

Green Action Centre Concluding Submissions

Manitoba Hydro GRA 2017-18

All Manitobans Living Green, Living Well

Green Action Centre recognizes our hydro system as a hugely valuable resource of relatively cheap, reliable, renewable power that energizes our lives and economy and enables Manitobans to lower their climate impacts.

Manitoba Hydro will not solve all of the problems of poverty, nor is there an expectation that they should do so, but they do have a mandate and tools to supply power to meet the needs of lower-income Manitobans.

Energy affordability for low-income families is very much an issue that requires more or less immediate attention in Manitoba....

Board Order 116/08, rendered July 29th 2008

“Energy affordability for low-income families is very much an issue that requires more or less immediate attention in Manitoba..... And, therefore, the Board will direct MH to propose for Board consideration (as soon as possible for the coming heating season, but no later than September 30, 2008) a low-income bill assistance program, where such a program would occur in conjunction to and compliment an expanded low-income DSM program.”

Jurisdiction of the Public Utilities Board to create a bill affordability program

Board Order 73/15:

The Board has been asked to consider establishing a bill assistance program before, notably in Order 116/08, in which the Board required Manitoba Hydro to propose such a program for approval. In Order 116/08, the Board concluded that it has jurisdiction to order the implementation of a bill affordability program. This remains the Board's view.

Further at pages 29 and 30 the Board held:

The Board notes that while Manitoba Hydro is regulated on a cost of service basis, section 26(4) of *The Crown Corporations Public Review and Accountability Act* specifically authorizes the Board to consider "any compelling policy considerations that the Board considers relevant to the matter." In that respect, the Board's jurisdiction is similarly broad as that of the Ontario Energy Board pursuant to *The Ontario Energy Board Act, 1998*. Subsection 26(3) of *The Crown Corporations Public Review and Accountability Act* further stipulates that *The Public Utilities Board Act* applies with any necessary changes to the Board's rate-setting mandate. As such, rates are not only required to meet the requirements of subsection 39(1) of *The Manitoba Hydro Act* but must also be "just and reasonable." In the Board's view, affordability is a factor to consider when setting just and reasonable rates.

As such, it is the Board's intention to evaluate any future proposals for bill assistance programs from a comprehensive policy perspective rather than through the lens of jurisdictional constraints, provided that such proposals fall within the legislative framework set by *The Manitoba Hydro Act*, *The Crown Corporations Public Review and Accountability Act*, and *The Public Utilities Board Act*.

Certainty and predictability of rate making decisions

The Board has the jurisdiction to consider its home statute and the legislation that gives it authority to regulate Manitoba Hydro. The Board has previously made findings regarding its jurisdiction. No party has appealed the findings of the Board. All parties at this hearing ought to be bound by the decision of the Board regarding its jurisdiction.

If a party wishes to challenge the policy established by a Board Order, that party has the option of applying to the court for that purpose. No party has done so. It is disingenuous for Manitoba Hydro to argue that no court has ruled in Manitoba on the question of jurisdiction claimed by the Board. The reason that no court has ruled on this issue is that Manitoba Hydro has twice accepted decisions of the Board claiming this jurisdiction.

It is therefore the position of Green Action Centre that the argument of Manitoba Hydro regarding the limitations in the jurisdiction of the Board ought to be summarily dismissed.

Section 25(4)(a)(viii) and (ix), *The Crown Corporations Governance and Accountability Act*

25(4) In reaching a decision pursuant to this Part, The Public Utilities Board may

(a) take into consideration

(viii) any compelling policy considerations that the board considers relevant to the matter, and

(ix) any other factors that the Board considers relevant to the matter

The Manitoba Hydro Act includes the following section:

Equalization of rates

39(2.1) The rates charged for power supplied to a class of grid customers within the province shall be the same throughout the province.

The policy of the Board is set out at page 29 of Order No. 73/15:

The Board does not read the legislation requirement for “postage stamp” rates to prohibit the creation of a lower income customer class, provided that no geographic limitations are imposed on such a class. Similarly, while subsection 43(3) prevents the co-mingling of government funds with Manitoba Hydro funds, it does not prohibit the creation of a rate class that pays less than the average cost to serve such customers.

Dalhousie Legal Aid Service v. Nova Scotia Power Inc., [2006] NSCA 74.

