

Attachment A

Overview

This document provides background to the proposed intervention of the Manitoba Branch of the Consumers' Association of Canada (“CAC Manitoba”) and Winnipeg Harvest, together the Consumers Coalition, in the proceeding relating to Efficiency Manitoba's 2020/21 – 2022/23 Efficiency Plan. This document provides responses to the questions in the Intervener Application Form, including:

- Who is CAC Manitoba?
- Who is Winnipeg Harvest?
- Reasons for proposed intervention;
- How the Consumers Coalition is directly affected by the Board's decision in this matter;
- How the Consumers Coalition represents a substantial number of ratepayers that are otherwise not represented on issues that are within the scope of this proceeding;
- The Consumers Coalition's experience, information, or expertise relevant to this matter that would contribute to the Board's decision making;
- Key issues the Consumers Coalition intends to address in this proceeding; and
- A description of the Consumers Coalition proposed participation in this proceeding.

In this document, the Consumers Coalition also comments on the draft timetable and the process for commercially sensitive information.

The Consumers Coalition

Please describe the mandate of your organization and provide a description of the membership, including the number of members. Please also confirm whether the organization's intervention in this proceeding is supported by a resolution of the governing body, if any. Please enclose the resolution, if any, with your Application, along with supporting documentation of your mandate and membership:

The Consumers Coalition is comprised of Winnipeg Harvest and CAC Manitoba. The Consumers Coalition seeks to present an evidence-based intervention guided by a principled

consideration of the consumer interest. It is represented by the Public Interest Law Centre.¹

The Consumers Coalition aims to protect and reconcile the interests of all Manitoba residential consumers, including low and fixed-income consumers, the working poor and those living in remote and rural communities.

For the Consumers Coalition, bringing the voice of consumers directly to the Public Utilities Board (“PUB”) is of primary importance in the independent regulatory process. The Coalition members place a priority on direct consumer input through focus groups, engagement sessions and stakeholder panels.

There is no resolution of the governing bodies of Winnipeg Harvest or CAC Manitoba supporting the intervention in this proceeding. Rather, the decision to participate is made by senior management, following established past practice.

In the following sections, we provide an overview of the Coalition members as well as the unique methodology and perspective they bring to consideration of the Efficiency Manitoba 2020/21-2022/23 plan.

Who is CAC Manitoba

CAC Manitoba is a volunteer, non-profit, independent organization working to inform and empower consumers and to represent the consumer interest in Manitoba. Formed in 1947, the organization is governed by a volunteer Board of Directors elected annually at a general meeting of its membership. It is a branch of the national Consumers’ Association of Canada but is financially separate and separately incorporated. CAC Manitoba represents the interests of consumers across Manitoba in a number of areas including financial services, food safety and security, patient rights, environmental sustainability and the regulatory review of utilities and Crown’s delivering services and products to consumers.

Through its consumer education events and programs, and consumer-based research, CAC Manitoba interacts with roughly 13,000 consumers annually. Approximately 6,000 Manitoba consumers annually attend CAC Manitoba information sessions and workshops. In addition, the organization seeks other perspectives on relevant issues through the use of policy community advisory committees and interviews.

The organization's policy is guided by its understanding of generally accepted consumer rights including:

- **The right to satisfaction of basic needs**
- **The right to safety**

¹ An independent office of Legal Aid Manitoba.

- **The right to be informed**
- **The right to choice**
- **The right to be heard**
- **The right to redress**
- **The right to consumer education**
- **The right to a healthy environment**

CAC Manitoba is also guided by the following consumer responsibilities:

- **Critical awareness**
- **Involvement or action**
- **Social responsibility**
- **Ecological responsibility**
- **Solidarity**

Who is Winnipeg Harvest?

Founded in 1984, Winnipeg Harvest is a non-profit, community-based organization committed to providing food to people who struggle to feed themselves and their families. It seeks to maximize public awareness of hunger while working towards long-term solutions to hunger and poverty. Winnipeg Harvest is governed by a community-based Board which employs the Executive Director to make all operational decisions.

Winnipeg Harvest's Vision is a community that no longer requires the services of a food bank. Winnipeg Harvest's Mission is to:

- share food with hungry families;
- focus attention on hunger within their community and move towards long-term solutions; and
- facilitate training and learning opportunities for their clients.

To achieve its Vision, Winnipeg Harvest provides emergency food assistance to almost 64,000 people a month across Manitoba, redistributing more than 11 million pounds of food a year through food banks and other emergency programs. One-third of the families experiencing hunger are dual wage-earner families (i.e.: the working poor) and approximately

41% of its clients are children living in poor families.²

Winnipeg Harvest shares food with more than 50 Manitoba communities through the Manitoba Association of Food Banks and through partnerships with nearly 400 agencies (including soup kitchens, food banks and youth programs) to distribute surplus food to hungry families all over Manitoba. The 180 food banks it supports are located throughout Manitoba and include urban centres, First Nations and rural and northern communities.³

While redistribution of food to people in need remains the top priority of Winnipeg Harvest, it also provides access to personal care products, provision of meals and snacks through day care and other agencies, programs and services for First Nations People and newcomers as well as training for life and work skills.

Winnipeg Harvest is also involved in the provision of advocacy services. Its advocacy services are three-fold: education and awareness through publication of reports and dissemination of information; systemic change through community actions and legal advocacy; and one-on-one support and advocacy.

