



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA HYDRO  
2017/18 and 2018/19  
GENERAL RATE APPLICATION  
PUBLIC HEARING

Before Board Panel:

Robert Gabor	- Board Chairperson
Marilyn Kapitany	- Vice-Chairperson
Larry Ring, QC	- Board Member
Shawn McCutcheon	- Board Member
Sharon McKay	- Board Member
Hugh Grant	- Board Member

HELD AT:

Public Utilities Board  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
February 7th, 2018  
Pages 7911 to 8121

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1 LIST OF APPEARANCES (cont'd)  
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1 --- Upon commencing at 9:04 a.m.

2

3 THE CHAIRPERSON: Good morning,  
4 everyone. Ms. Steinfeld, do you want to take us  
5 through today?

6 MS. DAYNA STEINFELD: Thank you, Mr.  
7 Chair. We are starting Intervenor closing  
8 submissions today. We will first hear from the  
9 Business Council of Manitoba, followed by the  
10 Consumers Coalition, which will take us through until  
11 the lunch break.

12 After lunch we will hear from the Green  
13 Action Centre, followed by MKO. Thank you.

14 THE CHAIRPERSON: Thank you and I  
15 understand that Manitoba Hydro has some undertakings.

16 MS. PATTI RAMAGE: Yes, thank you, Mr.  
17 Chairman. I feel like I'm back in law school in the  
18 back row. I was always a back rower but I thought the  
19 Interveners would -- it's their show today so we would  
20 sit back.

21 But in any event, we have -- we  
22 received a request from PUB counsel to run some  
23 additional scenarios and we are now filing these.  
24 They will be ultimately filed a CSI. Te basis for  
25 that is included in the public document and -- but so

1 that all parties are aware of what was requested of  
2 Manitoba Hydro we're putting the question on the  
3 public record and that will be Manitoba Hydro Exhibit  
4 140.

5

6 --- EXHIBIT NO. MH-140: MH-16 Update Interim IFF  
7 Scenarios.

8

9 THE CHAIRPERSON: Thank you. Mr.  
10 Williams...?

11

12 FINAL SUBMISSIONS BY BUSINESS COUNCIL OF MANITOBA:

13 MR. KEVIN WILLIAMS: Good morning,  
14 Chairman Gabor, Vice Chair Kapitany, Board members  
15 McCutcheon, Rink, McKay and Grant.

16 As everybody's aware, I expect by this  
17 point in the proceedings, I am here on behalf of the  
18 Business Council of Manitoba, which is comprised of  
19 CEOs and senior executives of more than eighty (80)  
20 Manitoban leading companies. It's not a government  
21 funded entity and, accordingly, it's independent and  
22 advocates positions without regard to partisan  
23 politics. It's a position being advanced by  
24 Manitobans for Manitobans.

25 The ultimate goal of the Business

1 Council of Manitoba is to make Manitoba a preferred  
2 place to live, work and invest. As was indicated in  
3 Mr. Taylor's submissions, the Business Council has  
4 been concerned about growing debt levels of Manitoba  
5 Hydro and the province of Manitoba for a number years.  
6 As part of its prebudget consultations with the  
7 provincial Ministers of Finance with Mr. Doer in 2015,  
8 the Business Council raised concerns regarding  
9 Manitoba Hydro's financial stability.

10 In 2016 with -- again with Mr. Doer the  
11 concerns were again raised regarding Manitoba Hyd --  
12 Hydro's need for capital and the province's increasing  
13 debt levels.

14 In the 2017 budget consultations  
15 concerns were, again, raised about growing debt levels  
16 of Manitoba Hydro and the province of Manitoba, as  
17 well as specific concerns regarding the effect of a  
18 downgrade on the Hydro or the Province's credit  
19 ratings. As well as the -- what affect that downgrade  
20 would have on the financial stability of Manitoba  
21 Hydro and the Province as a whole.

22 The excerpts from those budgetary  
23 consultations are found at Exhibit A, to -- sorry,  
24 Appendix A to Mr. Taylor's written submissions which  
25 were filed within the record of these proceedings.



1                   The starting point from the Business  
2 Council's perspective are certain irrefutable facts  
3 and these are facts that none of us can get away from.  
4 Hydro's rates in Manitoba are amongst the lowest in  
5 Canada and, in fact, North America. Manitoba Hydro  
6 and the Province's long-term debt is going to grow  
7 dramatically in the short term, and as a consequence  
8 of that, interest cost for Manitoba Hydro and the  
9 province of Manitoba will be raising -- rising  
10 dramatically in the short-term.

11                   If I could have you looked at Manitoba  
12 Hydro, slide 5 from Exhibit 136, which was the -- a  
13 slide put before you at their closing submissions on  
14 Monday. Columns 2015 and '16 actual and 2016/'17  
15 actual aren't forecasts, that's what's actually  
16 happening. And as one can readily see from this it's  
17 operating at a deficit position as rates currently  
18 stand. And the 2017/'18 forecast, which is about as  
19 best a forecast as you're going to get amongst this  
20 entire proceeding, suggest that at the end of the day  
21 its negative cash flow deficiency is more than \$318  
22 million. Ask yourself, what responsible regulator  
23 which set rates ignoring these irrefutable facts that  
24 are certain to occur in the near term.

25                   Concerns have been raised by

1 independent credit rating agencies regarding the  
2 growing mountain of debt and interest cost surrounding  
3 Manitoba Hydro's operations. Two (2) of these  
4 agencies have raised specific concerns as to whether  
5 Manitoba Hydro remains self-supporting and, in fact,  
6 one (1) of them no longer regards it as such, given  
7 the mountain of debt the Utility is currently facing.

8           The credit rating agencies have  
9 indicated they are looking for a signal and that  
10 signal must come from you, as Board members. The  
11 details with respect to the credit rating agency  
12 positions are found at Appendix 4.4 of Manitoba  
13 Hydro's application.

