of the official record. Aboriginal Intervenors will have a time limit and may be asked questions of clarification. Aboriginal Intervenors can present written evidence and participate in oral cross examination regardless of whether they provide oral traditional evidence.



### **3.10 Participants submit Information Requests to Intervenors**

Manitoba Hydro and Intervenors may ask questions about the evidence of other Intervenors. To do this, they must, by 26 March 2018:

- file the Information Requests with us;
- serve them on the relevant Intervenor; and,
- serve a copy on Manitoba Hydro, and all other Intervenors.

The Information Requests must be relevant to one or more of the issues identified in the List of Issues, found in Appendix 1.

### **3.11 Intervenors respond to Information Requests**

By 16 April 2018, Intervenors must:

- file a copy with us of the responses to the Information Requests they receive; and,
- serve a copy of those responses on Manitoba Hydro and all other Intervenors.

### **3.12 Manitoba Hydro files reply evidence**

By 30 April 2018, Manitoba Hydro may file any reply evidence with us and serve a copy on all Intervenors.

### **3.13 Participation in an Oral portion of the hearing**

The Board has included a placeholder in the Timetable of Events for oral cross-examination and oral final argument. At this point, the Board expects oral cross-examination and oral final argument to take place no earlier than May 2018. The specific format and dates will be provided at a later date. Intervenors may provide written or oral final argument. Those providing written final argument must do so before oral final argument begins.

### **3.14 We close the record and make a decision**

After the oral portion of the hearing, we close the record, meaning we do not accept any new evidence. We then consider all relevant evidence on the record before we make our decision.

By March 2019 we will release our Reasons for Decision. If we decide to issue a certificate, this Decision will include any conditions that we impose. Furthermore, if we decide to issue a certificate, its issuance is subject to the approval by the Governor in Council. We notify all Participants and post our Reasons for Decision on our website.

By June 2019 the Governor in Council will make the either approve the issuance of the certificate or refuse to approve its issuance.

## 4 Procedures

This section describes how to submit documents, the deadlines, and other procedures.

### 4.1 How do I prepare documents?

Every document you file with us or serve on Manitoba Hydro and Intervenors must refer to **Hearing Order EH-001-2017** and **File No. OF-Fac-M180-2015 02**.

Address the document(s) to the proper Participant. For example, anything to be filed with us should be addressed to the Secretary of the Board. Documents specifically for others should be addressed to them using the List of Participants as a guide.

Number the pages of your document consecutively, including blank pages, so the electronic page numbers match the page numbers that show on your document. Also, please use the latest version of Adobe Acrobat.

Except for online forms, sign any document you file with us.

If you refer to information on a website in your document:

- insert a direct link or a reference to the website, so anyone accessing the website can know the exact information you are referring to;
- make sure the reader does not require a password or subscription to get the information; and,
- file a hard copy with us of all the information you are referring to.

### 4.2 How do I file documents with the Board?

All documents submitted to the Board become part of the public registry. We require you to file your documents through the NEB Participation Portal using your online [NEB Account](#) or by using e-file.

#### Submit Documents using Participation Portal

To file your documents using your online NEB Account, you must follow these steps:

- Prepare your documents as explained in section 4.1.
- Sign into your [NEB Account](#) using your GCKey user ID and password, which you created when you applied to participate.
- You should see the Welcome Portal page, click “continue”.
- You will see a list of the hearings you can participate in. Locate “Manitoba-Minnesota Transmission Project, click on “Submit Documents Electronically” and follow the instructions.
- Under Step 8 - “Service Options and Submission of Complete Form”, you may choose to have the Participation Portal send an Automated Service Notification on your behalf by email to all Intervenors who have provided a valid email address. To make use of this

service, click on “Yes, I want to use the Participation Portal’s Automated Service Notification.

Automated Service Notification as equivalent to the service required under the Rules. If you do not wish to use the Automated Service Notification option, you are required to serve all Participants yourself using any of the methods allowed under the Rules (i.e., email, facsimile, courier, regular mail or hand delivery). **The Participation Portal cannot serve Participants who have not provided an email address; it is your responsibility to serve a hard copy of your submission on any Participant who has not provided an email address.**

- Once you have completed your submission through the Participation Portal, you will receive two emails:
  - your filing receipt where you need to verify your attachments; and,
- important instructions including the contact information of the Participants who have not provided an email address and for whom you must serve a hard copy of your submission.

