Exhibit CAC-3

# BROKEN TRUST AND INCONVENIENT TRUTHS

## Opening Statement of the Consumers Coalition

Manitoba Hydro 2021/2022 Interim Rate Application

Prepared by: The Public Interest Law Centre

December 1, 2021

# THE CONSUMERS COALITION

- Consumers' Association of Canada (Manitoba) Inc.
- Aboriginal Council of Winnipeg
- Harvest Manitoba

# BROKEN TRUST

- Ratepayers look to their Crown corporation and regulator to treat them fairly and to protect them
- Manitoba consumers have been under acute stress over the last 18 months: continued COVID-19 economic uncertainty, high inflation, natural gas prices rising
  - Vulnerable consumers are likely disproportionately impacted the most
- No full Hydro process since 2018: Hydro broke its promise to file a full GRA after the 2019/20 proceeding
- Lower water conditions apparent during the summer of 202. At the same time:
  - Hydro resisting a status update process since March 2021
  - Hydro telling government they needed 3.5%
  - Government said 2.5%
- An opportunistic rate application: rather than protecting consumers by reducing its own costs, Hydro is using the one-year drought to compound the stress consumers are already under

# THE PUB: PROTECTOR OF CONSUMERS

- Regulator's responsibility: to separate fact from hyperbole
  - Balance the interests of ratepayers and the corporation, recognizing the interim nature of the application, the lack of long-term information and the temporary nature of a significant drought
- Interim rate application criteria:
  - "whether it would be just and reasonable to grant interim rates, and whether Manitoba Hydro would suffer a deleterious effect in the absence of an interim rate increase." [emphasis added][1]
  - Contentious issues are to be excluded from consideration in an interim rate application.[2]
  - Any interim rates granted should be confirmed in a subsequent comprehensive review, which should take place as soon as possible. [3]
- Process concerns:
  - While an interim process may be appropriate given Hydro's failure to act sooner,
    - "interim rate applications ought not to be the 'norm' for Manitoba Hydro as such applications do not offer the same level of public review and testing as do General Rate Applications."[4]
    - information request process adopted risks limiting the ability of interveners to know the case they have to meet

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[1] Order 49/14 at 16.
[2] Order 80/17 at 21; *Bell Canada v Canada (Canadian Radio-television and Telecommunications Commission)*, [1989] 1 SCR 1722 at 1755: the SCC characterized an interim order of the CRTC as "truly an interim decision" because "it did not seek to decide in a preliminary manner an issue which would be dealt with in the final decision."
[3] Order 80/17 at 11-12; Calgary(City) v. Alberta (Energy and Utilities Board), 2009 ABCA 150 at para 9.
[4] Order 80/17 at 11-12.

# INCONVENIENT TRUTHS: PAST PUB FINDINGS SHOULD NOT BE IGNORED

- Manitoba Hydro's application focuses on:
  - Reduction in projected net extraprovincial revenues of $398 million in 2021/22; and
  - $619 million in 2021/22 related to the finance expense, depreciation, and capital taxes on Major Capital Projects.
- A *prima facie* case cannot ignore inconvenient truths, especially given past PUB findings:
  - "Retained Earnings should be used to manage drought risk in combination with regulatory action by the Board"[5]
  - Recommendation that Hydro find areas to further reduce Operating & Administrative (O&A) expenses[6]
  - "… while in a period of major capital spending on Keeyask and Bipole III, Manitoba Hydro should find savings in Business Operations Capital."[7]

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[5] PUB Order 59/18, p 65.
[6] PUB Order 59/18, p 142; PUB Order 69/19, p 24.
[7] PUB Order 59/18, p 110.

# INCONVENIENT TRUTH #1

- **No revenue deficiency: current rates generate sufficient revenues to pay for the major capital projects carrying costs**
  - Hydro budgeted net income of $142 million before any rate increase and assuming normal water in the original 2021/22 Budget[8]
  - Hydro is budgeting net income of $112 million before any rate increases and assuming normal water in 2022/23[9]
  - Hydro's financial outlook has significantly improved since both the NFAT and the last GRA:
    - Hydro is projecting **positive net income in 2022/23**
    - At NFAT, Hydro was projecting losses for 8 years totalling $638 million after in-service of major capital projects[10]
    - Hydro was projecting 6 years of losses totalling $418 million from 2022/23 to 2027/28 in the 2017/18 & 2018/19 GRA[11]

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[8] PUB MFR 3, page 2 = $177-$35.
[9] PUB MFR 3, page 2 = $200 - $88.
[10] MH Exhibit #93 from 2017/18 & 2018/19 GRA, p 14.
[11] MH Exhibit #93 from 2017/18 & 2018/19 GRA, p 3 and 4.