Approximately 50% of Winnipeg Harvest's clients are in receipt of social assistance. An advocate who works with one of Winnipeg Harvest's partner organizations regularly appears before the Social Services Appeal Board on matters relating to the employment and income assistance program. The significant expertise of Winnipeg Harvest on issues relating to poverty and hunger was recognized by Olivier De Schutter, the United Nations Special Rapporteur on the Right to Food who attended a workshop at Winnipeg Harvest during his mission to Canada in 2012.

One of Winnipeg Harvest's priorities is to work with others in the community to explore long-term solutions to hunger and poverty. Winnipeg Harvest is part of Make Poverty History Manitoba, a coalition of anti-poverty organizations. This coalition was instrumental in the adoption by the provincial government of the Rent Assist program.

In terms of education and awareness, Winnipeg Harvest has partnered with organizations such as the Manitoba Keewatinowi Okimakanak and the Public Interest Law Centre to prepare reports on the Right to Food and Milk Prices. Winnipeg Harvest has also been a leader in Manitoba by partnering with the Public Interest Law Centre to research and advocate for a Guaranteed Annual Income.

In collaboration with Campaign 2000 End Child & Family Poverty, Winnipeg Harvest has produced numerous Child and Family Poverty Report Cards, the latest of which was published in November 2016. Sometimes in collaboration with other partners, Winnipeg Harvest also prepares reports on the Acceptable Living Level.⁴

² Winnipeg Harvest feeds nearly 27,000 children each month.

³ Reaching as far north as Lynn Lake.

⁴ The Acceptable Living Reports demonstrate that current welfare rates fall far short of meeting the Acceptable

Reasons for Intervention

Please state your reasons for intervening in this proceeding:

CAC Manitoba and Winnipeg Harvest will seek to protect the interests of residential consumers by examining Efficiency Manitoba's proposed plan, and in particular whether the savings targets are reasonable, whether the process used to develop the portfolio was adequate, the benefits, accessibility and cost-effectiveness of initiatives, as well as implications of decarbonization and electrification as a result of efforts to counter climate change on the efficiency plan. The Consumers Coalition also intends to examine the extent to which engagement with Manitoba consumers informed the proposed Efficiency Plan.

Both groups, as well as their members and clients, have a significant interest in the outcome of the review of Efficiency Manitoba's Three-Year Efficiency Plan (2020/21 – 2022/23). The efficiency plan that is approved will directly impact residential ratepayers through their ability to participate in efficiency programs and initiatives, as well the rates they pay on their customer bill from Manitoba Hydro or in the amount they pay in rent.

Direct Impact

Please state how you are directly affected by the Board's decision in this matter:

The CAC Manitoba and Winnipeg together represent Manitoba Hydro's largest customer class, with over 500,000 Residential electric customers.⁵

Manitoba Hydro enjoys a retail monopoly in the sale of electrical power in Manitoba. As captive customers of Hydro's monopoly, ratepayers rely on the independent, expert and evidence-based process of the PUB to ensure that the “rates for service” imposed upon them are not unjust, unreasonable or unjustly discriminatory.

Efficiency Manitoba's plan will be funded by Manitoba Hydro (and its ratepayers). Energy efficiency initiatives directly affect residential customers by assisting them in meeting their energy needs through energy efficient measures. In addition, reduced domestic load requirements allow for reduced capital expenditures and increased energy available for export, which can lead to lower rates overall for Manitoba customers.⁶

As previously found by the PUB, “[e]nergy efficiency and the reduction of domestic consumption are important not only economically, but also from an environmental perspective.”⁷ Regarding the impact of energy efficiency on low-income customers specifically, the PUB has also stated that it “is very aware of the energy burden

Living Levels and challenges Manitoba's leaders and citizens to respond to the central issue of **how can Manitoba ensure an acceptable living level for all its citizens?**

5 Manitoba Hydro 2019/20 General Rate Application, Appendix 3, p 33 of 110.

6 PUB Order 116/08 p 191.

7 PUB Order 117/06 at p 58-59.

faced by low-income customers and the vital importance of MH providing effective energy efficiency and comprehensive low-income programs.”⁸

Representation of Ratepayers

Please explain whether and how you represent a substantial number of ratepayers that are otherwise not represented on issues that are within the scope of this proceeding:

The Consumers Coalition represents the interests of Manitoba's residential consumers, Manitoba Hydro's largest consumer class, totalling over 500,000 customers. The Consumers Coalition represent this customer class in proceedings relating to Manitoba Hydro rates and, as such, have an understanding of the issues that impact ratepayers.

Many of the factors listed in section 11(4) of the *Efficiency Manitoba Act* and section 11 of the *Efficiency Manitoba Regulation*, which are likely to be considered by the PUB, directly address the impacts of the Efficiency Plan on residential consumers, such as:

- the benefits and cost-effectiveness of the initiatives proposed in the plan;⁹
- whether Efficiency Manitoba is reasonably achieving the aim of providing initiatives that are accessible to all Manitobans;¹⁰
- whether the plan adequately considers the interests of residential, commercial and industrial customers;¹¹
- whether, if it is practical to do, at least 5% of Efficiency Manitoba's budget for demand-side management initiatives is allocated to initiatives targeting low-income or hard-to-reach customers; and¹²
- the impact of the efficiency plan on rates and average customer bill amounts.¹³

These customers, as a whole, would not otherwise be represented in the scope of this proceeding as there is no other group that seeks to represent the interests of all residential ratepayers. The Consumers Coalition proposes to represent the interests of residential ratepayers, as it has done in Manitoba Hydro rate applications.

The Consumers Coalition's experience, information, or expertise relevant to this matter that would contribute to the Board's decision making

Both Winnipeg Harvest and CAC Manitoba have been active participants in Manitoba Hydro

8 PUB Order 90/08 at p 20.

9 *The Efficiency Manitoba Act*, SM 2017, c 18, CCSM c E15, s 11(4)(b).