14           I believe in his response to a question  
15 from the Board, former Chair of the PUB suggested that  
16 the signal should come in the form of words in your  
17 Order. With respect, words in your reasons will not  
18 suffice in the face of the current circumstances. Ask  
19 yourself what words could you possibly use to indicate  
20 to the credit markets, notwithstanding these financial  
21 certainties I've just outlined for you, as it relates  
22 to Manitoba Hydro that the historical rate path is --  
23 makes any sense at all.

24           Faced with the irrefutable facts  
25 regarding the current financial circumstances facing

1 Manitoba Hydro, the signal you must send must be  
2 definitive, and it must be unequivocal and it has to  
3 come in the form of an Order deviating from the  
4 historical rate path in favour of a short-term rate  
5 path increase in a manner which is being proposed by  
6 Manitoba Hydro.

7                   Saying -- saying we'll hold the line  
8 and stick to the histor -- historic rate path is  
9 effectively to cross your fingers and hope for the  
10 best. In the face of what the Board knows is about --  
11 is about to take place, that would be sending, I would  
12 respectfully submit, a very wrong signal. It would be  
13 a bad signal to send to the -- to the credit markets.

14                   This signal would show -- such a signal  
15 would show no acknowledgment of the certainties of the  
16 financial situation that we are facing and will be  
17 facing Manitoba Hydro in near term. Doing nothing in  
18 terms of a rate path in the face of these virtual  
19 certainties will actually be sending a very negative  
20 signal to the -- to the credit markets, in my  
21 respectful view.

22                   The Board should turn its mind to what  
23 the impact is of a 7.9 percent rate increase. Based  
24 on the figures that are before you, it results -- the  
25 difference between the 3.95 rate path and the 7.95 is

1 an incremental revenue increase of about \$70 million  
2 in the next year. One and a half points higher in  
3 interest rates, whether that's just because of general  
4 interest rate increases or whether it's as a  
5 consequence of a downgrade in the credit ratings would  
6 result in \$350 million in additional interest costs  
7 that would have to be borne by Manitoba Hydro in 2021  
8 if -- if they are loaded up to \$23.3 billion in debt  
9 as is currently forecasted.

10 I noted with interest the -- the -- in  
11 yesterday's paper there was a comment of the fact that  
12 this actual proceeding is -- is -- is expected to cost  
13 in excess of \$10 million and that's before, in fact,  
14 Manitoba Hydro's internal costs are factored into this  
15 proposition.

16 So what we're really talking about, as  
17 we're looking at what is the appropriate rate  
18 increase, is -- the fact is, is that one-seventh (1/7)  
19 of -- of a rate -- of -- a rate increase of 7.9  
20 percent is going to be consumed in coming to the very  
21 determination that you're doing right now.

22 The Intervenors -- the business Council  
23 approached this -- this -- this hearing in good faith  
24 and on the basis that the -- that the other  
25 Intervenors will -- would attempt to at least

1 facilitate and -- and -- and, where possible, advance  
2 the concerns of the Business Council. With respect,  
3 the responses in terms of the Information Requests  
4 were, in large part, disingenuous. No attempt was  
5 made to respond to the realities of the situation, or  
6 the essence of the questions that were being advanced  
7 by the Business Council of Manitoba. Obfuscation,  
8 avoidance or just question the reasonableness of the  
9 question was actually the responses we got back to our  
10 Information Requests.

11                   A tenor of a significant amount of the  
12 evidence before you that we've witnessed and that  
13 these independent experts offered were based on  
14 assumptions and forecasts as to what may occur decades  
15 in the future; not's what's going to occur next year  
16 and the year after.

17                   Alternatively, it was often suggested  
18 that because Hydro's forecasts have been inaccurate in  
19 the past we should pay no heed to them now. With  
20 respect, the accuracy or inaccuracy of previous  
21 forecasts is actually quite irrelevant to the issues  
22 you have before you as it relates to the irrefutable  
23 facts as to what's going to happen in the near term.

24                   I put a fairly simple question and  
25 straightforward proposition to a number of the

1 experts. I said, a downgrade in an entity's credit  
2 rating -- credit rating will lead to a risk of higher  
3 interest cost for that entity, won't it? At least a  
4 couple of the expert's response was to point to a  
5 single incident where credit rating -- where credit  
6 spreads narrowed in the face of a downgrade of a debt  
7 rating as proof the credit -- credit rating -- credit  
8 downgrades may not lead to higher interest costs.

9           If the Board wishes to base its rate  
10 determination on someone who could seriously advocate  
11 that a downgrade in a credit rating will lead to more  
12 favourable interest costs, I would respectfully submit  
13 the Board's not sending the right message to the  
14 credit rating agencies.

15           At the end of the day, it's a question  
16 of balancing the risks, from the Business Council's  
17 perspective. The risk of an increase in debt and  
18 interest cost is a virtual certainty. The risk of  
19 Hydro being found to be a non -- non-self-supporting  
20 entity is a virtual certainty. The risk of a credit  
21 downgrade of Manitoba Hydro or the Province is  
22 extremely high based on the current credit rating  
23 reports. The risk that any of these factors will  
24 negatively impact Manitoba Hydro and the Province in  
25 the short and long term is actually very high. The

1 point here is: Why take the risk?

2 I would suggest to you that there are a  
3 certain final certainties that you can consider as it  
4 relates to the position of the Bus -- the Business  
5 Council. 20/20 hindsight in respect of previous  
6 alleged errors in financial corp. forecasts and  
7 critical business decisions while of tangential  
8 interest should be given little weight in light of the  
9 near term no one financial certainties. These alleged  
10 errors are irrelevant to the current situation. The  
11 plain truth is, we are where we are.