### **Submit Documents using e-file**

To e-file documents, you must follow these steps:

- Prepare the document as explained in section 4.1.
- Go to our website, [www.neb-one.gc.ca](http://www.neb-one.gc.ca). Under “Applications & Filings”, click on “Submit Applications and Regulatory Documents” and follow the instructions. Refer to the [Filers Guide to Electronic Submission](#) on our website for more information. You will receive an email containing a submission receipt. Print the submission receipt and sign it.
- Send one hard copy of the e-filed document(s) and one hard copy of the signed submission receipt to us by mail, hand delivery or courier. See section 5.1 for our contact information.

Please note that you cannot e-file or submit documents by way of e-mail. For more information see Appendix IV.

### **4.2.1 What if I can’t file my documents through the Participation Portal or e-file?**

If you cannot file your documents through the Participation Portal or e-file your documents, you may submit documents in person, or by mail, fax or courier.

Prepare the document as explained in section 4.1.

Hand deliver, mail, fax, or courier one copy of each document to us. See section 5.1 for our contact information.

### **4.2.2 Filing documents during the oral portion of the hearing**

If you wish to file a document after the oral portion of the hearing has started and we have accepted it onto the public registry you must:

- Follow the instructions above for filing documents.

- Give six hard copies of your new document(s) to the Regulatory Officer (defined in “Explanation of Frequently Used Terms”).
- Make enough hard copies available to those in the hearing room who may need it. This could include Manitoba Hydro, a witness panel or other Intervenors who may be attending.

#### **4.2.3 Who can help me with submitting my documents?**

Contact the Regulatory Officer - see section 5.4.

#### **4.3 How do I serve documents on others?**

When you are required to serve documents, you must send one copy to Manitoba Hydro and its counsel, and to each Intervenor on the List of Participants. The method of service for each Intervenor will be indicated on the List of Participants.

Manitoba Hydro, Intervenors who can access documents on our website must be notified by email when a document has been filed. To do this, create a list of email addresses from the List of Participants and send an email to this list indicating that the filing is available on the Board’s website.

If the List of Participants indicates an Intervenor is unable to access electronic documents, you must provide that person with a hard copy.

If your document cannot be scanned, for example, if it is too large, you must mail, fax, courier or deliver by hand one copy to us and to Manitoba Hydro, all Intervenors. Board staff will put an electronic placeholder on our website. A placeholder indicates a document has been filed in hard copy (and is available in our library) but cannot be viewed or searched online.

You can contact our Regulatory Officer for assistance with e-filing your documents. For questions about serving documents, see Section 5.4.

#### **4.4 What if I cannot meet a deadline?**

Our deadlines are set to provide fairness, efficiency and certainty to all participants. We encourage participants to e-file documents, or to use fax or courier so others receive documents on time.

When you must submit documents by a certain deadline, the intended recipient must receive the documents by noon, Mountain Time, on the date of the deadline.

Late filings will not be accepted, except with our permission. If you cannot meet a deadline, you must write to us to request an extension. We will then decide whether to grant your request by considering:

- the reason why you cannot meet the deadline;

- whether your submission is likely to assist us;
- whether others have made, or could have made, similar submissions;
- whether other Participants could be disadvantaged as a result of the late submission; and,
- any other relevant considerations.

#### **4.5 How do I raise a question of procedure or substance that requires a Board decision?**

If you want to ask us to do something, such as asking us to consider a change to the process, you must submit a request to us. This is called a Notice of Motion.

The Notice of Motion must include:

- a concise statement of the facts;
- the grounds for the request;
- the decision or relief requested; and,
- any information which supports the request.

The Notice of Motion must be:

- in writing
- signed by the person making the motion or an authorized representative
- divided into consecutively numbered paragraphs
- filed with us, and served on Manitoba Hydro, and Intervenors and,
- filed separately from any other correspondence.

If you are relying on case law or other authorities to support your position, you must submit a book of authorities and highlight the specific passages you are relying on. You must submit a copy to us and send a copy to Manitoba Hydro, and all Intervenors.

If you would like to make a motion during the oral hearing, it may be raised orally as a preliminary matter or during cross examination. You should include the same information as written motions.

For further information on motions, see section 35 of the National Energy Board Rules of Practice and Procedure, 1995 (the Rules). The Rules can be found on our website, see Appendix IV.

