

**Hearing Directive
for the
Keeyask Hydropower Limited Partnership
Keeyask Generation Project**

April 2013

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Note: *This document is for information only; and is subject to change at any time. Addenda will be issued as information comes available, e.g. timetables, meetings, deadlines, etc.*

1. Introduction

On November 14, 2012, the Minister of Conservation and Water Stewardship wrote to the Clean Environment Commission requesting that, in accordance with *The Environment Act*, public hearings be held on the proposed Keeyask Generation Project. The letter included Terms of Reference specifying the scope of the review. See Appendix III or the Commission's website at www.cecmanitoba.ca and follow the link to "Keeyask Terms of Reference".

The Review Panel (Panel) is issuing this Hearing Directive to outline the review process.

The review process is designed to gather information from all viewpoints. The process is public and open to anyone who wishes to participate. The continued participation of all those affected by the Project is important to the Panel as it will consider all relevant information received in making its decision.

This Hearing Directive is intended to be a reference guide to help individuals understand the review process. It outlines the ways in which interested people, including members of the public and Aboriginal groups, may participate in the joint review process. Throughout this document, you will find details on key process steps, including information about hearings and the timelines associated with the review process.

The List of Issues for the Panel's review of the Project is in Appendix I. A detailed timeline is in Appendix II.

2. The Project

On December 9, 2011, the Keeyask Hydropower Limited Partnership (the Partnership or the Proponent) applied to the Department of Conservation and Water Stewardship for a licence for the construction, operation and decommissioning of the Project, a 695 megawatt hydroelectric generating station to be located at Gull Rapids on the Lower Nelson River. The project includes a powerhouse complex, spillway, dams, dykes, reservoir and supporting infrastructure (the Project).

On July 6, 2012, the Partnership -filed its Environmental Impact Statement (EIS) with both the federal and provincial governments.

The Partnership

The Keeyask Hydropower Limited Partnership consists of Manitoba Hydro and the four Cree Nations located in the immediate vicinity of the Project: Fox Lake Cree Nation, Tataskweyak Cree Nation, War Lake First Nation and York Factory First Nation.

Public Registry

The public may view the Environmental Impact Statement and related documents on the website of the Environmental Approvals Branch (EAB) of the Department of Conservation and Water Stewardship (MCWS), at www.gov.mb.ca/conservation/eal/registries/5550keeyask.

The public registry can be accessed at the above website or from the Commission's website at www.cecmanitoba.ca and following the links to "Keeyask Project Proposal".

3. The Review Process

Regulatory Framework

The Project is subject to environmental assessment under both the *Canadian Environmental Assessment Act* and the *Manitoba Environment Act*. The Project must meet combined federal and provincial regulatory requirements before it can be built.

The Clean Environment Commission process addresses only the requirements under *The Environment Act* (Manitoba).

Components of the Review

There are, at least, four major components to the review process for the Project:

1. Federal environmental review;
2. Provincial environmental review;
3. Need for and alternative to review (NFAAT);
4. Aboriginal consultations – Federal and Provincial.

Federal environmental review

The Canadian Environmental Assessment Agency will coordinate the review required under federal legislation.

Provincial environmental review

The Environmental Approvals Branch of the Department of Conservation and Water Stewardship is responsible for coordinating the provincial environmental review. Under the provisions of *The Environment Act*, the Minister has requested that the Clean Environment Commission conduct public hearings and make recommendations to him as part of the provincial review.

Need for and alternative to review (NFAAT)

The NFAAT review will be conducted by the Manitoba Public Utilities Board.

Aboriginal consultations

Both the federal and provincial Crowns have a duty to consult with Aboriginal people as to how the project may affect potential or established Aboriginal and treaty rights. This duty arises out of Section 35 of the Canadian Constitution.

The provincial consultation process is being coordinated by the Manitoba Department of Conservation and Water Stewardship and is being implemented in cooperation with the Department of Aboriginal and Northern Affairs. The Clean Environment Commission does not play a role in, or have any responsibility for, these consultations.

For more information on Aboriginal Consultation for the Keeyask Generation Project, please contact the Manitoba Department of Aboriginal and Northern Affairs.

Aboriginal people or communities may have concerns about the project, which may be directly related to Aboriginal or treaty rights. For example, the project may cause a potential environmental impact on hunting or fishing, which are Aboriginal rights. Given that this is also an environmental impact, it should be brought to the attention of the Panel through the review process.

