



Assembly of Manitoba Chiefs
EMPOWERING OUR NATIONS

FOR IMMEDIATE RELEASE

September 9, 2020

The AMC applies to the Supreme Court of Canada to challenge Manitoba Hydro's First Nation on-reserve rate hike

Treaty One Territory, Manitoba – The Assembly of Manitoba Chiefs (AMC) is expressing vehement opposition to the Manitoba Hydro Electric Board's (Manitoba Hydro) recent rate increase to First Nation citizens on reserve, and has thus applied for leave to appeal to the Supreme Court of Canada (SCC) as called for and approved by the AMC's Executive Council of Chiefs. Canada's highest court must render a favourable decision on whether to hear this critically important appeal with far-reaching implications.

The AMC, and the Manitoba Keewatinowi Okimakanak (MKO), participated as intervenors at the Public Utilities Board (the "PUB") hearings with respect to Manitoba Hydro's 2017 /18 and 2018/19 General Rate Application. As a result of that participation, in 2018 the PUB ordered Manitoba Hydro to create an "On Reserve First Nations" customer class that froze the rates for First Nations living on reserve.

On, August 12, 2020 the PUB approved Manitoba Hydro's request to move First Nations on-reserve residential ratepayers to the Residential customer class, effectively implementing a rate increase of approximately 6.5% for First Nation citizens on reserve in Manitoba starting September 1, 2020. The increase was made official following the Manitoba Court of Appeal ruling against the PUB's creation of a First Nations On-Reserve Residential customer class on June 9, 2020.

The AMC has now applied for leave to appeal to the Supreme Court of Canada. The application for leave to appeal raises two primary issues of national and public importance regarding:

- a) what constitutes just and reasonable rates and, by implication classifications, in the context of providing an essential service, in light of the principle of reconciliation and the Charter value of equality; and
- b) when and how appellate courts should defer to the findings of fact and evidentiary weighing of a specialized administrative tribunal where there is a statutory right of appeal, in light of recent and minimally considered case law from the Supreme Court of Canada.

If granted leave to appeal, the AMC will argue, among other things that:

- a) the Manitoba Court of Appeal erred in law by failing to apply the standard of palpable and overriding error when determining whether Directive 6 of Order 59/18, which creates the First Nations On-Reserve Residential customer class, falls within the jurisdiction of the Manitoba Public Utilities Board; and
- b) that the Manitoba Court of Appeal erred in its interpretation of the Public Utility Board's (PUB) jurisdiction, and in particular erred in its interpretation of how sections 39(2.2) and section 43(3) of The Manitoba Hydro Act, CCSM c. H190, inform the PUB's jurisdiction to fix just and reasonable rates, and by implication classifications.

AMC Grand Chief Arlen Dumas said, "It is completely unacceptable that Manitoba Hydro has not only raised on-reserve residential rates by an unreasonable 6.5%, but they have done so amidst a global pandemic when government and by extension, Crown corporations should be working with First Nations and not gouging them to the point of destitution. First Nations in Manitoba are already some of the poorest in the country and this unconscionable rate hike will add to their poverty. We at AMC have worked diligently to communicate to our First Nation citizens to take COVID-19 precautions and to stay home as much as possible and now, Manitoba Hydro has created an arbitrary extra burden of energy poverty for First Nations to cope with during an already trying time."

"MKO appreciates that the AMC is taking this step to help protect First Nations people living on reserve. As noted, we are in the middle of a pandemic and living in unprecedented times. Many people are struggling with a loss of income and this rate hike will undoubtedly impact families who are going to have to choose between heating their homes and purchasing food. We are very concerned about the impact that raising hydro rates will have on people living in Northern Manitoba," added MKO Grand Chief Garrison Settee.

Grand Chief Dumas concluded, "Applying to the Supreme Court is now a necessary step to advocate on behalf of First Nation citizens in Manitoba as this poorly timed, unreasonable and, frankly, unethical rate increase cannot and will not stand. This issue needs to be readdressed and quickly as we are now into the Fall season, where temperatures are dropping and Manitoba Hydro's rate increase will be felt painfully by First Nation citizens immediately, particularly in northern Manitoba. It is unacceptable that our Nations, whose lands and waters are the source of hydro-electric power for Manitoba's economy, are completely beholden to these mechanisms and processes and that there is no choice: you either pay for power or you're forced to go without. There must be alternative First Nations power authorities and options so that First Nations are not forced to buy power from a Crown corporation at unconscionable rates, or forced to seek redress through Canada's Supreme Court. We will stand with our First Nations in the fight against energy poverty, and seek to reverse this rate increase and support the PUB's original recommendations for an on-reserve residential customer class on behalf of all First Nations in Manitoba."

-30-

For more information, please contact:

Stacia Franz

Assembly of Manitoba Chiefs

Email: sfranz@manitobachiefs.com

Phone: 204-292-1504

About the Assembly of Manitoba Chiefs

The AMC was formed in 1988 by the Chiefs in Manitoba to advocate on issues that commonly affect First Nations in Manitoba. AMC is an authorized representative of 62 of the 63 First Nations in Manitoba with a total of more than 151,000 First Nation citizens in the province, accounting for approximately 12 percent of the provincial population. AMC represents a diversity of Anishinaabe (Ojibway), Nehetho / Ininew (Cree), Anishininew (Ojibwe-Cree), Denesuline (Dene) and Dakota Oyate (Dakota) people.