

THESE RULES ARE INTENDED PRINCIPALLY FOR COUNSEL TO FACILITATE THE ARBITRATION PROCESS CONTEMPLATED BY THE AGREEMENT, AND ARE NOT INTENDED TO MODIFY EITHER THE SPIRIT OR SUBSTANCE OF THE AGREEMENT. NO RULE SHALL BE GIVEN EFFECT SO AS TO LIMIT THE JURISDICTION OF THE ARBITRATOR PURSUANT TO THE AGREEMENT OR TO BAR ANY CLAIM FOR WANT OF COMPLIANCE WITH ANY OR ALL OF THE RULES.

"d"

IN THE MATTER OF: An Agreement dated December 16, 1977.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF MANITOBA,

OF THE FIRST PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

OF THE SECOND PART,

- and -

THE NORTHERN FLOOD COMMITTEE, INC.

OF THE THIRD PART,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
As Represented by THE MINISTER OF INDIAN
AFFAIRS AND NORTHERN DEVELOPMENT,

OF THE FOURTH PART.

RULES OF CONDUCT AND PROCEDURE

SEPTEMBER 25, 1980

IN THE MATTER OF: An Agreement dated December 16, 1977,

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF MANITOBA,

OF THE FIRST PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD,

OF THE SECOND PART,

- and -

THE NORTHERN FLOOD COMMITTEE, INC.

OF THE THIRD PART,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
As Represented by THE MINISTER OF INDIAN
AFFAIRS AND NORTHERN DEVELOPMENT,

OF THE FOURTH PART,

AND BETWEEN:

A.B.

(Claimant(s))

- and -

C.D.

(Respondent(s))

POINTS OF CLAIM

(STYLE AS IN APPENDIX "A")

APPENDIX "B"

The claimant hereby makes application to have a date and place fixed for hearing and certifies as follows:

- a) The issue is ready for hearing;
- b) All interlocutory proceedings and discoveries have been finalized;
- c) There is no preliminary issue for determination;
- d) The number of days expected for hearing is
- e) The claimant requests that the hearing be held at

DATED the day of A.D. 1980.

Counsel for the claimant

RULES OF CONDUCT AND PROCEDURE

I. GENERAL

1. All hearings and record of proceedings shall be public unless the arbitrator determines, in the public interest, that the hearing should be in camera.
2. Each contracting party shall advise the arbitrator and other parties as to place of service of all documents.
3. Every party may amend its pleadings upon consent or upon leave of the arbitrator.
4. In general the procedure shall be governed by "The Arbitration Act", except as expressly amended by agreement between the parties.
5. If the procedure on any issue is not clear to a party, he may apply to the arbitrator by way of motion for directions, with notice to the parties.
6. Upon the application of a party, or upon the direction of the arbitrator, and after notice to the parties and on hearing the parties, the arbitrator may order that the procedure adopted is inappropriate or inconsistent with his duty to arrive at a just award or order in connection with any case before him.
7. The arbitrator, upon application of any party, may exclude witnesses from the hearing.
8. Upon the direction of the arbitrator, the evidence, including exhibits tendered in respect of any claim, may be applied mutatis mutandis in respect of other claims.
9. Since it is the intent of the agreement to encourage settlement negotiations, it is the expectation that demand will have been made a reasonable time prior to filing a claim or submission to the arbitrator.

II. POINTS OF CLAIM

1. Every proceeding shall be instituted by filing of a document entitled "Points of Claim" as shown in Appendix "A".

2. The "Points of Claim" shall be filed in the office of the arbitrator and given a number.
3. The "Points of Claim" shall contain:
 - a) The name and address of the claimant.
 - b) Brief, concise statement of facts upon which the claimant relies.
 - c) The particular provisions of the contract upon which the claimant relies.
 - d) The names of the party or parties against whom the claimant advances the claim.
 - e) Particulars of remedy or relief sought.
4. The "Points of Claim" shall be served on each contracting party.

III.

POINTS OF DEFENCE

1. A respondent shall have one month within which to file a defence unless time is extended by consent or by the arbitrator.
2. The respondent's defence shall be entitled "Points of Defence" and shall include:
 - a) A statement as to whether the respondent agrees or denies that the issue is one which is presently before the arbitrator within the terms of the agreement between the parties.
 - b) A brief statement of each point of claim it admits.
 - c) A brief, concise statement of facts upon which it relies in its defence.
 - d) Whether it alleges liability on other contracting parties in respect of the issue raised in its claim.
3. The "Points of Defence" shall be filed in the office of the arbitrator and served on all contracting parties.

IV. PARTICULARS

1. Any party may serve a demand for further and better particulars of any matters stated in any pleading.
2. If particulars are not furnished in accordance with the demand, the party may make application to the arbitrator for such order as is appropriate.
3. Particulars, when furnished, shall be filed in the office of the arbitrator and served on all contracting parties.

V. DISCOVERY

1. Upon a request in writing, each contracting party shall produce to the party making the request all documents, including any memoranda, plans, maps, studies or reports, relevant to the issues, as well as technical data and working papers upon which the said studies or reports were based.

VI. VARIATION OR AMENDMENT

1. A party seeking to amend or vary an order or award of the arbitrator shall file a "Notice of Variation".
2. The "Notice of Variation" shall contain:
 - a) A statement identifying the order or award sought to be varied or amended.
 - b) Particulars of the variation or amendment desired.
 - c) The grounds upon which the variation or amendment is sought.
3. The "Notice of Variation" shall be served on each contracting party.
4. A respondent shall file his "Points of Defence" as provided in Part III within one month from the time of service unless the time is extended by consent or by the arbitrator, and shall contain a concise statement of the basis upon which it denies the claimant's allegations.

VII. HEARING

1. After pleadings are concluded, any party may apply to the arbitrator to fix a date and place of hearing upon filing and serving a notice in the form of Appendix "B".
2. Upon being served with Notice of Application for Hearing, the respondent has ten days within which to object to the hearing proceeding. In the Notice of Objection, he shall indicate the grounds upon which he objects to the hearing being held.
3. Upon receiving the Notice of Application for Hearing and Notice of Objection, if one is filed, the arbitrator shall give a Notice of Appearance requiring the parties to appear to fix a time and place for hearing.