Decision to issue a licence

The Minister of Conservation & Water Stewardship is responsible for issuing the licence. In deciding whether or not to issue a licence, and on what terms and conditions, the Minister will consider the conclusions of the three provincial reviews: the CEC review, the PUB review and the Aboriginal consultations as well as internal review by Environmental Approvals Branch and the associated Technical Review Committee.

Terms of Reference

The Terms of Reference issued by the Minister ask the Commission to:

- To review the proponent's Environmental Impact Statement,
- To review the proponent's public consultation summary,
- To hold public hearings to consider public input; and to hold hearings in areas that will allow reasonable access to potential stakeholders, including in the project area and Winnipeg,
- To prepare and file a report with the Minister outlining the results of the Commission's review and providing recommendations for the Minister's consideration, specifically:
 - Whether an Environment Act licence should be issued to Keeyask Hydropower Limited Partnership for the Keeyask Generation Project, and
 - Should the Commission recommend issuance of a licence, any conditions should be included in the recommendation.

Review Process Overview

The Terms of Reference state that the hearings are to be conducted in general accordance with the Commission's *Process Guidelines respecting Public Hearings*. The Guidelines are intended to ensure fairness and efficiency in the hearing process. They can be accessed at www.cecmanitoba.ca, as part of the Procedural Manual.

The Guidelines include a number of Practice Directions and a Code of Conduct. All Parties to the process are expected to be knowledgeable of, and abide by, the Guidelines.

The deadlines for some steps of the review process are identified within the various sections of this Hearing Order, and are summarized in Appendix II.

The Panel

A CEC review panel is an independent panel appointed to consider and make assessments with respect to a proposed application. Such panels are selected on the basis of their knowledge and expertise to review and assess a proposed project.

The Act allows the Minister to refer the application to the Commission for public hearings when a project may cause significant adverse environmental effects or where there is a high degree of public concern. The Minister decided that the Keeyask Generation Project would be assessed using such a review panel.

How will a decision about the project be made?

In coming to a decision, Panel members will, among other things:

- conduct a public and consultative review of all elements of the Environmental Impact Statement filed by the Keeyask Partnership;
- provide various ways in which interested organizations and individuals, including members of the public and Aboriginal groups, may participate in the review process;
- hold public hearings to receive relevant information about the project;
- ensure that, at the conclusion of the hearings, the record is sufficiently complete for the Panel to make well-informed decisions. The record will include information submitted by the Proponent and Participants, as well as members of the Public.

Based on the record, the Panel will produce a report to the Minister which includes a summary of the public response and opinions, as well as the Panel's recommendations regarding whether the Project should be approved and the reasons for this recommendation. The report will also include recommended terms and conditions that the applicant must implement if the Project is approved.

The Panel's report is submitted to the Minister who will make the decision on whether or not to issue a licence.

Who are the Panel members?

The Panel will consist of up to five members. The Chair of the CEC, Terry Sargeant, will chair the Panel. The other members will be named in early 2013.

4. The Hearings

The review process will include hearings in northern Manitoba communities, as well as in the City of Winnipeg.

Community Hearings

The community hearings will be held first. The primary purpose of the northern sessions is to hear oral presentations by members of the respective communities. Opportunities will be provided for members of the public to ask questions of the Proponent about the proposed project.

Participant groups, which are resident in a community, may make their presentations in their community.

Community Hearings will be held in locations in the vicinity of the proposed project, and may include Gillam and Thompson, as well as in the communities of the Fox Lake Cree Nation, the Tataskweyak Cree Nation, the York Factory First Nation, and the War Lake First Nation.

These hearings are expected to take place in the fall of 2013.

Community hearings are open to all persons who wish to attend and observe the proceedings.

Winnipeg Hearings

The main hearing sessions will be held in the City of Winnipeg. These sessions can be broadly grouped into three parts:

1. Proponent's presentation – which will include an overview describing the project, as well as a presentation of the findings of their environment assessment. This will be subject to cross-examination and questions from the Participants, members of the public and the Panel.
2. Participants' presentations – which will set out their views on certain aspects of the project. These presentations will be subject to cross-examination and questions from the Proponent, other Participants and the Panel.
3. Final Argument – in which Participants and the Proponent will summarize their evidence, explain their position on the conclusions they would like the Panel to make about the Project; and make recommendations to the Panel. Parties may not present new evidence during final argument.