- The two governing statutes are significantly different.
- The Nova Scotia legislation constrains the Board by Section 67(1) of *The Public Utilities Act* RSNS 1989 c380:
Equal Rates and Charges for Similar Services
67(1) All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the Board may by regulation declare what shall constitute substantially similar circumstances and conditions.
(2) The taking of tolls, rates and charges contrary to the provisions of this Section and the regulations made pursuant thereto is prohibited and declared unlawful.
- There is no similar provision in Manitoba.
- Our learned friends at Manitoba Hydro cite Section 39(2.1) of *The Manitoba Hydro Act*. Whereas the Nova Scotia legislation says all rates shall always be charged equally to all persons, *The Manitoba Hydro Act* states that the rates charged to a class of grid customers shall be the same throughout the province.

British Columbia Old Age Pensioners Organizations v. B.C. Utilities Commission 2017 B.C.C.A. 400

- In the British Columbia legislation, public utilities are expressly denied the ability to charge an “unduly preferential rate” or extend a privilege to a person unless the privilege is uniformly extended to all persons under substantially similar circumstances for service of the same description.
- The British Columbia Utilities Commission held that a low income rate would be in violation of *The Utilities Commission Act*, which prohibits rates that are unjust, unreasonable or unduly discriminatory.

The Advocacy Centre for Tenants – Ontario v. Ontario Energy Board 2008
O.J. No. 1970 (Div.Ct.)

- It is based on the Ontario legislation, *The Ontario Energy Board Act* 1998.
- The relevant sections establishing the jurisdiction of the Board are set out at paragraph 15 of the decision. In particular, the Ontario legislation states at Section 36(3) “in approving or fixing just and reasonable rates, the Board may adopt any method or technique that it considers appropriate”.

It is the position of Green Action Centre that the decisions of the Board in 116/08 and 73/15 are correct. The legislation empowers the Board to take into account policy considerations and other factors that the Board considers relevant to the review of rates for services charged by Manitoba Hydro. This includes the consideration of the policy consideration of establishing an affordability program for low income customers of Manitoba Hydro.

Manitoba Hydro's mandate includes the consideration of affordability

- Manitoba Hydro takes the position that bill affordability programs are not within its mandate.
- Green Action Centre disagrees.
- Consumers' Association of Canada (Manitoba) Inc v Manitoba Hydro Electric Board 2005 MBCA 141:

63 The intent of the legislation is to approve fair rates, taking into account such considerations as cost and policy or otherwise as the PUB deems appropriate. Rate approval involves balancing the interests of multiple consumer groups with those of the utility.

64 The role of the PUB under the *Accountability Act* is not only to protect consumers from unreasonable charges, but also to ensure the fiscal health of Hydro. It is clear the PUB understood its role in this regard.

65 The PUB has two concerns when dealing with a rate application; the interests of the utility's ratepayers, and the financial health of the utility. Together, and in the broadest interpretation, these interests represent the general public interest.

The evidence is however that a significant portion of the residential class lives in energy poverty and cannot afford a rate increase as proposed by Manitoba Hydro or at all. In order to achieve its mandate of supplying economical power to ratepayers at fair rates, Manitoba Hydro must deal with the issue of affordability

(Pages 288 and 289 of PUB MFR 72)

Board Order 73/15

“In the Board’s view, affordability is a factor to consider when setting just and reasonable rates...

As such, it is the Board’s intention to evaluate any future proposals for bill assistance programs from a comprehensive policy perspective rather than through the lens of programs from a comprehensive policy perspective rather than through the lens of jurisdictional constraints, provided that such proposals fall within the legislative framework set by The Manitoba Hydro Act, The Crown Corporations Public Review and Accountability Act, and The Public Utilities Board Act.”

Board Order 116/08

“Energy affordability for low-income families is very much an issue that requires more or less immediate attention in Manitoba. The Board suspects that low income individuals, families and seniors, unable to pay their natural gas or electricity bills due to personal hardship or crisis, could receive support from a rate reduction program without causing a major rate increase for MH’s other customers.”

Dr. Wayne Simpson

MR. WILLIAM GANGE: Sir, these --these rates will go into effect, we're expecting, April 1st. So next year's winter season will be affected by whatever the rates are that are approved by this Board. Would you agree with me that -- that this Board -- that there is an urgency for low income customers to have -- to have something done to assist the energy poverty problem that is identified both in the affordability working report and your analysis of it?

DR. WAYNE SIMPSON: Assuming that the 2 rate increases are significantly more than the 2 percent benchmark for inflation, yes.