10 *Ibid*, at s 11(4)(c).b

11 *Efficiency Manitoba Regulation*, Man Reg 119/2019, s 11(b).

12 *Ibid*, s 11(c).

13 *Ibid*, s 11(g).

rate setting proceedings for a number of years, including participating on the issue of Demand-Side Management and bill affordability.

Due to its long-standing experience with matters relating to rate-setting across five industries, Manitoba Hydro, Centra Gas, Manitoba Public Insurance, payday lending and government cheque-cashing, the Consumers Coalition has a deep understanding of issues of law and jurisdiction as it relates to regulation. The Consumers Coalition played an express role in the proceedings leading to the establishment of the rate-setting principles and objectives of the PUB.

The Consumers Coalition has brought the perspective of ratepayers directly to the PUB in past proceedings. For example, a diverse panel of ratepayers, including from within Winnipeg and outside the City, as well as across the income spectrum, presented the impacts of rate increases on their lives during the Manitoba Hydro 2017/18 & 2018/19 GRA.

Winnipeg Harvest in regulatory proceedings

In addition to providing services directly to communities, households and individuals, Winnipeg Harvest has been an active participant both as an intervener and a presenter on regulatory matters before the PUB.

Most recently, Winnipeg Harvest was an intervener as part of the Consumer Coalition in the Manitoba Hydro 2019/20 General Rate Application, the Manitoba Hydro 2017/18 & 2018/19 General Rate Application, the 2016 Cost of Service Study process, as well as in the Manitoba Hydro 2015/16 and 2016/17 General Rate Application.

Additionally, Winnipeg Harvest partnered with CAC Manitoba and the Manitoba Metis Federation in presenting a ratepayers panel during the Needs For And Alternatives To proceeding and also presented policy recommendations aimed at ameliorating the impact of rate increases upon vulnerable consumers. Winnipeg Harvest was an active participant in Manitoba Hydro's working group on bill affordability led in 2016.

Winnipeg Harvest also has intervened as part of a coalition of organizations in each of the Payday Lending hearings before the PUB, including jointly presenting the first panel of consumers at a Payday Lending hearing in April 2016. In commenting on the evidence provided by the consumer panel, the Board stated that "it offered the Board valuable insight into real-life experiences with payday loans and the benefits and drawbacks of payday loans from consumers' perspectives."¹⁴

CAC Manitoba in regulatory proceedings

Over the past 28 years, CAC Manitoba has been active in rate regulation matters relating to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, government cheque cashing and

¹⁴ Public Utilities Board Report Payday Lending, June 17, 2016, at p 42.

payday lending rates. In addition, CAC Manitoba has extensive and intersecting regulatory experience at the Canadian Radio-television and Telecommunications Commission. It takes pride in its long-standing record of quality, evidence-based advocacy.

Over the past fifteen years, CAC Manitoba has been particularly engaged in regulatory matters relating to Manitoba Hydro including:

- every General Rate Application, Cost of Service and Diesel Proceeding (Manitoba PUB);
- the 2014 Needs For And Alternatives To (Manitoba PUB) and the Wuskwatim Needs For And Alternatives To (joint panel); and
- environmental proceedings relating to the Keeyask Generating Station, the Bipole III Transmission Line, Lake Winnipeg Regulation and Manitoba Minnesota Transmission Line (Clean Environment Commission).

CAC Manitoba has a mandate to provide Manitoba consumers with unbiased information. Through interventions at rate hearings, the organization represents the consumer interest on prices and quality of service (“rates for service”).

Consumers Coalition Issues of Interest in Previous Manitoba Hydro Matters

In recent regulatory proceedings before the PUB on Manitoba Hydro matters, CAC Manitoba has played an active role in issues such as:

- Financial targets and risk analysis
- Sustaining capital
- Forecasting: CAC Manitoba has extensively tested the credibility of Manitoba Hydro's forecasts especially as they related to its large capital expenditure plans and the reliability of its Integrated Financial Forecasts:
 - Load forecast: CAC Manitoba presented evidence during the 2014 Needs For And Alternatives To proceedings, including recommendations on price response and price elasticity, long-term top customers forecast methodology and more sophisticated projections of households using electric and non-electric space heating.
 - Export price forecasting: since the 2010/11 Manitoba Hydro General Rate Application, CAC Manitoba has been raising concerns about the reliability of Manitoba Hydro's forecasts.
 - Capital expenditure forecasts: since the 2010/11 Manitoba Hydro General Rate Application, CAC Manitoba has been raising concerns about the reliability of

Manitoba Hydro's capital expenditure forecasts, especially major capital projects, such as Bipole III and Keeyask.

- Interest rate forecasting: CAC Manitoba has consistently raised concerns about Manitoba Hydro's interest rate forecasting. In the last Manitoba Hydro General Rate Application, 2014/15 and 2015/16, CAC Manitoba argued that Manitoba Hydro's interest rate forecast costs were inflated, which was confirmed in the 2015 Integrated Financial Forecast where Hydro documented a \$700 million decline in interest costs over 10 years as compared to its previous forecast.
- Operating, Maintenance and Administration costs
- Debt
- Rate design, bill assistance and energy poverty: the Consumers Coalition has led evidence on barriers to energy efficiency utilization by low-income households,¹⁵ as well as filing evidence in the 2010/11 General Rate Application relating to definitions of energy poverty and program alternatives, including energy efficiency, government support and bill assistance options. CAC Manitoba was an active participant in Manitoba Hydro's working group on bill affordability led in 2016.
- In 2016, CAC Manitoba was honoured to be selected by the federal Office of Consumer Affairs to conduct a major research project on energy poverty across Canada. The research for this project, combined with related efforts by both CAC Manitoba and Winnipeg Harvest, have led to:
 - i) six Canadian focus groups looking at issues of energy poverty from users perspectives including one centered in a Manitoba First Nation;
 - ii) a robust literature review;
 - iii) consideration of the strengths and weaknesses of a wide spectrum of options;
 - iv) an examination of the legislative framework for energy poverty solutions in selected Canadian jurisdictions;
 - v) the beginning of an examination of what led Ontario to move away from a ratepayer funded model for bill assistance and towards a tax-payer funded model
 - vi) preliminary consideration of tools (if any) to address one of the major flaws in conventional American bill assistance programs, which is the limited penetration