In addition, there will be specific times set aside for members of the public to ask questions of the Proponent about the project. Or, to make oral presentations.

These hearings are expected to take place in the fall of 2013, following the community sessions.

The locations and dates for all hearing sessions will be announced at a later date.

These hearings are fully open to the public to attend and observe, as well as to make presentations during the times specified.

Final argument provides an opportunity for the Parties to summarize their evidence, explain their position on the conclusions about the Project that they would like the Panel to make, and make recommendations to the Panel.

No new evidence may be presented during Final Arguments.

5. How to Participate

For the purposes of this section the following definitions are relevant:

“Participant” means a person or group of persons designated as such by the Commission and includes organizations which have received funding under the Participant Assistance Program.

“Party” is an all-inclusive term referring to all persons or organizations granted standing in a proceeding may include: the panel, the proponent, certain government officials, participants and presenters;

“Presenter” means any person wishing to make a presentation to the panel who is not designated as a participant, including members of the public who present their views to the panel;

“Proponent” means a person or group of persons proposing to undertake a development in Manitoba for which a licence is required under a statute of the Province; in this case: Keeyask Hydropower Limited Partnership.

There are three options for participating in the joint review process:

1. make a **written submission**;
2. make an **oral presentation**; or
3. become a **Participant**.

These participation options are explained more fully below, including deadlines for the steps in the review process.

The Public

Written Submission

It is always open to any member of the public to make a written presentation expressing their views on the Project. Written submissions become part of the record and receive equal consideration to all other evidence before the Panel.

Written submissions allow you to provide the Panel with your knowledge, views or concerns on the proposed Project. The submission should describe the nature of your interest in the Project and provide any relevant information that explains or supports your comments.

Written submissions become public documents, and may be posted on the Commission's website with other presentations. While your name should appear on the submission, no other identifying information should be provided. A cover letter is to be provided which includes your name, full mailing address, phone number, and the name of your organization if you are representing one. This cover letter will **not** become part of the record.

To submit your letter of comment, you can:

1. use the form on the Commission website at www.cecmanitoba.ca;
2. send it by email to cec@gov.mb.ca; or
3. mail it to the address indicated below:

Secretary
Clean Environment Commission
305 – 155 Carlton Street
Winnipeg, Mb
R3C 3H8

*A **Written Submission** is a way of providing your knowledge and views on the Project to the Panel.*

Oral Presentation

An oral presentation is a way for you to provide the Panel with your knowledge, views or concerns on the proposed Project **in person** during the public hearings. Your oral statement should describe the nature of your interest in the application and provide any

relevant information that explains or supports your statement. Certain sessions will be designated for hearing presentations. These will be scheduled for both daytimes and evenings.

You can use notes to help you. At the time you give your oral statement, you will be asked to confirm that the content of your statement is accurate to the best of your knowledge.

Oral presentations must not exceed 15 minutes in length, unless approved in advance by the Commission Secretary.

Oral presentations are subject to questions from the Panel and, by the Proponent, with leave of the Chair of the Panel.

While it is not a requirement, it is preferred that those wishing to make an oral presentation register in advance by contacting the Commission at:

1. by telephone at 204-945-7498;
2. by email at cec@gov.mb.ca;
3. through the Commission website at: www.cecmanitoba.ca; or
4. at a public hearing session.

Presenters are asked to provide at least one copy, preferably typed, of their presentation. Additional copies will be needed for use by the Panel and other parties. The Commission may be able to assist in this. Wherever possible, an electronic version is also very helpful.

*An **oral statement** allows you to provide the Panel with your knowledge and views on the project in person during community hearings.*

*Oral statements are to be no longer than **15 minutes**.*

Participants

Participants (sometimes referred to as Intervenors) are generally involved in all of the key steps of the process.

Being a Participant carries certain privileges, but also some responsibilities. Both are set out in the *Party Status Practice Direction* in the *Process Guidelines*.

Participants who give evidence to the Panel will be asked to confirm that the content of their evidence is accurate to the best of your knowledge. Their evidence is subject to questioning by the Panel, the Proponent and other Participants. This affirmation and questioning will also apply to any persons giving evidence on behalf of a Participant.