(Transcript pages 4748-4749)

Dr. Gregory Mason

MR. WILLIAM GANGE: So that in terms of solving or -- or -- or attempting to move forward with the problem of energy poverty, can I -- can I suggest to you, sir, the Mincome approach is off the table for the foreseeable future?

DR. GREGORY MASON: I would -- if you're solving poverty problems in general, I would say it's off the table, yes.

MR. WILLIAM GANGE: And -- and -- and specifically with respect to energy poverty, that's not part of this equation, is it, sir?

DR. GREGORY MASON: Not anytime soon.

(Transcript page 3317-3318)

The record on residential bill affordability and rate design

- The PUB has before it a considerable, but not entirely consistent, record on bill affordability and rate design.
- Green Action Centre submits that the Bill Affordability Working Group report, the alternative rate design workshop report, and further evidence from this hearing provide information sufficient to initiate bill assistance to supplement Manitoba Hydro's existing Affordable Energy and Bill Management Programs.

- We note that in Order 73/15, in directing the creation of an affordability working group, the PUB said:
 - *Upon completion of the collaborative process the Board will evaluate the options presented and decide on their implementation (p. 28 of 108).*
- The time for decision is now. To assist the PUB to thread through the evidence and make its determinations, Green Action Centre will summarize our own findings and recommendations

- **Energy poverty in Manitoba**

- A major accomplishment of the Bill Affordability Working Group was to provide concepts and methods for understanding energy poverty in Manitoba. That group arrived at the following qualitative definition.
- *Energy poverty refers to circumstances in which a household is, or would*
- *be, required to make sacrifices or trade-offs that would be considered*
- *unacceptable by most Manitobans in order to procure sufficient energy from*
- *Manitoba Hydro (MH Appendix 10.5, 15/242).*

- The distribution of energy burdens in relation to income is graphically displayed below