¹⁵ See for example 116/08, p. 341.

(less than 50%) of even best practice programs; and

- vii) a survey of the prices of certain basic necessities in Northern First Nations (in collaboration with the Manitoba Keewatinowi Okimakanak).

On the issue of Demand-Side Management, CAC Manitoba and Winnipeg Harvest have participated in the following proceedings:

- In the proceeding leading to PUB Order 117/06, CAC Manitoba intervened with the Manitoba Society of Seniors (MSOS) and “supported energy efficiency demand side management initiatives”;¹⁶
- In the proceeding leading to PUB Order 116/08, CAC Manitoba, MSOS and Winnipeg Harvest presented evidence which specifically and critically analyzes specific aspects of Manitoba Hydro’s energy efficiency program.¹⁷
- In the proceeding leading to PUB Order 128/09, CAC Manitoba and MSOS jointly presented an expert on Centra’s Demand-Side Management programs, including on the Furnace Replacement Program;¹⁸
- In the proceeding leading to PUB Order 55/10, CAC Manitoba and MSOS made submissions regarding the high number of low-income households with low-efficiency furnaces;¹⁹
- In the proceeding leading to PUB Order 5/12, CAC Manitoba and MSOS argued that Manitoba Hydro will need to be more ambitious with its electricity savings goals and should reconsider its current portfolio of programs and strategies to maximize energy efficiency. CAC Manitoba and MSOS also presented evidence on the issue of energy poverty and low income rate affordability, including on access for low-income households to energy efficiency programs;²⁰
- In the proceeding leading to Order 43/13, CAC Manitoba and the Green Action Centre jointly retained an expert regarding Manitoba Hydro Demand-Side Management programming;²¹
- In the proceeding leading to PUB Order 85/13, CAC Manitoba retained an expert regarding the Lower Income Energy Efficiency Program, the Furnace Replacement Program and low-income bill affordability relating to Centra;²²

16 PUB Order 117/06, p 39.

17 PUB Order 116/08; PUB Order 121/08.

18 PUB Order 128/09.

19 PUB Order 55/10, p 46.

20 PUB Order 5/12, p 153.

21 PUB Order 43/13, p 41-48.

22 PUB Order 85/13, p 49-56.

- In the Need For and Alternatives To proceeding, CAC Manitoba presented experts relating to Manitoba Hydro's Demand-Side Management plan and supported efforts to implement and pursue enhanced DSM programs.;²³
- In the proceeding leading to PUB Order 59/16, CAC Manitoba continued to support DSM as one of only a few tools customers have to mitigate the impacts of increasing rates;²⁴ and
- In the proceeding leading to PUB Order 59/18, CAC Manitoba and Winnipeg Harvest raises significant concerns about the reliability of projected demand side management expenditures due to a demonstrable failure by Manitoba Hydro to undertake post-NFAT integrated resource planning.²⁵

Key Issues intended to be addressed by the Consumers Coalition

The Consumers Coalition will be guided by the framework established in the *Efficiency Manitoba Act*, the *Efficiency Manitoba Regulations* and *The Public Utilities Board Act*.

The factors to be considered by the PUB in reviewing an efficiency plan by Efficiency Manitoba are listed in section 11(4) of the *Efficiency Manitoba Act* and section 11 of the *Efficiency Manitoba Regulations*. The Consumers Coalition expects to be guided both by this framework, as well as Board direction in previous Orders relating to demand-side management and efficiency and high quality evidence that will assist the Board in making its recommendations.

As further detailed in **Attachment B to the Intervener Application Form**, the Consumers Coalition proposes to retain the services of expert consultants Mr. William Harper, Dr. Patricia Fitzpatrick and Energy Futures Group (Chris Neme and Jim Grevatt).

Legal counsel from the Public Interest Law Centre will be representing the Consumers Coalition in this proceeding. The Public Interest Law Centre is an independent office of Legal Aid Manitoba that represents groups and individual on systemic issues or issues that affect the broader population. The Public Interest Law Centre's areas of practice include:

- Consumer law;²⁶
- Environmental law;

23 PUB NFAT Report.

24 PUB Order 59/16, p 36.

25 PUB Order 59/18, p 114/122.

26 Under section 4(2) of the *Legal Aid Manitoba Act*, groups can be found eligible for Legal Aid where the matter involves an objective or interest (a) common to the members of the group; and (b) relating to an issue of public interest including, without restricting the generality of the foregoing, any **consumer or environmental issue**. [emphasis added]

- Human rights law;
- Indigenous law; and
- Poverty law.

The Public Interest Law Centre has acted as legal counsel for residential consumers in proceedings relating to Manitoba Hydro both at the PUB and at the Clean Environment Commission for more than 25 years.