How to Apply for Participant Status

Parties which have applied for and received funding under the Participant Assistance Program (PAP) are considered to be Participants.

Other parties interested in becoming Participants must apply for status in accordance with the *Party Status Practice Direction*.

To apply for Participant status, please contact the Commission:

1. by telephone at 204-945-7498;
2. by email at cec@gov.mb.ca;
3. through the Commission website at: www.cecmanitoba.ca.

Applications for non-funded Participant status will be generally considered at the same time as Participant Assistance Program applications. They will be accepted **no later than four weeks** before the commencement of the hearings. The earlier one applies for Participant status the better, as documentation and information from the other Parties will not be provided until status is granted.

The decision as to whether or not to grant Participant status rests with the Panel.

Participant Assistance Program

Funding will be available, upon successful application, for individuals and organizations wishing to actively participate in the Keeyask Hearings. This is provided under Manitoba Participant Assistance Regulation, 125/91.

Full details about the process for application are available on the Commission's website: www.cecmanitoba.ca.

*The deadline for application for the Keeyask project is: **February 15, 2013.***

6. Steps in the Process

The following outlines some of the key steps of the review process.

List of Parties

Once decisions are made on PAP funding and Participant status, the Panel will provide Parties with a contact list. The list will include the Proponent (the Keeyask Partnership), Participants, the Director of the Environmental Approvals Branch and program staff, as well as project contacts from the Commission.

Once the list has been developed, all Parties filing or submitting any evidence, information, procedural motions, etc. **must circulate it to the entire list.**

If a Party's contact information changes, that Party must inform the Commission of the new contact information immediately.

Proponent Information

The Proponent **must** send an electronic and/or hard copy of its Environmental Impact Statement and all related materials to each Participant who requests a copy.

Pre-Hearing Meetings

The Commission may call one or more pre-hearing meetings with the Proponent, Participants, the Panel and other parties as deemed appropriate by the Commission. Such meetings will address procedural matters, such as scheduling, issue determination, document exchanges, etc., as well as the hearing of motions.

The Commission will give the parties notice of a pre-hearing meeting. The notice will include the date, time and place of the meeting and a brief description of the agenda.

Pre-hearing meetings are open to the public.

Information Requests

Participants with questions regarding the Project application can direct these to the Keeyask Partnership in writing as Information Requests during the times specified below. All information requests must be sent to the Commission, which will register them and forward them to the Keeyask Partnership.

Participants must also send copies to all Parties. The Keeyask Partnership must submit its responses to the information requests to the Panel and send a copy to all Parties.

There will be two rounds of information requests to the Keeyask Partnership. The first round will begin as soon as Participants are identified. The first round of Information Requests will occur over several weeks in the spring of 2013. The Proponent will then have a few weeks to provide its responses. The second round of information requests will close two weeks following the receipt of the first round responses. This round will take place in summer 2013.

Several sets of information requests can be submitted during each round as long as they are received prior to the stated deadlines.

N.B. – Second round I.R.s are limited to seeking clarification of first round questions and responses; **not new matters**.

*An **Information Request** is a written question to the Proponent asking for additional information about or clarification of evidence already submitted, i.e. the Environmental Impact Statement and Technical Reports.*

The Information Request process for Keeyask will be carried out in accordance with **Information Requests – Practice Direction**.

Evidence Submissions from Participants

Two weeks prior to the commencement of the hearings, Participants must submit to the Panel an outline of their submission, as well as any written evidence they wish the Panel to consider. **A copy must be sent to all other Parties**. The deadline to submit this evidence is two weeks prior to the commencement of the hearings.

***Evidence** refers to reports, statements, photographs and other material or information that supports the view that you are presenting.*

Final versions of Participant submissions are to be filed **seven** days prior to the date on which they are to be presented.

7. Submitting Documents

When the Hearing process requires the submission of documents by certain deadlines, the documents are only considered to meet the deadline when the Commission Secretary receives them.

Documents must be received in the Commission office by Noon, Central Time, on the date of the deadline.

Documents may be submitted by personal delivery, registered mail, courier, fax, e-mail or other means as determined by the Commission.

The Commission requires that all material filed must be in electronic format. Depending upon the nature of the materials (e.g. maps, charts), printed copies may be required.

Pages must be numbered consecutively, including blank pages.