Manitoba Hydro 2017/18 & 2018/19 General Rate Application
COALITION/MH II-44

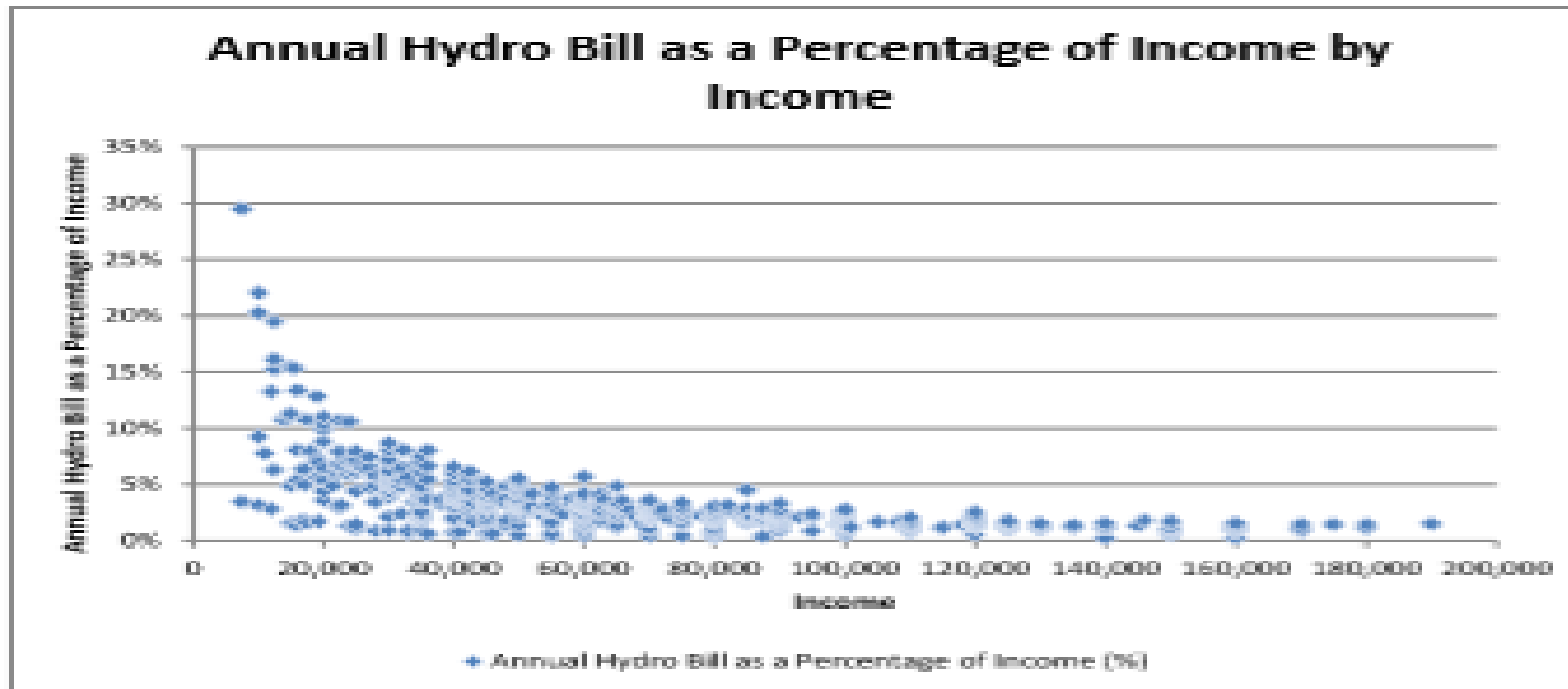


Figure 1: Annual Hydro Bill as a Percentage of Income by Income

Source: Survey of Manitoba Hydro customers (N = 587)

- Energy poverty is a consequence of insufficient income [to afford, without sacrifice, energy bills at current rates and levels of consumption], or
- Energy poverty is a consequence of over-consumption of energy [beyond what is affordable with a given income at current rates], or
- Energy poverty is a consequence of unaffordable rates [given the household income and levels of consumption of many customers].

- The dramatic increase in energy poverty from escalating rates is portrayed in PRA’s graphed simulations based on survey and administrative data, such as Figure 7 below.

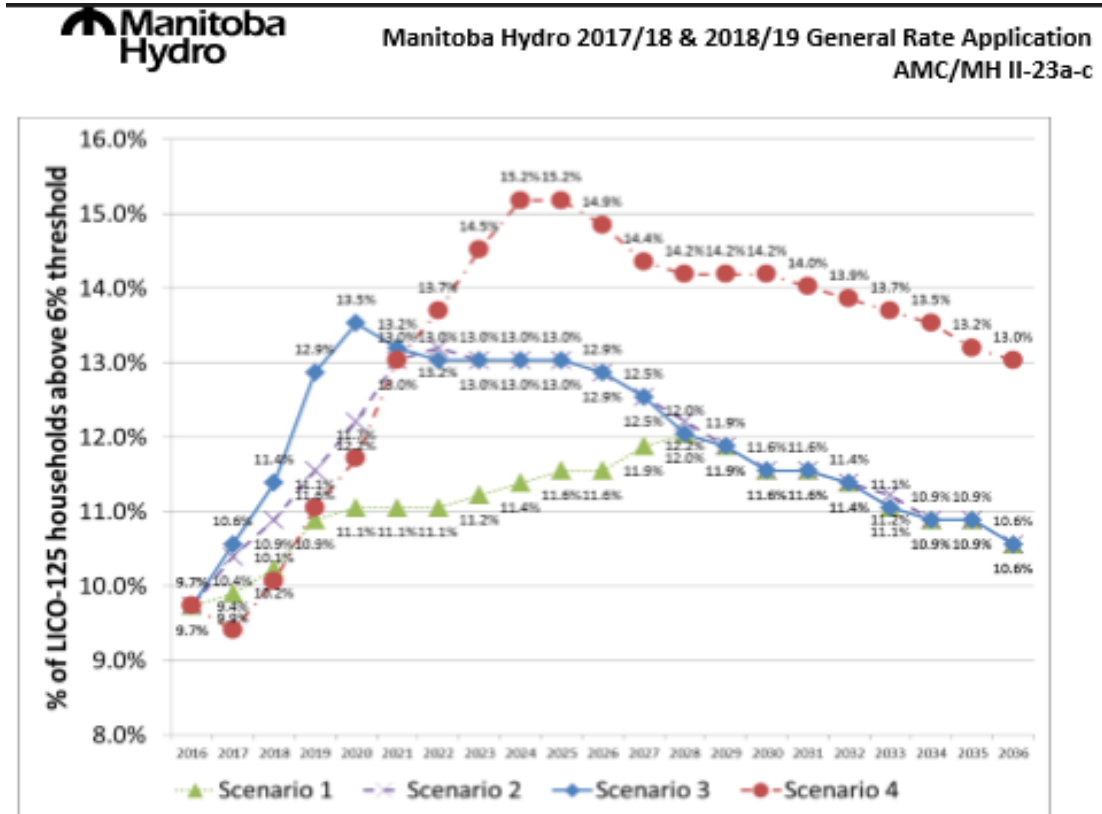


Figure 7: Impact of Manitoba Hydro rate increases on proportion of LICO-125 households above 6% energy poverty threshold, 2016–36, inclusive