CAC Manitoba and Winnipeg Harvest intend to test Efficiency Manitoba's Three-Year Plan on the following issues, which it recommends should be included on the issues in scope for this proceeding:

- The **approach taken by Efficiency Manitoba to develop its plan**. In order for the PUB to conduct a full consideration of the issues, there should be an assessment of whether there was a consideration of resource planning principles and whether adequate exploration and consideration of alternatives was undertaken.
- An assessment of the **reasonableness of the projected savings** in Efficiency Manitoba's 3-year plan, including an assessment of the methodology used to determine the net savings;
- An **examination of Efficiency Manitoba's proposed plan** to reach the savings target, including:
 - a) the appropriateness of the methodologies used by Efficiency Manitoba to select or reject demand-side management initiatives;
 - b) whether the plan adequately considers the interests of residential customers;
 - c) the accessibility of initiatives in the plan to residential customers, including low-income and other hard-to-reach or vulnerable groups, including but not limited to, Indigenous customers, rural customers, customers with disabilities, newcomers, renters and residents of multi-units residential buildings and older customers;
 - d) an examination of the use of long-term versus short-lived initiatives;
 - e) whether the efficiency plan adequately considers new and emerging technologies that may be included in a future efficiency plan.
- An analysis of Efficiency Manitoba's **proposed evaluation framework**;
- The **cost-effectiveness** of programs, including an analysis of the inputs and methodology for calculating the cost effectiveness metrics (i.e. Program Administrator Test, Rate Impact and Bills Impacts) used to assess Efficiency Manitoba's proposed plan, including the use of the levelized marginal value to Manitoba Hydro in the

determine the levelized benefits from DSM savings;

- The efficiency plan's **impact on rates and average customer bill amounts** and whether that impact is reasonable;
- The **level of consumer engagement** conducted in developing the efficiency plan in light of section 9(h) of the *Efficiency Manitoba Act*²⁷ and whether best practices in consumer engagement were implemented. Consumer engagement is especially important in this proceeding given that consumer interest and takeup for initiatives can have a significant impact on the viability of the efficiency plan.
- **Compliance of EM** with directions from government through mandate and framework letters;
- **Consumer choices available** in the efficiency plan and whether the range of choices in energy efficiency programs/initiatives is reasonable;
- **Whether the EM administrative budget is reasonable** and an examination of the allocation of Efficiency Manitoba's administration and/or overhead budget to gas and electricity customers;
- An examination of **the impact of decarbonization and electrification on the way Efficiency Manitoba savings goals are defined, and the role Efficiency Manitoba could/should play in supporting decarbonization and electrification**, in the context of initiatives introduced to counter the impacts of climate change, including a discussion of best practices and trends in other jurisdictions.

The impact of decarbonization and electrification: the importance of not dismissing the impacts of the climate crisis on Efficiency Manitoba's three-year plan

The impact of decarbonization and electrification on the way Efficiency Manitoba savings goals are defined, and the role Efficiency Manitoba could/should play in supporting decarbonization and electrification should be included in the list of issues in scope for this proceeding. This is a critical issue that can not be ignored by the Board in the context of actions taken in Manitoba, Canada and globally to counter the impacts of climate change. Actions taken to counter climate change, whether it be through government policy, legislation or initiatives or consumer choices and behaviours can lead to a higher demand for energy which produces less greenhouse gases, such as hydro-electricity, and have the potential to significant impact Efficiency Manitoba's projected savings and plan.

The *Efficiency Manitoba Act* addresses the reduction of greenhouse gas emissions and the

²⁷ *The Efficiency Manitoba Act*, CCSM c E15, s 9(h): **a description of the input that Efficiency Manitoba received from stakeholders** — including the stakeholder committee established under section 27 — and **the public** in preparing the plan, and the process established for receiving the input [emphasis added].

consumption of fossil fuels in multiple sections:

- Section 4(1) states that the mandate of Efficiency Manitoba is to “(a) implement and support demand-side management initiatives to meet the savings targets and achieve any resulting reductions in greenhouse gas emissions in Manitoba.” The reduction of fossil fuels consumed in the transportation sector in Manitoba is addressed in section 4(1)(d) and the preamble states that “Efficiency Manitoba may also be given a mandate to achieve savings in respect of electrical power, potable water and fossil fuels consumed in Manitoba's transportation sector.”
- Section 6(3) states that in addition to the other activities authorized under this Act, Efficiency Manitoba may undertake prescribed activities related to efficiency, conservation or the reduction of greenhouse gas emissions in Manitoba;
- Section 9 states that “For the three-year period following the commencement date, and for each three-year period after that, Efficiency Manitoba must prepare an efficiency plan that includes the following information [...] (e) an analysis of the reductions in greenhouse gas emissions in Manitoba expected to result from the initiatives proposed under clauses (a) to (d);” and
- Section 39 states that the Lieutenant Governor in Council may make regulations “(d) prescribing activities Efficiency Manitoba must undertake relating to efficiency, conservation or the reduction of greenhouse gas emissions in Manitoba” and “(h) prescribing factors which the PUB must consider when it reviews an efficiency plan, including the value or weight to be given to (i) reductions in greenhouse gas emissions in Manitoba, and (ii) the societal benefits to be achieved by all or a portion of Efficiency Manitoba's initiatives.”

While the Act contemplates a role for Efficiency Manitoba in reducing greenhouse gases and fossil fuel consumption, in particular in the transportation sector, these responsibilities were not given to Efficiency Manitoba in the Regulations.