12 Manitoba Hydro's not like other  
13 retailers. You can't adjust your shopping habits  
14 based on personal preference. Manitoba -- Manitoban  
15 residents own Manitoba Hydro so there's no point in  
16 complaining about the past errors. Now is the time  
17 for this Board to exercise wise stewardship and to  
18 give the markets a clear signal in order to minimize  
19 the downside risks of continuing along a historical  
20 rate path as it relates the financial stability of  
21 Manitoba Hydro and the province of Manitoba in  
22 general.

23 Higher rates in the short-term minu --  
24 minimizes the risk of a financial calamity for  
25 Manitoba Hydro as a consequence -- and as a

1 consequence, for all Manitobans. And it increases the  
2 posit -- probability that equity can be built up for  
3 long-term benefit of all Manitobans. If the rates are  
4 kept artificially low and rating agencies react  
5 negatively, capital markets will increase borrowing  
6 costs which expenses -- which extra expenses are  
7 entirely avoidable in the event that there's a  
8 deviation from the current rate path. And those extra  
9 expenses will have to be ultimately paid by the  
10 ratepayers or, ultimately, the taxpayers of Manitoba.

11                   There is no way to dodge the bullet  
12 having to pay for these costs. They have to be paid  
13 for. Paying more in the short term to avoid paying  
14 much more in the long term is a sound decision and  
15 displays wise stewardship.

16                   So the solution for the Manito -- from  
17 the Manitoba Business Council's perspective would be  
18 to strongly encourage the Board to deviate from the  
19 historic rate path, and order a rate increase along  
20 the lines of that requested by Manitoba Hydro.

21                   Subject to any questions those -- those  
22 are my comments. I want to express my thanks on  
23 behalf of the Business Council for permitting us to  
24 intervene in the proceeding, participate and provide  
25 our positions.



1 THE CHAIRPERSON: Thank you, Mr.  
2 Williams. Does the Panel have any questions? Thank  
3 you, sir, appreciate it.

4 Dr. Williams...?

5

6 FINAL SUBMISSIONS BY CONSUMERS COALITION:

7 DR. BYRON WILLIAMS: Thank you and  
8 good morning -- good morning, members of the panel. We  
9 do have some exhibits; one is our PowerPoint, which we  
10 would suggest be marked as Consumers Coalition-54.

11 There also is a supplemental book of  
12 references which the Board may also want to have at  
13 hand, which we would suggest be marked as Consumer  
14 Coalition 55.

15 And to placate Ms. Steinfeld, there  
16 also is a book of legal authorities, which we filed  
17 electronically and which we would suggest be marked as  
18 Consumer Coalition 56.

19

20 --- EXHIBIT NO. CC-54: Consumers Coalition  
21 PowerPoint.

22

23 --- EXHIBIT NO. CC-55: Consumers Coalition  
24 Supplemental Book of  
25 References.

1 --- EXHIBIT NO. CC-56: Consumers Coalition Book  
2 of Authorities.

3

4 DR. BYRON WILLIAMS: Just while Mr.  
5 Simonsen is handing out the materials, I'll note that  
6 in the PowerPoint we -- you'll see many references to  
7 the record. When our client is using italics, they're  
8 quoting directly from the record. If they're not  
9 using italics, they're paraphrasing.

10 And in our -- in our notations we've  
11 tried to put a -- a range of page numbers around it.  
12 As always and I say this before I start every  
13 presentation, we invite the Board to go back to the  
14 original sources. We've done our -- our best to show  
15 fidelity to the record, but we tried to -- to give the  
16 Board that option of digging a little deeper.

17 Moving to slide 2, I'll just give you a  
18 general roadmap of -- of where our clients are going  
19 in their submissions. And I neglected to note that  
20 one (1) of our clients Winnipeg Harvest is here today  
21 Ms. Meghan Erbus, to my left and behind me who is  
22 community engagement manager is -- is here, joining us  
23 soon will be Ms. DeSorcy from the Consumers  
24 Association.

25 We will be starting with a thank you

1 and a hearing recap, and then applying the just and  
2 reasonable standard as set out by this Board in Order  
3 5-12, but we're going to reverse the order a little  
4 bit. We're going to start with the issue of the  
5 overall health of the Corporation, probably the 70 or  
6 \$80 million question. And then go through the -- in -  
7 - in descending order the Corporation's forecasts, as  
8 well as its management of expenditures and,  
9 ultimately, the allocation of the revenue requirement  
10 among the var -- various customer classes.

11 Mindful of questions that Vice Chair  
12 Kapitany posed to Manitoba Hydro on Monday, our focus  
13 will be on testing and challenging the 7.9 -- 7.9  
14 percent rate application for '18/'19. Our client  
15 recognizes the interim rate increases took place in  
16 '16/'17 and '17/'18. In their view, they've been  
17 effectively immunized by the passage of time, and our  
18 client has chosen to focus on the overarching risk, as  
19 they see it, to consumers from the 7.9 percent.

20 And our clients have asked me to start  
21 out with a thank you for the more than 2000 Manitobans  
22 who responded to the PUB in outlining their views on  
23 this rate application; to the many presenters whether  
24 individuals, municipalities or businesses who in the  
25 course of this hearing have articulated their acute

1 awareness of the risk posed by this application; to  
2 the consumers and stakeholders who have shared their  
3 insights with our clients outside the hearing room;  
4 and our clients' ultimate position is driven by the  
5 evidence but informed by their interactive  
6 relationship with consumers before this hearing and  
7 during this hearing. So thank you to them.