#### **4.6 Will you keep my evidence confidential?**

All evidence we accept for this hearing will be on the public registry unless you file a Notice of Motion to keep your evidence confidential under sections 16.1 or 16.2 of the NEB Act and we accept your request for confidentiality.

## **4.7 Can I use an interpreter at the oral hearing?**

Parties must tell us which official language they want to use during the oral hearing in their Application to Participate. If there are both English and French Participants, we will provide simultaneous interpretation at the oral hearing.

## **4.8 Where can I go for more detailed information about the hearing procedures?**

The Rules provide detailed information about the hearing process; however, in the event of a discrepancy between the Rules and this Hearing Order, this Hearing Order prevails. You may also contact the Process Advisor - see section 5.3.

# **5 Contact Information**

## **5.1 Our contact information for filing documents**

Secretary of the Board  
National Energy Board  
Suite 210, 517 Tenth Avenue SW  
Calgary, AB T2R 0A8

Phone 403-292-4800  
Toll-free phone 1-800-899-1265  
Fax 403-292-5503  
Toll free fax 1-877-288-8803

## **5.2 NEB Website**

We post the most current information about the hearing on our website. Go to [www.neb-one.gc.ca](http://www.neb-one.gc.ca) and click on Manitoba-Minnesota Transmission Project under Major Applications and Projects. See Appendix IV for information on our website.

## **5.3 Process Advisor**

Our Process Advisor can help you understand the hearing process and how you can participate in it. Appendix V provides some information on what the Process Advisor can do to assist. Please contact Mr. Matt Groza, Process Advisor, at e-mail: [MMTP.ProcessHelp@neb-one.gc.ca](mailto:MMTP.ProcessHelp@neb-one.gc.ca), or call (toll free) 1-800-899-1265, if you have any questions.

## **5.4 Regulatory Officer**

If you need help with filing documents, or help with evidence or exhibits during the hearing, please contact the Regulatory Officer at:

Ms. Janet Foreman  
[Janet.Foreman@neb-one.gc.ca](mailto:Janet.Foreman@neb-one.gc.ca)  
Toll-free phone 1-800-899-1265  
Toll free fax 1-877-288-8803

## 5.5 Publications and Transcripts

The Public Hearing Process booklet includes general information about how hearings are conducted - see Appendix IV.

For our publications, you may also contact our library:

[publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca)  
Telephone 403-292-3562, or 1-800-899-1265 (toll free)  
Second Floor, 517 Tenth Avenue SW  
Calgary, AB T2R 0A8

### 5.5.1 Transcripts

The oral portion of the hearing will be recorded and transcribed daily. Transcripts will be available through the Board's Internet site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca). Click on "View" under Regulatory Documents and then "Active Hearings" and scroll to "*Name of Hearing*". You can also order transcripts directly from International Reporting Inc. either at the hearing, by e-mailing [bprouse@irri.net](mailto:bprouse@irri.net), or by calling 613-748-6043.

## 5.6 Our library

You can view a copy of the Application in our library. The library is also an excellent source of information about energy issues. You can reach the library at:

[library@neb-one.gc.ca](mailto:library@neb-one.gc.ca)  
Telephone 403-299-3561, or 1-800-899-1265 (toll free)  
Second Floor, 517 Tenth Avenue SW  
Calgary, AB T2R 0A8

NATIONAL ENERGY BOARD

*Originals signed by L. George for*

Sheri Young  
Secretary of the Board

## Appendix I – List of Issues

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We will seek to avoid duplication of measures taken in respect of the IPL by Manitoba Hydro and by the province of Manitoba as required under subsection 58.14(2). We are confident that avoidance of duplication of effort is achievable by incorporating the record created in the CEC hearing, and the report produced by the CEC as a result of that record. Moreover, we will focus on the matters set out in CEAA 2012 and the NEB Act, as required.

There is no need to refile anything that was on the CEC record and we strongly discourage parties from doing so. Parties ought to be able to demonstrate that the information they are filing is new information not placed on the record of the CEC proceeding. We will be taking information filed in the CEC proceeding that has been filed on the Board's record into account in making our decision on this application, to the extent that any of the information is relevant.