The *Efficiency Manitoba Regulations* only addresses fossil fuels in section 6, which states: “Efficiency Manitoba may undertake initiatives to reduce the consumption of fossil fuels other than natural gas in Manitoba, but unless those initiatives qualify for the use of the Affordable Energy Fund under section 14, they are not to be funded under an efficiency plan and Part 3 of the Act does not apply to them.”

Section 8(3) of the *Regulations* also indicates that savings in the consumption of a fossil fuel other than natural gas that result from an initiative undertaken by Efficiency Manitoba under section 6 count towards the natural gas savings target. Greenhouse gas reductions do not appear in the Regulations.

It is the responsibility of the PUB to review an efficiency plan and make a report, with recommendations, to the minister as to whether the plan should be approved, approved with suggested amendments or rejected.²⁸

The PUB has an important role in making recommendations that are in the public interest to the minister, including:

- an increase in a savings target if it is reasonably satisfied that it is in the public interest for Efficiency Manitoba to achieve additional net savings; or
- a decrease in a savings target if it is reasonably satisfied that the existing savings target is not in the public interest.²⁹

In light of the climate change crisis and resulting initiatives and policies which have the potential of disrupting current and forecast electricity consumption levels, the PUB should examine the issue of decarbonization and electrification to inform its examination of Efficiency Manitoba's three-year plan, as well as potential recommendations to the minister for changes to the savings target.

In recent years and months, there have been a number of initiatives and policies that have the potential of disrupting current electricity consumption:

- Carbon pricing legislation by the federal government: The *Greenhouse Gas Pollution Pricing Act*³⁰ became law on June 21, 2018. This Act put into place the federal carbon pricing plan that imposed a minimum price on fuel emissions in provinces that did not have their own carbon pricing plans.
- On June 17, 2019, the House of Commons passed a motion to declare a national climate emergency in Canada, and which supports the country's commitments to meeting the emissions targets outlined in the Paris Agreement;³¹
- Federal rebates for electric cars introduced in May 2019;³²
- Made in Manitoba Climate Green Plan, which sets the goal of Manitoba being “Canada’s cleanest, greenest and most climate resilient province”, as well as setting a carbon price and carbon emission savings targets.³³

Manitoba Hydro's CEO in a recent presentation has acknowledged that change is coming to the energy business and is in part driven by the “decarbonization of the economy in response

28 *Efficiency Manitoba Act*, CCSM c E15 s 11(1).

29 *Efficiency Manitoba Act*, CCSM c E15 s 11(5).

30 *Greenhouse Gas Pollution Pricing Act*, SC 2018, c 12 s 186.

31 <https://globalnews.ca/news/5401586/canada-national-climate-emergency/>.

32 <https://www.cbc.ca/news/canada/federal-rebate-electric-car-1.5117934>.

33 https://www.gov.mb.ca/asset_library/en/climatechange/climategreenplandiscussionpaper.pdf.

to climate change.”³⁴ She further stated that “[c]hange is already happening. Businesses are planning for a new energy future.”³⁵

Manitoba Hydro CEO has emphasized that “one of her prime objectives is to position the corporation for the future, as North America comes to grips with climate change and lessens its reliance on fossil fuels.”³⁶ She further confirmed that “a move away from fossil fuels due to climate change is inevitable, the only unknown is the pace of change. But Manitoba Hydro needs to be ready for what’s coming.”³⁷

The move away from fossil fuels and the objective of reducing greenhouse gas emissions have the potential of increasing electric demand, especially in the transportation sector as consumers and industry may increasingly move toward electric vehicles. This increase in electric demand may impact both the savings targets that Efficiency Manitoba is striving to meet and the initiatives it is proposing as part of its three-year plan. The *Efficiency Manitoba Regulations* and the three-year plan should ensure that Efficiency Manitoba and consumers are not be penalized if electricity consumption increases, if it means reducing reliance on fossil fuels and greenhouse gas emissions.

This review of Efficiency Manitoba's three-year plan represents a unique opportunity to examine the impact of decarbonization and electrification in the context of Manitoba's energy efficiency efforts.

The Consumers Coalition proposes to present evidence which would examine the impact of decarbonization and electrification on the way Efficiency Manitoba savings goals are defined, and the role Efficiency Manitoba could/should play in supporting decarbonization and electrification, including a discussion of best practices and trends in other jurisdictions. This evidence could assist the PUB in its review of the reasonableness of Efficiency Manitoba's three-year plan and in making recommendations to the minister regarding the savings target.

If the issue of decarbonization and electrification is not considered as part of the examination of Efficiency Manitoba's efficiency plan in the context of the current climate crisis, there is a risk that this proceeding will only examine electricity and natural gas consumption in isolation, while missing the bigger picture of disruptions to the energy sector as a whole given the implications of climate change. The proposed plan would be in place for three years and given the urgency of the climate crisis, it is important that this opportunity be seized.

34 Larry Kusch, “Technology will turn consumers into energy producers, traders: Hydro CEO”, Winnipeg Free Press, September 25, 2019.

35 *Ibid.*

36 Larry Kusch, “Powering Hydro's future: CEO BOOSTS HER UNDERSTANDING OF CROWN UTILITY BY TRAVELLING ACROSS MANITOBA”, Winnipeg Free Press, September 30, 2019.

37 *Ibid.*

Consumers Coalition participation

The Consumers Coalition intends to participate fully and actively in this proceeding, including attendance at hearings, submission of evidence and testing of evidence and cross-examination of witnesses. Legal counsel to the Consumers Coalition and legal counsel to MKO have also had preliminary discussions about presenting a panel of ratepayers to provide evidence regarding their lived experience as it relates to energy efficiency and demand-side management. A description of the evidence it intends to present and the experts it intends to retain is provided in **Attachment B**.