Source: PRA calculations based on survey of Manitoba Hydro customers

Note: Scenario 1—3.95% nominal electricity rate increases for 12 years; Scenario 2—5.95% nominal electricity rate increases for 6 years; Scenario 3—7.95% nominal electricity rate increases for 4 years; Scenario 4—3.36% nominal electricity rate increase in 2017, followed by 7.9% rate increases for 6 years and a 4.54% rate increase for 1 year (assumed to come into effect on August 1st of each calendar year)

- Green Action Centre accepts Dr. Simpson's conclusion from his review that:
- *Proposed rate increases represent a **long-term problem for energy poverty** that only direct rate assistance and energy efficiency plans can mitigate*
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- (Ex. CC-44, slide 17).
- We also accept his additional recommendations:

Additional Recommendations

- If we are to take energy poverty remediation seriously:
 - (1) Hydro and stakeholders should **continue research** into energy poverty and its characteristics using Manitoba evidence
 - (2) Hydro should **develop an efficient rate assistance program** that provides assistance to low-income energy poor households but that is not directly tied to the level of energy consumption along the lines of the fixed credit programs in Colorado and Ontario
 - (3) Hydro should **enhance its Affordable Energy Program** to assist lower-income households to implement energy efficient upgrades
 - (4) Hydro should **develop a plan to coordinate** rate assistance, energy efficiency and billing management programs for low-income households to increase participation in all aspects of affordable energy programming.

Geothermal solutions

- Green Action Centre recommends that it should be a strategic priority for Manitoba Hydro and Efficiency Manitoba to address the stiff rise in bills for electric space heat customers by initiatives that reduce and affordably finance the capital costs of geothermal systems. Increased targeting of DSM and switching these customers to geothermal heating would reduce the need for rate discounts for electrically heated homes.

Green Action Centre's Recommended Bill Assistance Solutions: Options with Targeted Beneficiaries

- Green Action Centre's overall approach to affordability, and the one recommended by our experts Paul Chernick and, before him, Roger Colton is (a) to recognize and analyze the problem and (b) bring to bear all the tools at Manitoba Hydro's disposal to address the problem in the most effective and cost-effective ways. Income support is not a tool in Manitoba Hydro's control, but bill assistance and efficiency measures are.

- Green Action Centre asked Mr. Chernick to demonstrate rate design options that combine a conservation incentive with affordability. He developed the four alternatives in the table below. Green Action recommends that the protocol labelled LICO-125 ESH be selected for piloting in 2018-2019. However, to contain the costs and better target the greatest need, we recommend that this protocol be applied in the first instance to LICO-125 customers whose energy burden exceeds 6%

		MH Interim	LICO- 125 All	Non-LICO ESH	LICO-125 ESH	Non-LICO IBR
Basic Charge		\$8.44	\$0	\$8.08	\$0	\$7.82
First Block	¢/kWh	8.556	4.556	4.556	4.556	7.930
Remainder	¢/kWh	8.556	8.556	8.556	8.556	8.925
First Block kWh						
Summer		—	500	—	500	500
Spring		—	500	150	650	500
Fall		—	500	250	750	500
Winter		—	500	500	1,000	500
Recovery rate from:						
Non-LICO residential (NLR)			\$0.00966			
All non-LICO, non-SEP			\$0.00246			
Non-discounted NLR kWh				\$0.00407		
Non-discounted non-LICO				\$0.00096		

- The second example recommended for consideration is a fixed credit variant of the percentage of income payment plan (PIPP). An example of this is the PSCO program in Colorado reported by Dr. Simpson (slide 13 of Ex. CC-44).