8           And thank you to our outstanding team  
9 of experts. We'll be going through most of them in  
10 terms of their -- their guidance to the Board. What I  
11 want to underline is the breadth of talent and insight  
12 that this team has brought to this perspective.  
13 Independent expertise with an in-depth knowledge of  
14 the operations of the electrical industry; insight in  
15 regulatory principles, modern economic analysis and as  
16 you heard when you heard Mr. Colaiacovo testify,  
17 intimate insight into the financial markets. So we  
18 thank them on behalf of our clients.

19           And above all, our clients express  
20 their appreciation to the ratepayers panel. Lived  
21 experience offers its own expertise, and it takes a  
22 lot of courage for Manitobans to come up and share  
23 their life experience with a fairly intimidating  
24 format at the Public Utilities Board. In particular,  
25 our clients appreciated the ratepayers panel's nuance

1 struggle with the issues. And clearly, given the  
2 challenges posed by this application, listening nuance  
3 and grappling with the issues is -- is -- is required.

4           Moving to slide 6. Mr. Colaiacovo  
5 reminded of this -- reminded us of this in his  
6 evidence in January. This isn't a case where you can  
7 get by with a superficial reading of the record or  
8 folk wisdom. Utilities and Utility economics are a  
9 different kind of economic reality. Each Utility has  
10 a different story. And as Mr. Colaiacovo reminds us,  
11 you have to dig deep into the stories, both for  
12 similarities and differences.

13           In our clients' respectful submission,  
14 the approach of our witnesses and the approach of Mr.  
15 Colaiacovo, in particular, stands in marked contrast  
16 to the advice given to you by Manitoba Hydro on the  
17 first day of the hearing. Remember the advice of  
18 Manitoba Hydro, keep it at a high level. We'll give  
19 you a recommended list of only ten (10) IRs. In our  
20 clients' perspective that is not appropriate nor  
21 enough.

22           Moving to slide 8. In terms of our  
23 clients' perception of the narrative of the hearing,  
24 it is about the unraveling of a case theory in support  
25 of rate shock. And the hearing really started with a

1 request by Manitoba Hydro to choose the simple path,  
2 the path crafted by that Boston Consulting Group  
3 narrative. Read those ten (10) Information Requests.

4           And Hydro followed that with a policy  
5 panel that, whatever its achievements outside of the  
6 Hydro world, could not be reasonably characterized as  
7 experts in electrical utilities or cost of service  
8 regulatory principles. Hydro's evidence clearly  
9 included both a sales pitch and a written speech.

10           Notably, Manitoba Hydro did not present  
11 a single external witness or independent expert in  
12 support of its doomsday scenario. No independent  
13 witness gave oral evidence in support of its financial  
14 targets of 75/25 in '27. No independent witness was  
15 there to document the alleged damage to Manitoba's  
16 economy if the 7.9 percent path was not followed. No  
17 witness was presented from the Province of Manitoba,  
18 unlike Manitoba Public Insurance, during the last  
19 general rate -- rate application, or from a credit  
20 rating agency.

21           Indeed, there was only one (1)  
22 independent witness proffered by Manitoba Hydro in the  
23 course of this proceeding, and that was Dr. Mason.  
24 And if you read his evidence, and in particular,  
25 transcripts pages 2,818 to 2,820, there is an implicit

1 warning in his evidence against the path to rate  
2 shock. He notes that the level of rates is a primary  
3 driver of energy poverty.

4           In our clients' view, the limitations  
5 of Hydro's case became readily apparent when its  
6 witnesses were exposed to cross-examination, when they  
7 were tested by independent and -- evidence, and even -  
8 - and surprisingly, in Hydro's attempts to cross-  
9 examine leading experts such as Mr. Colaiacovo, or Mr.  
10 Bowman. Think back to those cross-examinations.  
11 Think back to the adventures of the very gifted Mr.  
12 Ghikas, and what turned out to be inadvertent friendly  
13 cross, which significantly buttressed and supported  
14 the case of the Manitoba Industrial Power Users Group  
15 and the Consumers Coalition.

16           Our clients want to focus on two (2)  
17 key quotes from this hearing. One (1) is from Mr.  
18 Colaiacovo, reminding us of the unique and intimate  
19 relationship that Manitoba ratepayers have with their  
20 Crown utility. They're not distant shareholders in a  
21 far-off place. They're ratepayers, but they're  
22 ultimately shareholders as well.

23           The retained earnings of Manitoba Hydro  
24 are a product in large part of the rates of Manitoba  
25 consumers. The risks of Manitoba Hydro's activities

1 in the export market are borne by Manitoba ratepayers,  
2 unlike utilities such as Nalcor or Hydro Quebec.

3                   So that's the expert opinion. The most  
4 powerful quote, in our clients' perspective, in this  
5 hearing came from the ratepayers panel from a single  
6 mom, Ms. Mayham, calling for more accountability and  
7 transparency, and asking why she as a consumer was  
8 being held responsible for the financial  
9 irresponsibility or mismanagement of Manitoba Hydro.  
10 That concern, and that powerful expression of  
11 discontent, has driven our clients' participation in  
12 this hearing.

13                   I've got a long presentation. I'm  
14 going to try and move through it in orderly fashion,  
15 but if I forget to highlight these things, I want to  
16 highlight five (5) right at the start that are core to  
17 our clients' submissions. And when you read our  
18 ultimate recommendations on behalf of the clients, it  
19 is these themes on slide 12, that -- that underline  
20 them.

21                   One (1) is that rate shock -- and in  
22 Mr. Forrest's words, rate turmoil -- turmoil -- are the  
23 inevitable byproducts of Hydro's rate proposal, and of  
24 the larger plan to achieve 75/25 in 2027 at a time of  
25 intensive capital investment.



1                   A second key theme is the failure to  
2 explore alternatives, whether in the rate application,  
3 day-to-day capital planning, or integrated resource  
4 planning.