# INCONVENIENT TRUTH #2

- **Drought is an expected and planned for event: customers have pre-paid for this drought through regular rate increases since 2003/04 drought**
  - Rate strategy since the last drought in 2003/04 has been regular rate increases (16 out of 17 years), even in times of good water conditions, resulting in cumulative rate increases of over 60%[12]
  - During the same time frame, Hydro financial reserves (retained earnings) have grown from $734 million at the end of 2003/04[13] to $3.074 billion at the end of 2020/21[14]
  - At the same time, drought risk has decreased from $2.2 billion after the last drought[15] to $1.3 billion currently[16]
  - After accounting for the projected loss in 2021/22 and before any rate increase, Hydro's financial reserves/retained earnings are forecast at $2,858 billion,[17] or 2.2 times the cost of a 5 year drought, and increasing to $2,969 billion in 2022/23

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[12] IR PUB/MH I-3 a from 208/19 GRA shows 52% increase from 2004/05 to 2017/18 + 9.0% of increases in 2018/19, 2019/20 and 2020/21.
[13] Appendix 3.
[14] PUB MFR 3, page 3.
[15] Order 143/04, page 14.
[16] PUB MFR 8, page 1.
[17] PUB MFR 3, page 3: $2,885-$27=$2,858 for 2021/22 and $3,084-27-88=$2,969 for 2022/23, both before proposed rate increase.

# INCONVENIENT TRUTH #3

- **Manitoba Hydro is not doing its part to reduce costs:**
  - O&A is projected to increase from a 2019/20 actual of $512 million to 2022/23 plan of $595 million,[18] an increase of $83 million or 16.2% in just 3 years since the last 2019/20 rate application
  - Business Operations Capital is forecast to total $1.068 billion over the 2 years of 2021/22 and 2022/23,[19] a level comparable to the 2019/20 rate application
  - Inconsistent with PUB findings from Orders 59/18 and 69/19 that found additional cost containment was possible, especially during the time of in-service of major capital projects
  - The $83 million increase in O&A alone represents a rate pressure equivalent to a 4.7% rate increase[20]

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[18] Revised Coalition MFR 22 (b), page 2.
[19] PUB MFR 19, page 11.
[20] The 4.7% rate increase is derived from $88 million annual revenue increase/5% rate increase = revenue of $17.6 million per 1%; therefore a $83 million increase in O&A = $83 million/$17.6 million = equivalent to an approximate 4.7% rate increase.

# JUST AND REASONABLE RATES: PROPOSED INTERIM RATE INCREASE DOES NOT APPROPRIATELY BALANCE CONSUMER IMPACTS WITH THE FINANCIAL HEALTH OF THE CORPORATION

- MH's application:
  - Does not appear to consider current circumstances of COVID economic uncertainty, higher natural gas rates, and inflation; and
  - Is contrary to PUB findings from Orders 59/18 & 69/19 that:
    - emphasized the importance of financial indicators relied upon by the market and de-emphasized debt equity ratios (as did the Wall report) as the appropriate metric to determine Hydro rate increases;
    - made clear the use of both retained earnings and rate increases to manage drought; and
    - recommended cost reductions in O&A and Business Operations Capital.

# JUST AND REASONABLE RATES: THERE ARE OPTIONS OTHER THAN 5% TO MORE APPROPRIATELY BALANCE THE INTERESTS OF THE CORPORATION AND CONSUMERS

- **MH does not require a 5% emergency interim rate increase as requested**
  - 2021/22 is for the most part a certainty: even with a 5% increase, Hydro is still projecting a loss in 2021/22 (the 5% increase will generate $27M in 2021/22)
  - Back to positive net income in 2022/23 <u>without the 5% rate increase</u>
  - There are other options which the Consumers Coalition expects to explore in the remainder of proceeding for the benefit of the PUB
- **Any interim rate relief should come with conditions based on sound regulatory principles and practice**
  - Temporary to recognize the temporary nature of drought;
  - Be confirmed as soon as possible in 2022 through a robust and transparent process, such as a status update hearing; and
  - Any further rate relief (for 2022/23 and thereafter) should be based on a comprehensive status update process or GRA.

# THANK YOU