The Board has identified, but is not obliged to limit itself to, the following issues for consideration in the hearing with respect to the construction and operation of the proposed Manitoba-Minnesota Transmission Project (Project):

1. The need for the Project.
2. The economic feasibility of the Project.
3. The potential commercial impacts of the Project.
4. The potential environmental and socio-economic effects of the Project, including those to be considered under the *Canadian Environmental Assessment Act, 2012*.
5. The suitability of the design, construction and operation of the Project.
6. Safety and security during construction and operation of the Project, including emergency response planning and third-party damage prevention.
7. Potential impact on the bulk power system, including neighbouring jurisdictions.
8. The appropriateness of the general route and land requirements for the Project.
9. Potential impacts of the Project on Aboriginal interests.
10. Potential impacts of the Project on landowners.
11. The terms and conditions to be included in any approval the Board may issue.



## **Appendix II – Guidance on who may participate**

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Section 55.2 of the National Energy Board Act<sup>1</sup> (NEB Act).

The NEB Act sets out when the National Energy Board (Board) will allow a person<sup>2</sup> to participate in a hearing to consider an application to construct and operate a pipeline or power line.

Persons wishing to participate must demonstrate to the Board's satisfaction that they fall within one or both of the two categories described in the NEB Act and set out below.<sup>3</sup>

### **Directly Affected Person**

The Board must hear from any person who, in the Board's opinion, is directly affected by the granting or refusing of a project application. The Board decides on a case-by-case basis who is directly affected. The Board may consider these factors when making this decision:

1. The nature of the person's interest:
  - whether a person has a specific and detailed interest, rather than a general public interest;
  - examples of interests that could support participation are: commercial, property or other financial interest (including employment);
  - personal use and occupancy of land and resources; or,
  - use of land and resources for traditional Aboriginal purposes.
2. Whether the granting or refusing of a project application causes a direct effect on the person's interest including:
  - the degree of connection between the project and the interest;
  - the likelihood and severity of harm a person is exposed to; and,
  - the frequency and duration of a person's use of the area near the project.

### **Relevant Information or Expertise**

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<sup>1</sup> Section 55.2 of the NEB Act states: On an application for a certificate, the Board shall consider the representations of any person who, in the Board's opinion, is directly affected by the granting or refusing of the application, and it may consider the representations of any person who, in its opinion, has relevant information or expertise. A decision of the Board as to whether it will consider the representations of any person is conclusive.

<sup>2</sup> The word "person" includes an individual, company, organization or group.

<sup>3</sup> Specifically, this guidance applies to applications made under sections 52, 58 and 58.16 of the NEB Act.<sup>31</sup>

The Board may choose to hear from any person who, in the Board's opinion, has relevant information or expertise.

1. The Board may consider these factors when deciding if a person has relevant information:
  - the source of the person's knowledge (for example, local, regional or Aboriginal);
  - the extent to which the information is within the project scope and related to the [List of Issues](#); and,
  - how much value the information will add to the Board's decision or recommendation.
2. The Board may consider these factors when deciding if a person has relevant expertise:
  - the person's qualifications (for example, the person has specialist knowledge and experience;
  - the extent to which the person's expertise is within the project scope and related to the list of Issues; and,
  - how much value the information will add to the Board's decision or recommendation.

## **Appendix III – Pre-decided Standing**

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Please see section 2.2 and 2.3 of the Hearing Order for a discussion of Pre-decided Standing and how to participate in the hearing. Those persons granted Pre-decided Standing because they have registered to participate and been recognized by the Board as participants, are considered intervenors. If those parties who are registered participants, would like to be considered as commenters instead of intervenors, then they must submit a letter to the Board requesting commenter status. The Board will release an updated List of Participants soon after the close of ATP.

The list below is of registered participants recognized by the Board from the August 2017 registration process. This list is not exhaustive of persons the Board may consider to be directly affected by the granting or refusing of the Application or as having relevant expertise or information that will assist the Board in making its recommendations in respect of the Manitoba Hydro Application. This list should not deter any person not on the list from applying to participate.

The following have been granted Pre-decided Standing are:

### **Indigenous Groups:**

Peguis First Nation  
Roseau River Anishinabe First Nation  
Southern Chiefs' Organization Inc.  
The Manitoba Metis Federation

### **Government Departments:**

Natural Resources Canada

### **Municipalities:**

Town of Ste. Anne

### **Landowners:**

Southern Stakeholders Coalition

### **Others:**

Manitoba Wildlands

## Appendix IV – How can I find documents on the Board’s website?

### Website Navigation Tips:

1. You will find our website’s home page at: [www.neb-one.gc.ca](http://www.neb-one.gc.ca).
2. To find the Public Registry for the Application, go to the dark blue navigation bar and click on “Applications & Filings” at the top of our home page. On the left hand side of the page, click on “View Regulatory Documents”. Then click on “Active Hearings” and “Manitoba-Minnesota Transmission Project”.