Where required, documents are to be signed. Documents must clearly show the name of the party filing them. As noted above, though, do not include personal identifiers, such as home addresses or phone numbers.

A copy – hard or electronic - of any submitted document(s) must be sent to all Parties on the List of Parties.

For materials to be presented at the hearings, Parties must make copies of any documents to be used for the Panel, the Proponent and other Participants, as well as some for members of the public. Parties will be advised of the number required prior to the commencement of the hearings.

Written Submissions – by the Public

Written submissions may be filed with the Commission at its office by personal delivery, registered mail, courier, fax, e-mail or through the website at: www.cecmnitoba.ca.

The Commission will ensure that such submissions are circulated to the other Parties, as required.

A deadline for filing of written submissions will be determined and posted on the website.

References to Websites

If you are making a reference to information on a website in a document to be submitted to the Panel, please ensure that:

- a) a direct link to the website is inserted, or a reference that is sufficient to allow any person accessing the website to know the exact information which is being referenced; and
- b) the website does not require a password or subscription in order to access the information.

8. Motions

The Commission's *Process Guidelines* allow the Proponent or Participants to file motions raising questions of procedure or substance that require a Panel decision. For the most part, such motions are to be filed and heard prior to the commencement of the hearings. With leave of the Panel, motions may be heard during the course of the hearings.

Motions must set out:

- a statement of the facts;
- the grounds for the request;
- the decision or relief requested; and
- the evidence supporting the request.

If case law is being relied on, a case book must be submitted and the specific passages of the cases being relied on must be highlighted or side-barred. The person raising a motion must submit a copy to the Panel and send a copy to all Parties.

Practice Direction

This Practice Direction sets out further regulation for the process for dealing with motions.

Who

For the purpose of the Motion process, the Proponent and designated-Participants may submit Notices of Motion to the Commission.

The party filing a Notice of Motion must serve it on the Commission, the Proponent and all designated-Participants in accordance with the deadlines set out in this PD.

When

The Notice of Motion is to be filed no later than 12 Noon eight (8) calendar days prior to the date set for the hearing of the Motion.

The responding party must provide a Response to the Motion no later than 12 Noon four (4) calendar days prior to the date set for the hearing of the Motion.

The Commission may extend or abridge any time prescribed by these rules, on such terms as the Commission determines to be fair and reasonable. The Proponent or a designated Participant may make such a request – in writing and in a timely manner.

What

A Notice of Motion must contain the following:

1. The name of the proceeding: (e.g. Manitoba Hydro Bipole III)
2. The name of party making the Motion.
3. State the precise relief sought from the Commission.
4. State the grounds for the Motion. Specify the grounds to be argued, including a reference to any statutory provisions or rules to be relied on.
5. A comprehensive list of the documentary evidence to be used at the hearing of the motion.
6. A clear and concise statement of the facts relevant to this Motion and which should be considered by the Commission.
7. Copies of documents or information in support of the Motion must be attached.
8. Date; name, address, telephone number, email address of the moving party's lawyer or the moving party; signature of lawyer or other representative of the moving party.

How

The Commission may, at its discretion, combine motions which are similar in nature, hearing them as one motion.

The Commission will limit the amount of time allowed for oral argument during a motions hearing. The time-limit will vary depending on the nature of the motion to be heard.

Other

Notices of Motion of a substantive nature – e.g. to delay the start of the hearings; to challenge the Terms of Reference; etc. – must be filed no later than 15 days prior to the date scheduled for the commencement of the hearings. This will allow for the motion to be heard prior to the hearings.

(Please note that this is different from the 8-day period prior to a scheduled Motion Hearing date.)

9. Information Requests

Please note - The Information Request process for Keeyask will be carried out in accordance with the revised ***Practice Direction – Information Requests***.

Specific Provisions:

For the Keeyask proceedings, only Parties designated as Participants may make Information Requests only of the Proponent – the Keeyask Partnership.

The subject matter of Information Requests will be restricted to issues within the Terms of Reference of the Hearings.

All Information Requests will be submitted to the Partnership and to the Commission, with copies to all registered Participants, within the timeframes established.

The submitting party will assign a number to their IRs in the format prescribed.

The Partnership will establish a process for tracking the Information Requests.

The Partnership will be required to provide the requesting party with a written response that satisfactorily addresses the questions or issues raised by the Information Request.