Public Service Company (PSCO) of Colorado

- Most U.S. rate assistance programs are directly related to current usage, which provides direct assistance to those with energy poverty but limits the incentive to conserve energy and be energy efficient
- PSCO provides a fixed credit to low-income households to bring past total energy expenditure to the 6% threshold
- Fixed credit is based on past, not current, expenditure to target the energy poor directly (unlike Ontario) and encourage energy conservation (somewhat)
- PSCO combines its rate assistance with arrearage forgiveness and weatherization aids and requires recipients to enroll in the Low Income Home Energy Assistance Program and the budget billing program
- Idea of identifying the energy poor from rate assistance applications and coordinating programs for low income households seems valuable

Addressing concerns about cross-subsidization

- In this case, two options have been presented in the evidence at this hearing: the costs and recovery of the revenue requirement can be borne by the non-LICO residential class or be spread out more broadly to all other customer classes. Green Action Centre's position is that it would be most appropriate for all other customer classes to pay for the costs of the affordability program. In this regard, Green Action Centre adopts the evidence of Paul Chernick who recommends spreading out the costs (including recovery of the revenue requirement) over all non-LICO customers since it is a social program, similar to low income assistance supported by tax revenues (Exhibit GAC-17, pp. 32-33).
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- Such an approach was also endorsed by William Harper (Exhibit CC-20, pg. 103) and Philip Raphals (Exhibit AMC-7-1s, pg. 29-33).

Addressing concerns about administrative issues

- Manitoba Hydro already administers their affordable energy program based on a LICO-125 criteria (MB Hydro Application, Appendix 10.5, pg. 22). To administer these programs, Manitoba Hydro collects information on household income from the customers who apply. Manitoba Hydro also has available to it information on household electricity costs. Since energy poverty is a function of energy costs and household income, it follows that Hydro already has available to it the information that is key to determine eligibility for an income based bill affordability program.

- In order to ensure that a program is effective, with significant uptake, partnerships with community organizations (i.e. Winnipeg Harvest) who already have developed infrastructure to administer programming to low income Manitobans, could be vital in administering an bill affordability program.
- Green Action Centre's position is that the costs to administer a bill affordability program need not be as high, proportionally, as the costs of the neighbour helping neighbours program, depending on the available hydro resources and community group involvement, however, even based on the costs of the Neighbours Helping Neighbours Program, the administrative costs ought not to impede the Board from directing Hydro to implement a bill affordability program given the rates of energy poverty in Manitoba.
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Addressing concerns about transparency

- Green Action Centre agrees that transparency in the implementation of such a program should be a priority. In this regard, Green Action Centre recommends that the Board direct Hydro to implement a separate account, to be funded in addition to the revenue requirement and at a level sufficient to cover the costs of the recommended affordability programs including:
 - The costs of the proposed arrears forgiveness program;
 - The costs of the proposed low-income rate program; and
 - Funding for non-profit organizations and other third parties to assist with the administration of these programs where efficient.

Marginal Costs

- Mr. Paul Chernick has provided calculations as to the adjustment of Hydro's marginal cost calculation. According to Mr. Chernick's calculations current rates are below marginal costs, which would further support the implementation of an affordability based rate design. Green Action Centre stands by Mr. Chernick's calculations, and notes that Hydro has not addressed this particular issue in their final argument.
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Determining a level of rate increase

- Green Action Centre did not provide evidence on Manitoba Hydro's overall revenue requirement and its proposal for recovering it over time. What we offer the PUB is a series of considerations relevant to the final determination of a rate increase for 2018 and an indicated trajectory over time.

Implications of climate change for Manitoba Hydro planning.

- In the course of this hearing, Manitoba Hydro identified a gas combustion turbine as the next potential generating asset for the purpose of marginal cost estimation. As well, LEI recommended pausing Keeyask and looking at a combustion turbine as a preferred alternative when needed (GSS/GSM-9-2, p. 40). Green Action Centre believes that these suggestions are contrary to the direction of steep reductions in GHG emissions (unless the turbines were to be accompanied by carbon capture and storage). We recommend that Manitoba Hydro examine cleaner alternatives for generation options and avoided cost calculations as BC Hydro does (Ex. CC-49).

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Conclusion

- **Conclusion**

- Green Action Centre takes the position that the Board must take energy poverty seriously. Ten years of directions from the Board that require Manitoba Hydro to implement an affordability plan have been ignored. The only approach that the Board has not attempted is to order that an affordability plan be introduced at the time of the Board's decision. Mr. Chernick has provided to the Board a pathway forward. It may not be perfect. It is better than doing nothing for another ten years. If the plan is implemented, Manitoba Hydro along with interested interveners and community groups can work on improvements for consideration at the next General Rate Application.