5                   The third, echoing the words of Ms. --  
6 Ms. Mayhem, is the need to hold Manitoba Hydro  
7 accountable for poor capital planning and important --  
8 for bias in forecasting, and above all, for the  
9 failure to uphold the implicit NFAT promise that major  
10 project could -- could be brought online without  
11 placing an unreasonable burden on current ratepayers.

12                   Our clients will underscore the need to  
13 listen more carefully and interactively to Manitoba  
14 con -- consumers, and to recognize their status as  
15 captive risk-takers. And finally, our clients will  
16 highlight the need to restore trust in Manitoba Hydro  
17 through improved dialogue both within and outside the  
18 regulatory process.

19                   Manitoba consumers aspect -- expect a  
20 lot from Manitoba Hydro. Reliable, economic, and  
21 efficient service, while taking into account Manitoba  
22 Hydro's broader social and environmental impacts. Our  
23 Court of Appeal has highlighted the fact that  
24 ratepayers' relationship with Manitoba Hydro must be  
25 one of balance. The public interest is represented by

1 a fair balance between the interests of ratepayers and  
2 the financial health of the Utility. In our clients'  
3 view, this is not a balanced rate application, and  
4 ultimately, Manitoba Hydro, which bears the onus, has  
5 failed to demonstrate that rate shock -- to prevent  
6 potential rate shock is fair to consumers or necessary  
7 to preserve its corporate health.

8 I'm going to now turn to what we  
9 customarily described as the third part of the just  
10 and reasonable health of the -- just and reasonable  
11 test, looking at the overall health of the  
12 Corporation. And at page -- at slide 17 and 18, I set  
13 out a lengthy roadmap -- because this is a lengthy  
14 section, Mr. Chair, which I expect will take us to the  
15 break. I'm not going to go through each detail  
16 outlined in the roadmap, but I want to highlight three  
17 (3) big picture points.

18 The first question our clients will ask  
19 is whether the 7.9 percent increase is necessary to  
20 satisfy the financial markets. Turning to slide 18,  
21 our clients will ask, What are the broader  
22 implications of a 7.9 percent rate increase for the  
23 public interest? And then turning to slide 19, our  
24 clients will ask, If a 7.9 percent rate increase is  
25 not necessary, what range of alternatives should be

1 considered?

2                   And from our clients' perspective,  
3 these three (3) steps are a critical part of our  
4 analysis, and these three (3) steps take our clients  
5 from -- to the starting point of rejecting a 7.9  
6 percent rate application to the next step of setting  
7 an upper cap of 4.34 percent. Now, that's not going  
8 to be our clients' ultimate recommendation, but this  
9 section of our analysis will underline the thinking  
10 process that takes us down to that range.

11                   Mr. Colaiacovo, in his strangely, for a  
12 regu -- regulatory process, riveting direct evidence,  
13 reminded us to distinguish between the problem faced  
14 by Manitoba Hydro and the choice that the Manitoba  
15 Hydro Board and senior executive made. There is no  
16 denying there is a problem. Anyone who took part in  
17 the NFAT proceedings three (3), now four (4) years ago  
18 knew there would be problems coming out of the NFAT.

19                   The problem, as anticipated at that  
20 time of the NFAT, was that Manitoba Hydro would be  
21 over budget on Keeyask. The problem, as anticipated  
22 at the time of the NFAT, was that export revenues  
23 would not turn out as well as Manitoba Hydro's quite  
24 rosy forecasts in 2014. The problem, as anticipated  
25 vehemently by our clients during the NFAT, was that

1 loads for domestic requirements are lower than  
2 Manitoba Hydro forecast at the time of the NFAT.

3                   Now, it's not all bad news. There's  
4 been good water, and interest rates are much lower  
5 than expected at the time of the NFAT. But that's the  
6 problem, and there's no denying that there's an issue.  
7 The same issue that will -- as anticipated at the time  
8 of the NFAT, but Manitoba Hydro has made a choice.  
9 They've cho -- chosen to abandon the rate smoothing  
10 path set out in the NFAT, the relaxation of financial  
11 targets recommended in the NFAT, and pursued rate  
12 shock level rate increases, with an objective of 75/25  
13 debt to equity -- excuse me, debt to retained earnings  
14 in 2027.

15                   And Mr. Colaiacovo asks, Is this  
16 necessary for the financial markets? Are -- is Hydro  
17 being forced to do this, or is this a choice, because  
18 that's an important point. And if it's a choice, has  
19 Manitoba Hydro, which bears the onus, demonstrated  
20 that this is the best alternative, that it is better  
21 than the other alternatives, taking into account that  
22 balancing duty of the Board?

23                   While this hearing is focused on the  
24 2018/'19 General Rate Application, as well as  
25 consideration of the two (2) previous interim rates,

1 the whole dynamic of this hearing and of the Hydro  
2 rate application is driven inexorably by the choice to  
3 seek to achieve 75/25 by 2027. That drives the rate  
4 application. That drives Manitoba Hydro's plan of six  
5 (6) successive years of seven point nine (7.9).

6 Mr. Bowman puts it aptly on slide 22.  
7 Every other issue pales when you've just set yourself  
8 the challenge of finding an extra \$3 1/2 billion above  
9 costs within the next ten (10) years. That trumps  
10 everything, no political pun intended, I presume.

11 Mr. Colaiacovo similarly concludes that  
12 the only way you can come to a conclusion that those  
13 rates are required is if you believe 75/25 must be  
14 achieved, and it must be achieved by 2027. Both the  
15 intere -- the witnesses for InterGroup, as well as the  
16 witnesses for the Consumer Coalition reminded us that  
17 Manitoba Hydro is not the first utility in one hundred  
18 and fifty (150) years of utility regulation to face  
19 the challenge of large, lumpy assets.