The decision whether to accept and respond to an IR will be made by the Partnership and will be based on relevancy, repetition, redundancy, etc. A decision not to respond to an IR will be fully explained.

Timeframe

Round 1 Information Requests will be accepted up to **Noon – Friday, May 31, 2013.**

N.B. – Participants are encouraged to submit their IRs on an ongoing basis after today. A huge dump of IRs on the last morning is not best practice and may result in the slowing or delaying the process.

The Partnership will provide responses as quickly as possible and no later than **Noon – Monday, July 15, 2013.**

Round 2 Information Requests must be submitted by **Noon – Wednesday, July 31, 2013.**

N.B. – Round 2 IRs are limited to follow-up of Round 1 questions – no new questions will be allowed.

Round 2 Responses – **Noon – Friday, August 16, 2013.**

*******ALL DATES ARE SUBJECT TO CHANGE!*******

Format

Information Requests must conform to the ***Format*** established by the Commission.

Information Requests **must** be submitted in electronic format. They **must** be in an attached document, **not** in the body of an email.

N.B. – Failure to abide by these terms and the Practice Direction may result in the Information Request being rejected.

Send Information Requests to all parties on the Contact List!

Practice Direction

The *Process Guidelines* allow the Commission to implement a formal Information Request (IR) process in certain proceedings.

The purpose of an IR process is to ensure that Parties to the proceeding have access to all of the information necessary for the review of the matter before the Hearing Panel.

The decision to implement an IR process is solely at the discretion of the Commission. An IR process will not, necessarily, be a part of all proceedings.

The Commission will set the time-frame and the terms for the process.

What

An IR is a written request by any party to receive information from a designated Party in a proceeding. The Party that receives the IR is required to provide a written response that satisfactorily addresses the questions or issues raised by the IR.

The subject matter of information requests will be restricted to issues that the Commission has identified for consideration at the Hearing. The scope of IRs will be confined to that information which is relevant and necessary to assist the inquiring party to be reasonably informed about the issue under consideration.

IRs must be relevant to:

- the Terms of Reference for the proceeding, as issued by the Minister;
- the Environmental Impact Statement by the Proponent; and/or
- material filed by a Participant to be used in a hearing.

Who

For the purpose of the IR process, designated Parties include the Proponent and Participants, but not Presenters.

As a rule, the flow of Information Requests is only between the Proponent and Participants. In certain cases and at its discretion, the Commission may allow a Participant to Participant IR flow.

How

All Information Requests will be submitted to the designate party and to the Commission, with copies to all registered Participants, within the timeframes established.

The submitting party will assign a registration number to their IRs in the format prescribed.

The decision whether to accept and respond to an IR will be made by the Party receiving the request and will be based on relevancy, repetition, redundancy, etc.

The Commission may submit its own IRs.

The receiving party will establish a process for tracking the Information Requests.

Guidelines

In carrying out the Information Request process, Parties will be guided by the following:

1. The parties will engage in the interrogatory process in a prompt and cooperative manner, in order to ensure full and timely disclosure with the minimum amount of effort and cost.
2. Parties will provide detailed, responsive and complete answers to information requests, along with copies of all related documentation.
3. Where a receiving party is unable to answer an information request without further clarification or direction from the inquiring party, it will promptly communicate with the inquiring party in order to resolve the difficulty.
4. Where a dispute arises with respect to information requests, or the answers to information requests, the parties will promptly communicate with each other in order to resolve the dispute in a cooperative and efficient manner.
5. In the event that such disputes cannot be resolved by the parties, the Commission will determine the matter in a summary fashion. This may include ordering the parties to meet and exchange information in order to satisfy any outstanding requests.

6. A party which is unable or unwilling to provide a full and adequate response to an Information Request will file and serve a response:
 - a) setting out specific reasons why the party contends that the request is not relevant, is repetitive, is redundant or has already been answered;
 - b) setting out the reasons why the information needed for an answer is unavailable; and providing any alternative available information that would be of assistance to the party making the information request;
 - c) setting out the reasons why the information being sought is considered confidential, and describing any harm that would be caused by making it public; or
 - d) otherwise explaining why a full response cannot be given to the information request.
7. The interrogatory process is to be completed within the timeframes established by the Commission.

Format

For each IR, please submit your request in the format set by the Commission. Include the following:

Reference

Identify the source document, and where specifically in the document (e.g. section number, page number, table number, appendix number, etc.) your request originates.