Costs award

The Consumers Coalition intends to request an award of costs for its participation in this proceeding.

As stated in the Intervener Costs Policy 2019-20, in any proceeding, the Board may award costs to be paid to any Intervener who has:

- (a) made a significant contribution that is relevant to the proceeding and contributed to a better understanding, by all parties, of the issues before the Board;
- (b) participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid a duplication of intervention;
- (c) represented interests beyond their sole business interest; and
- (d) a substantial interest in the outcome of the proceeding and represents the interests of a substantial number of ratepayers.

The Consumers Coalition will make a significant contribution to this proceeding through its information requests, evidence from its expert witnesses, as well as its cross-examination of Efficiency Manitoba and other witnesses and its final submissions. Its intervention will be guided by the criteria and considerations set out in the *Efficiency Manitoba Act* and the *Efficiency Manitoba Regulations*.

The Consumers Coalition will participate in this hearing in a reasonable manner and will cooperate with other interveners who have common objectives. In addition, the Consumers Coalition will make reasonable efforts to ensure that its participation is not unduly repetitive of other interveners. For example, it has already met or had contact with representatives from prospective interveners, including Green Action Centre, MIPUG, Keystone Agricultural Producers, Manitoba Keewatinowi Okimakanak, Southern Chiefs Organization and the Assembly of Manitoba Chiefs in an attempt to collaborate on any areas of common interest.

In particular, the Consumers Coalition had been in discussions with Green Action Centre regarding the potential joint retainer of an expert witness. While our understanding is that ultimately, Green Action Centre has decided not to apply to intervene, the Consumers Coalition intends to continue discussions with the Green Action Centre about areas of common interest, specifically the impact of decarbonization and electrification on the way Efficiency Manitoba savings goals are defined, and the role Efficiency Manitoba could/should play in supporting decarbonization and electrification, including in the transportation sector.

In addition, preliminary discussions have taken place between legal counsel to the Consumers Coalition and MKO regarding organizing a panel of ratepayers to provide evidence regarding their lived experience as it relates to energy efficiency and demand-side management. The panel of ratepayers may relate to issues of:

- Rate impact and customer bill impacts;
- Accessibility of Efficiency Plan to Manitobans;
- Consideration of non-energy benefits of DSM portfolios;
- Consideration of the appropriate percentage of the DSM budget for low income and hard to reach customers;
- Consideration of barriers to DSM uptake; and
- Consideration of the engagement strategy with respect to consumers, including low income and hard to reach customers.

As has been described above, the Consumers Coalition represents the interests of all Manitoba residential ratepayers. As a result, it has a substantial interest in the outcome of the proceeding. The Consumers Coalition aims to protect and reconcile the interests of all Manitoba residential consumers, including low and fixed-income consumers, the working poor and those living in remote and rural communities.

Comments on Draft Timetable

The Consumers Coalition is in receipt of a draft timetable distributed by counsel to Efficiency Manitoba to prospective interveners on Wednesday October 30, 2019.

This proceeding is the only opportunity for the PUB to examine Efficiency Manitoba's first three-year plan, which will be in place for three years, from 2020 until 2023. Overall, the draft timetable contemplates a very compressed timeline with insufficient time for interveners to prepare evidence, only one round of information requests and no time contemplated for possible motions. This is especially concerning given the paucity of information in Efficiency Manitoba's filing, based on our preliminary review.

The Consumers Coalition is concerned that this compressed timeline will not allow for a meaningful process, which is especially important because this is Efficiency Manitoba's first plan, which will provide a foundation for all future plans and will be in place for three years before being reviewed next.

Given the importance of the success of this inaugural proceeding for both the Manitoba government, as the entity which created Efficiency Manitoba, and Manitobans in general, the Consumers Coalition recommends that **the PUB request an extension of time from the provincial government for implementation of the efficiency plan beyond April 1, 2020 to allow for a meaningful examination.**

The Consumers Coalition is in receipt of a letter from legal counsel to MIPUG dated October 15, 2019 requesting an extension of time to the April 1, 2020 implementation date. The Consumers Coalition is in agreement with the concerns outlined, in particular that the schedule does not allow for a thorough review of the initial filing by the new Crown Corporation.

Should an extension of time not be granted, the Consumers Coalition makes three specific comments with respect to the draft timetable:

- First, the draft timetable does not contemplate sufficient time for Interveners to prepare and file evidence after receipt of responses to information requests. This concern is exacerbated by the fact that our preliminary review of the file reveals that there is significant detail lacking regarding how the plan was developed.³⁸ If this information only becomes available in responses to information requests, this will severely limit the extent to which Intervener evidence can be drafted prior to receipt of responses from Efficiency Manitoba;
- Second, we would note that November 11, 2019 is Remembrance Day, which is day to remember and pay respect to the members of Canadian armed forces who have died in the line of duty. Given the purpose of Remembrance Day, our clients' strong perspective is that it is not appropriate to schedule a regulatory deadline on November 11; and
- Third, there is no allowance in the schedule for parties to address situations where (i) Efficiency Manitoba refuses to provide a response and the requester feels the refusal is inappropriate or (ii) where a requestor feels that Efficiency Manitoba has not addressed/fully answered the question asked. We suggest that the first issue could be

38 E.g. i) no details on precisely how the targets, in terms of kWh and m3 were developed, in that the Application speaks of various adjustments but not explain exactly how they are done, ii) no information on precisely what alternative measures or program bundles were considered, iii) no detailed documentation of the process followed for assessing the alternatives, comparative results or reasons why the alternatives were rejected.

addressed by the PUB requiring that Efficiency Manitoba identify all questions where it intends to not respond fully to the question a few days (e.g. three business days) after receiving the information requests. Parties could then make submissions to the Board if they believe a response should be provided and the Board could make a determination prior to the information request response deadline. Unfortunately, we are unsure how to address the second issue given the compressed timeline and the fact that parties would have to wait until they see the information request responses.