20 Mr. Colaiacovo used the sawtooth  
21 analogy. When you bring a large asset online, all  
22 other things being equal -- equal, your rates have to  
23 go up immediately upon in-service, and then they fall  
24 for the life of the asset. And that's challenging for  
25 ratepayers, because generally, they understand prices

1 to go up at the rate of inflation. As Mr. Colaiacovo  
2 points out, the sawtooth is unusual. It's peculiar to  
3 the regulatory world. Things don't typically go up by  
4 large amounts, and then fall over time. And so over  
5 one hundred and fifty (150) years, regulators have  
6 struggled with and come up with opt -- options to  
7 address this sawtooth effect.

8                   For Manitoba Hydro, with the distinct  
9 identity of Manitoba Hydro among Canadian utilities,  
10 that sawtooth problem is compounded because there's no  
11 shareholders. So in essence, Hydro has two (2)  
12 problems that it has to deal with, and our clients  
13 sympathize with this problem -- these problems. The  
14 sawtooth effect that occurs for all regulated  
15 utilities, and then also the need for a contribution  
16 to retained earnings, which normally would -- in a  
17 private company, would be borne by the shareholders.

18                   So who's going to put that money in,  
19 which customer, at which point in time? And these are  
20 critical regulatory questions. How do we allocate  
21 costs over a population who will actually benefit from  
22 this used and useful asset? That's a fundamental  
23 question of fairness.

24                   Mr. Colaiacovo, at slide 25, flags what  
25 this 75/25 in 2027 really means for Manitoba

1 ratepayers. It means they have to contribute one  
2 quarter (1/4) of the \$6.5 billion already spent on the  
3 major projects, plus one quarter (1/4) of whatever  
4 gets spent on those projects in the next five (5)  
5 years, plus one quarter (1/4) of the difference  
6 between capital spending and depreciation over this  
7 period. How is that fair? How is that reasonable?  
8 How is that just when you look at an asset that is  
9 going to last one hundred (100) years?

10                   Keeyask is hopefully coming into  
11 service in 2022. Under Hydro's plan of 75/25 in '27,  
12 five (5) years after it's come in service, you will  
13 have fully funded the 25 percent customer contribution  
14 into Keeyask. So for the next ninety-five (95) years  
15 of Keeyask's life, customers won't have to contribute  
16 anything to it over and above their depreciation and  
17 cost of capital. The judgment on whether front-  
18 loading contributions on a hundred year asset is just  
19 and reasonable necessarily requires forming opinions  
20 on the analytic credibility of the witnesses this  
21 panel has heard.

22                   On slide 27, we provide an overview of  
23 who our clients considered to be the key witnesses on  
24 this part of the dialogue, Mr. Colaiacovo, Mr. Harper,  
25 Mr. Bowman, Mr. Osler, former Chairperson Forrest, and

1 Dr. Yatchew, a breadth of experience; financial  
2 markets, the operation of electric utilities across  
3 Canada, rate-setting issues relating to cost of  
4 service rate-making, the whole regulatory history of  
5 the Public Utilities Board in Manitoba is captured  
6 within the expertise of this panel, and Dr. Jani --  
7 Yatchew brings insight into energy policy in North  
8 America.

9                   And in terms of the Intervenor  
10 witnesses, perhaps the kindest words, and to his  
11 credit, were uttered by Mr. McCallum, who speaks very  
12 favourably on slide 27 about the work of Morrison Park  
13 while respectfully disagreeing.

14                   Weigh that team against the Hydro  
15 policy panel at slide 28, Mr. Shepherd and McCallum.  
16 And let us acknowledge and honour their strong careers  
17 in other fields. Mr. Shepherd was a senior manager in  
18 the telecommunications industry -- senior executive  
19 excuse me, under, of course, a very different  
20 regulatory regime. And Mr. McCallum brings insight  
21 from the financial markets. They bring in an  
22 outsider's perspective, and an outsider's perspective  
23 is important, but that outsider's perspective is  
24 unblemished by insight into the electric utilities  
25 generally or the modern history of rate regulation.



1                   And that perspective, with the greatest  
2 of respect, is often backed by significant hyperbole,  
3 words like 'unacceptable risk', without the empirical  
4 validation of the probability of that risk and linking  
5 it to the extraordinary rate increase. So our clients  
6 would urge caution in weighing the confident opinions  
7 of Mr. Shepherd and Mr. McCallum against their level  
8 of experience, their performance under cross-  
9 examination, and through the testing by recognized  
10 experts.

11                   There have been other Manitoba Hydro  
12 witnesses in this proceeding on -- on this issue.  
13 Their evidence, in our clients' submission, is  
14 impeached by their own evidence in the NFAT, and also  
15 -- and we'll come to this later -- by Manitoba Hydro  
16 statements to the National Energy Board in August of  
17 2017. And some of those experts, notably on export  
18 revenues, are hamstrung by policy decisions, which,  
19 including what we would submit on behalf of our  
20 clients, is a policy which biases export revenue  
21 forecast results. In our clients' view, Hydro's  
22 statements in this hearing should be weighed carefully  
23 against their evidence in other proceedings, and  
24 against their failure to call external or expert oral  
25 evidence in support.

1

2

(BRIEF PAUSE)

3

4

DR. BYRON WILLIAMS: We noted

5 previously that our clients do appreciate the

6 outsider's perspective that Mr. Shepherd and Mr.

7 McCallum bring, and insights from the marketplace are

8 -- are useful, part -- very useful to this process.

9 But Manitoba ratepayers are not analogous to all other

10 utility customers. And here on slide 31, you see a

11 fundamental difference between Mr. McCallum and Mr.

12 Colaiacovo. Mr. McCallum essentially lumps customers

13 in the same group. In all utilities, the owner and

14 the customer are different entities.