If there is more than one source, list them individually.

Preamble:

Describe why you are making the request. Is the source document unclear? Are there inconsistencies or errors in the document? What will you do with the response? Why, specifically, do you need to know this information? Please be thorough and clear with your reasons.

Request:

What information do you want? What exactly is the recipient being directed to do or provide? For example:

- a) Provide document X.
- b) Explain why you did (whatever), as opposed to
- c) What is your rationale for the number you stated in...?

10. Interpretation

Parties wishing to make oral presentations to the Panel in an Aboriginal language must identify an interpreter and contact the Commission Secretary to make the appropriate arrangements.

11. Transcripts

All hearings will be recorded and transcribed daily. Electronic versions of the transcripts will be available through the Commission's website site at: www.cecmanitoba.ca.

Printed versions can be purchased directly from the transcription company at your cost.

12. Contact Information

Manitoba Clean Environment Commission
305-155 Carlton Street
Winnipeg, MB R3C 3H8
Phone: 945-0594 or 1-800-597-3556
Email: cec@gov.mb.ca
www.cecmanitoba.ca

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Appendix I - List of Issues

In reviewing the Proponent's Environmental Impact Statement, the Panel's assessment of the Project will include, but not be limited to, consideration of the following:

Public Involvement

The Proponent's process of consultation with the public and Aboriginal groups on the Project.

Project Description

Suitability of the proposed design (including project components and land requirements), construction, operation and decommissioning of the project.

Regulatory Environmental Assessment

Consideration of the Proponent's approach to Environmental Assessment.

Environmental Effects Assessment

Potential effects on the environment including:

- protected areas
- wildlife and wildlife habitat
- fish and fish habitat
- atmosphere including greenhouse gas emissions
- vegetation
- species at risk
- marine environment
- water, hydrology, and wetlands
- soils, terrain and geology
- effects of the environment on the Project, including geohazards

Potential effects on socio- economic matters, including:

- human occupancy and resource use
- heritage resources
- traditional land and resource use
- social and cultural well-being
- human health
- infrastructure and services
- employment and economy

Cumulative Effects Assessment

Potential effects of the Project, in combination with the effects of past and future projects and activities, on both the biophysical and socio-economic environment.

Monitoring and Follow-Up

Follow up and monitoring plans for the Project, including consideration of the Draft EPP.

Sustainable Development

The Project and Sustainability.

Recommendations, Terms and Conditions

Recommendations to be included in the Panel report.

Terms and conditions to be included in any decision the Panel may issue.

Note: *The Panel will consider recommendations for changes to this list of issues.*

Appendix II – Schedule of Events – Subject to Change

Date	Activities	Deadline
2012		
July 6	Environmental Impact Statement submitted to Manitoba Conservation & Water Stewardship	
September 20	EIS comments received from: <ul style="list-style-type: none"> • Public/TAC/Federal TAC 	
November 16	Clean Environment Commission received Terms of Reference	
2013		
January 11	Participant Assistance Program advertised	
Friday, February 15	PAP application deadline	Noon, Central time Commission Office
Late February	PAP Interviews	
Mid-March	PAP decisions	
Early-April	Pre-Hearing meeting	Date, Time & Place TBD
Spring 2013	Information Request Round #1 Deadline	Noon, Central time Commission Office & all Parties
Spring 2013	Keeyask Partnership response to IR 1	Noon, Central time Commission Office & all Parties
Summer 2013	IR Round #2 deadline	Noon, Central time Commission Office & all Parties
Summer 2013	Keeyask Partnership response to IR 2	Noon, Central time Commission Office & all Parties
Late-Summer	Pre-Hearing meeting	Date, Time & Place TBD
Four weeks prior to Hearings	Deadline for Applications for Participant Status	Noon, Central time Commission Office
Two Weeks prior to Hearings	Participants file evidence	Noon, Central time Commission Office & all Parties
Fall 2013	Hearings Commence - Northern communities	Dates, Times & Places TBD
Fall 2013	Hearings Resume – Winnipeg	Dates, Times & Places TBD

Appendix III - Minister's Reference

Mr. Terry Sargeant
Chair
Clean Environment Commission
Room 305 – 155 Carlton Street
Winnipeg MB R3C 3H8

Dear Mr. Sargeant:

Pursuant to Section 6 *The Environment Act* (the Act), I hereby request the Clean Environment Commission to hold public hearings on the proposed Keyask Generation Project. I have enclosed Terms of Reference specifying the scope of your review.