At times, recently filed documents may not be on the public registry as they are waiting to be filed. You will find these documents in the “Inbox”. The Inbox is located under the “Active Hearings” then click on Manitoba Minnesota tab.

3. If you are an Intervenor and you use your NEB Account to submit documents, your Participation Portal will keep a record of these documents.
  4. To learn about hearings in general, go to the left side of our home page, click “Participate in a Hearing”.
  5. For information on how to e-file documents, go to the left side of our home page, click on “Submit Applications and Regulatory Documents” under “Regulatory Documents” and on the right-hand side of the screen click on “Filers Guide to Electronic Submission” under “Related Links”.
  6. To find Acts, Regulations and Rules:
    - Click on “About Us” and then “Acts and Regulations” then select “List of Acts and Regulations” to find the *National Energy Board Act and Canadian Environmental Assessment Act 2012*.
- To find *National Energy Board Rules of Practice and Procedure, 1995*:
- Click “List of Acts and Regulations” then from the right hand column beside *National Energy Board Act* click “Regulations” then “*National Energy Board Rules of Practice and Procedure, 1995*”.

## **Appendix V – Role of the Process Advisor**

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The Board has assigned Mr. Matt Groza as the Process Advisor for this Project. The Process Advisor's role is to support the public (e.g., landowners, concerned citizens, environmental non-governmental organizations) and the Indigenous groups that are participating in public hearings.

### **Mr. Groza can:**

Answer your questions about the Board's hearing process;

1. Explain the different ways you may participate (Intervenor, Commenter) and what you can and cannot do in these roles;
2. Organize and run public information session and workshops;
3. Answer your questions about the Participant Funding Program and how to apply;
4. Discuss how you can apply to participate in the process;
5. Provide samples and templates and answer your questions about them;
6. Explain your role in the hearing; and,
7. Answer your process questions in person during the oral portion of the hearing.

### **Mr. Groza cannot:**

1. Make your case for you. That means, he cannot:
  - a. Interpret the evidence for you;
  - b. Tell you what information you should give to the Panel Members;
  - c. Tell you how to best present your information; and,
  - d. Write your questions or evidence.
2. Talk to the Panel Members on your behalf; and,
3. Talk to Manitoba Hydro on your behalf.

Please contact Mr. Groza at 1-800-899-1265 or [MMTP.ProcessHelp@nebo.gc.ca](mailto:MMTP.ProcessHelp@nebo.gc.ca), if you have questions about the hearing for this Project, or if you would like help participating in this hearing.

## Appendix VI – Timetable

<b>Events</b>	<b>Hearing Order Reference</b>	<b>Responsible Participant</b>	<b>Timeline</b>
Manitoba Hydro's Project application to the Board		Manitoba Hydro	16 December 2016
Apply to the Board to participate and also serve the form on Manitoba Hydro	3.3	Interested persons	2-23 January 2018
Release List of Participants	3.4	Board	29 January 2018
Release of draft conditions for comment		Board	29 January 2018
Serve Project Application on all Intervenors	3.5	Manitoba Hydro	Immediately after receiving the List of Participants
File Information Requests with the Board and serve on Manitoba Hydro	3.6	Intervenors	19 February 2018
File responses to the Information Requests with the Board and serve on Intervenors	3.7	Manitoba Hydro	26 February 2018
File written evidence with the Board and serve on Manitoba Hydro and other Intervenors	3.10	Intervenors	19 March 2018
File Information Requests with the Board and serve on Intervenors	3.11	Manitoba Hydro	26 March 2018

Respond to Information Requests and serve on Manitoba Hydro and Intervenors	3.12	Intervenors	16 April 2018
File letter of comment		Commenters	23 April 2018
File comments on draft conditions		Intervenors Manitoba Hydro	23 April 2018
File reply evidence with the Board and serve on Intervenors	3.13	Manitoba Hydro	30 April 2018
Conduct oral traditional evidence	3.9	Aboriginal groups	23-26 May 2018
Begin oral portion of the hearing for oral cross, final argument and reply argument by Manitoba Hydro	3.15	Manitoba Hydro, Intervenors	28 May-1 June 2018