15 Contrast that with Mr. Colaiacovo. Who

16 are the shareholders in Manitoba Hydro's case? It has

17 no shareholders to who it pays dividends. It has new

18 -- no shareholders who can sell their shares and

19 recoup their investment. In essence, similar to the

20 opinion of Mr. Bowman, Hydro's shareholders are really

21 the customers that it has. It's the people of

22 Manitoba. And these customers are captive customers

23 who take the risk in the export market. And that is

24 unlike other jurisdictions such as Quebec and

25 Newfoundland, where that risk is borne by the

1 government.

2                   In our clients' submission, a  
3 fundamental core flaw in the Hydro application is its  
4 failure to apprehend and its failure to honour the  
5 unique role played by Manitoba ratepayers and their  
6 relationship with their Utility. That lack of insight  
7 is implicit in Hydro's application, in essence, with  
8 what appears to be assumption that rate -- that  
9 retained earnings -- let me back up.

10                   Retained earnings in Manitoba financial  
11 statement are zero. There appears to be an assumption  
12 by Manitoba Hydro that equity is free. The reality is  
13 that the retained earnings in Manitoba Hydro are from  
14 its customers, and every customer has a cost of  
15 capital that they face. When Manitoba Hydro chooses  
16 to seek a 7.9 percent rate increase, there is a cost  
17 to Manitoba consumers in terms of an opportunity in  
18 which they could be using this money for other  
19 purposes.

20                   For low income people -- for low income  
21 customers that cost of capital is potentially defined  
22 by a credit card statement. And recall from the  
23 ratepayers' panel Ms. Lyndie Bright, when Manitoba  
24 Hydro was speaking to her about borrowing money. And  
25 Lyndie Bright didn't go to the low interest debt

1 guarantee fee that Manitoba Hydro enjoys by virtue of  
2 its relationship with the province. She went to her  
3 credit card, 19.9 percent.

4           In the context of a cost recovery Crown  
5 monopoly with consumers assuming primary risk for  
6 export market adventures, any analysis of a rate that  
7 does not take into account the ratepayers' cost of  
8 capital is unbalanced and unreliable. And if you'll  
9 recall, members of the panel, not until Mr.  
10 Colaiacovo's evidence on behalf of the large  
11 industrials and the Consumers Coalition was an effort  
12 made in this hearing to consider the cost to  
13 ratepayers in terms of their cost of capital.

14           There is some written evidence on the  
15 record of this hearing from KPMG in terms of how  
16 Manitoba Hydro's debt to retained earnings ratio  
17 compares to other Canadian utilities. But there's a  
18 lack of analysis into the very different structure  
19 that these other utilities, ranging from BC Hydro in  
20 the west to NALCOR in the east, are structured. In  
21 essence, as Mr. Colaiacovo's untested, unchallenged  
22 evidence demonstrates, they are structured as private  
23 investor-owned utilities, and have a requirement to  
24 pay dividends to their respective shareholders.

25           In contrast, Hydro is the last pure

1 cost recovery, publicly owned, vertically integrated  
2 provincial utility left standing in Canada. And to  
3 Mr. Colaiacovo's credit and to the discredit of KPMG,  
4 it is important to look more broadly in North America  
5 for better analogies to -- to Manitoba Hydro,  
6 including the precedence of pure cost recovery,  
7 publicly owned, vertically integrated US utilities.

8

9

(BRIEF PAUSE)

10

11

DR. BYRON WILLIAMS: I'd like to turn  
12 to Coalition-55, which is the supplemental book of  
13 authorities, and in particular to tab 1, page 7. And  
14 the question we're asking when we look at this tab is:  
15 Recognizing that every utility has a story, what  
16 weight can we give to a debt retained earnings target  
17 in isolation? This was found in the Boston Consulting  
18 report, slide 28 of 200 -- or 615. And just to remind  
19 this Board, we went over this in our cross-examination  
20 of the Hydro policy panel.

21

What you're looking at from left to  
22 right is investor-owned, regulated utilities. Moving  
23 over two (2) columns to US government-backed  
24 utilities, to Canadian Crown corporations in terms of  
25 their equity versus total capitalization. And then at

1 the bottom is their Standard & Poor's credit rating.

2           And if you go to the extreme right,  
3 you'll see little MB Power with 4 -- 4 percent in --  
4 in equity. If you go to -- to four (4) from the left  
5 to Excel En, with 51 percent equity, you'll see it's  
6 got a triple B rating versus New Brunswick Power's A  
7 plus. And you'll see that Hydro One has 51 percent  
8 equity, and its credit rating looks a lot like New  
9 Brunswick Power's.

10           And so moving back to slide 34, the  
11 Chairperson went to Manitoba Hydro and asked: Well,  
12 what conclusion can I derive from this looking at  
13 these very different equity levels, but these very  
14 similar credit ratings for Crown owned utilities? And  
15 the insight from that conversation is that the level  
16 of equity was less important than the relationship  
17 with the provincial owner.

18           And going back to the book of  
19 references and tab 2, page 12, you're going to see  
20 another chart. And so the question posed by this  
21 chart, which is PUB-MFR-14, is: Recognizing that  
22 Hydro has its own unique regulatory history, what  
23 weight can we give to a debt equity target in  
24 isolation?

25           And go back to the very bottom of this

1 page to 1992, when you'll see the debt to retained  
2 earnings ratio for Manitoba Hydro was 94:6. And over  
3 on the extreme right, you'll see that total Hydro debt  
4 to total Manitoba debt was around 50 percent. Take  
5 that up to 8317 in 2016. Go up to the top, and then  
6 over to total Manitoba Hydro net debt of 37.6 percent.