In accordance with Section 7 of the Act, please provide me with a report containing the Commission's advice and recommendations on the proposed project following the completion of the hearings.

You may contact Tracey Braun of the Environmental Approvals Branch regarding information obtained through the environmental assessment process. The Keyask Generation Project is also subject to the federal Canadian Environmental Assessment Act. As such, the regulatory process was done in accordance the Canada-Manitoba Agreement on Environmental Assessment Cooperation.

Yours sincerely,

Gord Mackintosh
Minister

Enclosure

**Terms of Reference
Clean Environment Commission
Keeyask Generation Project (the Project)**

Background

On December 9, 2011, the Keeyask Hydropower Limited Partnership (the Partnership) filed an Environment Act Proposal (EAP) for the Keeyask Generation Project with the Environmental Approvals Branch (EAB) of Conservation and Water Stewardship. In addition to the EAP, the Partnership provided a draft scoping document outlining their proposed scope for the Environmental Impact Statement (EIS). The scoping document was subjected to a Technical Advisory Committee (TAC) and public review period. Subsequently, the Environmental Impact Statement (EIS) was submitted on July 6, 2012.

As authorized under *The Environment Act* (the Act), the Minister of Conservation and Water Stewardship has decided that the assessment of the Keeyask Generation Project will include a review by the Clean Environment Commission (the Commission).

In accordance with the Canada/Manitoba Agreement on Environmental Assessment Cooperation, a cooperative federal-provincial environmental assessment is being conducted for the project, with environmental assessment information being shared by both Canada and Manitoba in support of each government's respective regulatory requirements.

Terms of Reference

Pursuant to Section 6 (5.1) of the Act, the Minister has determined that the Terms of Reference the Commission is to follow are:

- To review the EIS, including the proponent's public consultation summary. Note that a detailed technical review will be done by the provincial and federal specialist agencies who are members of the TAC. As such, documents produced during this assessment should be considered by the Commission as input for the hearings;
- To hold public hearings for the Commission to consider stakeholder and public input; and,
- To prepare and file a report with the Minister of Conservation and Water Stewardship outlining the results of the Commission's review and providing recommendations for the Minister's consideration. The report should be filed within ninety (90) days from the date of completion of hearings as per Section 7(3) of the Act.

Mandate of the Hearings

The Commission shall conduct the hearings in general accordance with its Process Guidelines Respecting Public Hearings.

The Commission may, at any time, request that the Minister of Conservation and Water Stewardship review or clarify these Terms of Reference.

Hearings should be located in areas that will allow reasonable access to potential stakeholders, including in the project area and Winnipeg.

The Commission shall, within the mandate of the hearing and the Terms of Reference provided by the Minister as noted above, provide a report recommending:

- Whether an Environment Act licence should be issued to Keeyask Hydropower Limited Partnership for the Keeyask Generation Project.
- Should the Commission recommend issuance of a licence, any conditions should be included in the recommendation.

The Commission's recommendation shall incorporate, where appropriate, the Principles of Sustainable Development and Guidelines for Sustainable Development as contained in *Sustainable Development Strategy for Manitoba*.

Manitoba's licensing process will provide an opportunity for First Nations, Metis and other Aboriginal communities to advise of any concerns about potential adverse effects of the project on the exercise of Aboriginal or treaty rights. While the eventual licensing decision pursuant to The Act will consider the results of the consultation process, Crown-Aboriginal consultation is a distinct process from the public review process, including hearings to be conducted by the Commission. As such, the Commission is not being called on to conduct a Crown-Aboriginal consultation process or to consider the appropriateness or adequacy of the consultation process for the Project. The Commission also need not assess whether identified impacts may constitute an effect on the exercise of Aboriginal or treaty rights.

In the near future, government plans to conduct a detailed and comprehensive Needs For and Alternatives To (NFAAT) assessment of Manitoba Hydro's preferred development plan, including the proposed Keeyask Generation Station. As such, the NFAAT, as it relates to Keeyask, should not form part of this Commission's review because it will be assessed separately as part of a larger NFAAT assessment.

November 14, 2012