In light of the above comments, we would recommend the following amendments to the draft timetable prepared by Efficiency Manitoba:

- Information requests to EM: Tuesday November 12, 2019;
- EM to advise parties of information requests where it intends to not fully respond: Friday November 15, 2019
- Interveners to file motions compelling further responses: Wednesday November 20, 2019
- EM to file Information Request Responses: Wednesday November 27, 2019;
- Intervener evidence: Monday December 9, 2019;
- Information requests on intervener evidence: Thursday December 12, 2019; and
- Intervener Information Request Responses: Thursday December 19, 2019.

Regarding the days scheduled for the public hearing, we would note that:

- Mr. Bill Harper is only available after January 7;
- It would be preferred if the testimony by Energy Futures Group could be scheduled for early the week of January 13, given that Mr. Grevatt will be abroad starting January 18; and
- Public Interest Law Centre legal counsel may face some availability challenges in the weeks of January 13 and 20 due to other hearing commitments both in Winnipeg and in Ontario. It will advise as soon as possible if there are days where counsel is unavailable.

Commercially Sensitive Information

Based on our preliminary review of Efficiency Manitoba's application, the Consumers Coalition notes the strong possibility that Efficiency Manitoba's answer to certain information requests will be that this information is commercially sensitive and cannot be disclosed.

This is apparent from statements by Efficiency Manitoba in its proposed plan, such as:

- 1) Natural gas volume forecasts - Section 2, page 6 and Section A2, page 21 - These forecasts would have been used to translate the 0.75% annual target for natural gas DSM into volume target. However, in Centra hearings such forecasts are considered commercially sensitive. As a result, Efficiency Manitoba is proposing to use the last available actual volumes (i.e., 2017/18 at the time of the Application's preparation). As a result they do not use the information considered commercially sensitive in this regard.
- 2) Manitoba Hydro's marginal values for Electricity - Section 5, page 5 and Section A2, page 25 - These values are used by Efficiency Manitoba to calculate both the Program Administrator Test and the Rate Impact Test values for electric DSM individual program bundles and for the portfolio overall. These values are key in the determination of cost-effectiveness. They are treated as "confidential" just as they have been in past Manitoba Hydro Electric GRAs and in the NFAT proceeding.³⁹
- Manitoba Hydro's marginal values for Natural Gas – Section 5, page 6 and Section A2, page 26 – These values are used by Efficiency Manitoba to calculate both the Program Administrator Test and the Rate Impact Test values for natural gas DSM individual program bundles and for the portfolio overall. These values are key in the determination of cost-effectiveness. The Application states that they are considered confidential by Manitoba Hydro.
- While not specifically mentioned in the Application some of the programs have minimal participation (e.g., Load Displacement <10 per year per Section A7, page 44) and responding to detailed questions may involve individual customer details, which would be considered commercially sensitive.
- Finally, detailed questions about Efficiency Manitoba's staffing and staff costs by business unit may touch on commercially sensitive information if the number of staff in a business unit is too small to mask individual employee data. Note - this issue has not arisen in the application as staffing costs are provided at very aggregate levels. These values are treated as “confidential” just as they have been in past Manitoba

³⁹ Efficiency Manitoba 2020/23 Efficiency Plan Submission, October 25, 2019, section 5, page 5: Manitoba Hydro marginal values are required in order to determine the electric benefits to Manitoba Hydro used in cost-effectiveness tests prescribed in the Regulation. The determination of marginal values is done independently by Manitoba Hydro, and Efficiency Manitoba accepts and applies the values as received. Manitoba Hydro provides the energy and capacity marginal values to Efficiency Manitoba for annual and seasonal time frames. Further, Manitoba Hydro also provides the marginal values by both energy and capacity components. It is Efficiency Manitoba's understanding that the marginal values include projected capital deferral value due to winter capacity savings and value projected in the export market. The details of the marginal values provided by Manitoba Hydro are considered commercially sensitive information. [emphasis added]

Hydro Electric GRAs and in the NFAT proceeding.

From the perspective of the Consumers Coalition, this raises questions regarding the process for parties to access commercially sensitive information.

The Consumers Coalition would recommend that interveners, their technical experts and their legal teams be granted access to confidential information requested, pursuant to a confidentiality agreement. This process is used successfully in PUB proceedings regarding Manitoba Public Insurance.

Alternatively, if the PUB decides to hire an Independent Expert Consultant to review confidential information and produce a public report, the Consumers Coalition would recommend that:

- Parties be entitled to examine the qualifications of the Independent Expert Consultant; and
- The Independent Expert Consultant be directed to seek input from parties on areas of inquiry.

If the PUB decides to retain an Independent Expert Consultant in this proceeding, the Consumers Coalition recommends that, outside of this regulatory proceeding, the PUB undertake an examination of how the Commercially Sensitive Information process as it relates to Manitoba Hydro and Efficiency Manitoba can be improved, based on best practice, including the Manitoba Public Insurance process.

Conclusion

Residential ratepayers rely on vigorous, independent regulation to hold Crown corporations, accountable. Through its legal counsel and its team of expert witnesses, the Coalition intends to participate in this proceeding using evidence-based advocacy in the consumer interest.

Subject to approval from the PUB, the Consumers Coalition looks forward to participating in this proceeding.