

## Discussion Paper

### Background

Manitoba Hydro has a presence in Pimicikamak territory. It has a Treaty right to have that presence. But Manitoba Hydro is destroying the land and threatening the survival of the Pimicikamak people. It has no Treaty right to do this. The Pimicikamak people will not tolerate it.

For 139 years Crown agencies have by force and threats controlled essential elements of Pimicikamak life. They have exploited for their own benefit federal policies aimed at destroying indigenous peoples as distinct peoples. In recent years the federal government apologized for them but genocidal policies continue in effect. The Province of Manitoba and Manitoba Hydro continue to take advantage of them.

Manitoba Hydro seeks to make its presence in Pimicikamak territory sustainable. Pimicikamak seeks to make Manitoba Hydro's presence in its territory sustainable. Both seek to build an enduring relationship on this basis. This makes them natural partners in both planning and implementing measures to make Manitoba Hydro's operations consistent with Pimicikamak survival. In 1976 Manitoba Hydro's President and CEO, Len Bateman, understood this to be the foundation of a sustainable presence. He actively sought what became a new Treaty relationship with the Pimicikamak people in 1977. Manitoba Hydro soon found it had misinformed the Pimicikamak people (and misled itself) about the nature, scope and magnitude of adverse effects of its operations. The new Treaty relationship was soon neglected.

Manitoba Hydro is rediscovering its original understanding of a sustainable presence. The challenge now is for Manitoba Hydro and Pimicikamak to build a new relationship based on mutual respect and for both parties to jointly plan (with Manitoba and Canada as appropriate) and implement measures to stem and remedy the continuing damage.

#### Examples of Genocidal Policies

Manitoba Hydro maintains an arbitrary cap on remedies for impacts of its project on the Pimicikamak people, creating "Sophie's choices" about whom to try to save. It destroys Pimicikamak traditional territory, inflicting deep spiritual damage on the Pimicikamak people. It uses money in ways that delegitimize the Pimicikamak people's self-governance.

Manitoba insists Ininiwi Pimatisiwin be available only to Band members on reserve rather than to all Pimicikamak citizens in Pimicikamak traditional territory. It pursues a Cross Lake Community Settlement that further disaggregates the Pimicikamak people.

### Crown Party Discussion Paper

The draft paper from the Government of Manitoba and Manitoba Hydro is no doubt the product of careful thought. Yet it is incompatible with Manitoba Hydro's objective of a sustainable presence because it is grounded in a continuing genocidal approach to the relationship with Pimicikamak. Its central message is that existing funding systems make it difficult for Manitoba Hydro and the Government of Manitoba to move to grant funding with Pimicikamak. This is true. But the lack of systems consistent with survival of a distinct indigenous people and its government is not an obstacle to be accepted; it is central to the problem. To sustain its presence in Pimicikamak traditional territory, Manitoba Hydro will need an approach to funding that is not tainted with genocidal policy.

### Focus

In this paper Pimicikamak focuses on its relationship with Manitoba Hydro. This relationship is central to its strategic national policy: Heal the land; heal the people; heal the nation. In this, Manitoba plays a role, obstructive (as it is on some issues presently) or supportive (as it is on others and as envisioned in the

NFA). Pimicikamak sees Manitoba Hydro as having primary responsibility for helping the Government of Manitoba to play a consistently supportive role.

## **Crown-Pimicikamak Relationships**

Until now the three levels of Crown-Pimicikamak relationships (nation to nation; government to government; and Crown agent to government) have been undermined by genocidal Crown policies. No sustainable relationship can be established or maintained while pursuing or condoning such policies. This is an existential issue for both Pimicikamak and Manitoba Hydro.

Funding problems are manifestations of this issue. The Crown systems currently used are not only paternalistic; they promote that same corrosion of Pimicikamak governance that has long been central to the ongoing genocide. Manitoba Hydro's operations and their effects make finances a centerpiece of its relationship with Pimicikamak. Respectful financial relations are essential for constructive progress.

## **What Is Grant Funding?**

Grant funding is a suitable alternative. It is an ordinary concept that is consistent with and supportive of the desired kind of relationship. Indeed it is usual in such circumstances. It is respectful of the integrity of the parties. It is common between governments. A particularly applicable version, the grant-in-aid, is money from a governmental agency for a specified purpose. It is usually used when the agency has decided that the recipient should be publicly funded but wants it to operate with reasonable independence. The recipient is often another government or quasi-governmental agency.

Grant funding does not mean lack of financial controls. It will be essential for both parties that controls be much better in both design and implementation than those used in the past. Grant funds must be held in a segregated account, used only for purposes Manitoba Hydro authorizes in writing, and subject to timely and appropriate accountability.

## **Accountability**

Grant funding does not require a compromise of transparency or accountability. On the contrary, it can enhance both by making them more appropriate. And it can support the kind of relationship that Manitoba Hydro and Pimicikamak need. The fundamental concepts are (1) once granted the funds are Pimicikamak funds so transparency and accountability are directed in the first instance to the Pimicikamak public, and (2) the funds are to be used only for authorized purposes. Pimicikamak National Policy on Financial Administration prescribes a modern management regime with high standards. It requires transparency and accountability. These should be implemented so Pimicikamak citizens can ask public questions and obtain public answers about the use of funds. Pimicikamak is establishing a system to make all records of receipts, authorizations and expenditures public by posting them on line on a next-day basis. Pimicikamak has asked Manitoba Hydro for assistance with capacity building including on-the-job training to meet these standards. Grant funds should be audited for effectiveness in achieving the intended purpose and the audit report should be presented to the Pimicikamak public with formal copy to Manitoba Hydro as a designated interested party.

As between Pimicikamak and Manitoba Hydro it should be open to either to raise questions about and propose improvements in propriety, efficiency and effectiveness of measures they jointly plan and implement.

## **Risk**

In the past Manitoba Hydro has focused on risk transfer as a tool for managing implementation. This is a natural corollary of conceiving its interests in terms of liabilities under the NFA. This view is

incompatible with Manitoba Hydro's objective of a sustainable presence. It imposes unwarranted burdens on Pimicikamak. It creates intractable problems rather than maximizing opportunities. It collides with the practical reality that Pimicikamak Okimawin has (and seeks) no mandate from its constituents to negotiate with Manitoba Hydro. And this view also misconceives the foundations of the relationship.

The Treaty relationship is based on planning. Managing Manitoba Hydro's risk is a legitimate aspect of the planning process but not at Pimicikamak expense.

For most of the last thirty years the Crown parties made common cause to undermine the capacity of Pimicikamak Okimawin. This may for a while marginally increase Manitoba Hydro's risk from using the most appropriate funding and management arrangements. For Manitoba Hydro to ask Pimicikamak to shoulder part of that risk would be unfair and unworkable. The best opportunity for Manitoba Hydro to address risk while meeting its overall objective lies in capacity building.

## **Decision Making**

The decisions that are required are in the nature of:

What are the best opportunities to pursue shared objectives?

How can these opportunities best be realized?

What will this cost?

How should they be managed and by whom?

How should they be funded and by whom?

What can we learn from the results?

That is, they involve planning. There is no place in them for negotiation. They call for a fact-based, rational, professional approach. Policy decisions should, as in the past, be made by consensus. Problems were experienced in the past flowing from what some called a lack of political will, perhaps more clearly seen as Manitoba Hydro's failure to grasp its situation and pursue its objectives accordingly. This kind of problem finds its remedy outside the planning process.