7                   From our clients' perspective, this is  
8 an important table. We don't have time to give it the  
9 love it deserves, but it gives that sense of  
10 perspective from which Mr. Forrest and Mr. Osler were  
11 speaking. The idea that while Hydro has a problem,  
12 it's not a problem of such overwhelming significance  
13 in relation to other problems that Manitoba Hydro has  
14 faced over the last twenty (20), thirty (30), forty  
15 (40), fifty (50) years. And if we return to slide 35,  
16 you'll see the note from Mr. Osler from the transcript  
17 that for over thirty (30) years Hydro's retained  
18 earnings were consistently less than 10 percent.

19                   Our client is not submitting that is  
20 ideal. Our clients are not submitting that is the  
21 perfect state of the world. Our clients are  
22 submitting that perspective is necessary, and those  
23 last two (2) slides that I've shown you, go into the  
24 supplemental book of authorities, puts significant  
25 perspective on Manitoba Hydro's doomsday scenarios or

1 the tales of calamity that we heard from the Business  
2 Council of Manitoba in their closing statements.

3           There is one (1) thing in which Mr.  
4 Colaiacovo and Mr. McCallum are in total agreement.  
5 Unlike the Business Council of Manitoba, which appears  
6 focused on the credit rating agencies, Mr. Colaiacovo  
7 and Mr. McCallum agree that the key issue is the  
8 marketplace, the financial markets. And you'll see  
9 Mr. McCallum, noting at transcript page 550, that  
10 ultimately it's the bond investors that are the people  
11 deciding how creditworthy Manitoba Hydro is, not the  
12 debt rating agencies.

13           And as Mr. Colaiacovo points out, that  
14 capital market in Canada and -- is a hundred and fifty  
15 (150) to two hundred (200) sophisticated institutions,  
16 financial institutions, banks, insurance companies,  
17 pension funds, making daily decisions, dynamic  
18 decisions in terms of their portfolio, and competing  
19 against other institutional investors across North  
20 America and the world. The markets rule, not the  
21 credit rated -- rating agencies.

22           We're going to go back for hopefully  
23 the last time for a while to tab 3 of the supplemental  
24 book of authorities, and specifically slide 16. And  
25 this again goes to the inordinate weight that Manitoba



1 Hydro has given in this hearing to 75:25 in 2027. And  
2 this is a slide from Mr. Colaiacovo's PowerPoint we  
3 produced from his evidence, looking not just to  
4 Canadian utilities, but at -- at US utilities  
5 including the more analogous vertically integrated  
6 public power utilities in terms of long-term debt to  
7 utility assets. Not quite the equivalent of debt to  
8 retained earnings, but a reasonable proxy.

9           On the left-hand side you see Hydro at  
10 82 percent versus NALCOR at 52, NB part 102, et  
11 cetera. On the left you see Manitoba Hydro at 82,  
12 Bonneville at 93, TVA at 65. Mr. Colaiacovo noted  
13 that Hydro is not at the top. They're not at the  
14 bottom.

15           But he used this slide to underscore  
16 that each utility has their own distinct story.  
17 NALCOR, which is at 52 percent is in serious trouble.  
18 SaskPower, which is at 58 percent is heavily reliant  
19 upon coal and has existential questions about its  
20 future emerging. Bonneville Power at 93 percent, you  
21 saw appended to Mr. Colaiacovo's evidence how well-  
22 regarded it is by the financial markets.

23           So returning to slide 37, again, our  
24 clients, through Mr. Colaiacovo, use this to  
25 underscore that there is limited correlation between

1 debt ratios and the comfort or worry one should have  
2 about the future of these corporations. Each utility  
3 has a different story. This is not to say that we  
4 should not address this issue in terms of Manitoba  
5 Hydro, but perspective.

6                   Digging deep at slide 38, Mr.  
7 Colaiacovo shares the real lessons from an in-depth  
8 peer analysis and market analysis. Some level of  
9 reserves is required, but among different utilities,  
10 very successful utilities, you will see trade-offs  
11 between the level of reserves and the need to adjust  
12 your rates. Bonneville Power, quite a low level of  
13 reserves, but a ratesetting mechanism that is highly  
14 responsive in the short term to drought. Mr.  
15 Colaiacovo's underlying point is about the need to be  
16 transparent, make clear what your choices are, and  
17 stick to it.

18                   At slide 39, in descending order, Mr.  
19 Colaiacovo highlights what he considers to be the key  
20 factors in the market analysis of any Crown owned  
21 utility such as Manitoba Hydro. And he highlights the  
22 point that utility and utility economics are different  
23 from typical economics. Based upon his expertise, he  
24 highlights that the number one (1) issue for the  
25 financial markets is the debt guarantee. As he

1 describes it, it's incredibly important for Manitoba  
2 Hydro.

3                   The second ranked factor that he flags  
4 is the regulatory regime. And he notes that utilities  
5 are treated by credit rating agencies as a special  
6 category. So in essence Manitoba Hydro, by being a  
7 regulated utility, fits into one (1) special care --  
8 category, and then by being debt guaranteed fits into  
9 an additional special care -- category which  
10 distinguishes it from a private corpor -- corporation  
11 operating in the financial markets.

12                   For sophisticated financial analysts,  
13 that is what drives Manitoba Hydro's affordable access  
14 to capital. As Mr. Colaiacovo points out, low  
15 interest rates are attached to utilities and  
16 especially public utilities that are government  
17 guaranteed, because the market knows it will get paid.

18                   Slide 40. Mr. Colaiacovo notes that a  
19 third item is the ability to raise rates, and that's  
20 an important factor. And he also notes at slide 41  
21 that financial reserves are also important. But he  
22 points out, and I'll draw your attention to about the  
23 fourth line of this quote. In Mr. Colaiacovo's expert  
24 opinion:

25                   "Because we're dealing with the

1 subset of a subset of a specialized  
2 Corporation, these financial  
3 fundamentals are actually,  
4 relatively speaking, a lot less  
5 appor -- important for Hydro than  
6 they are for ABC Corporation,  
7 competing in the general market  
8 selling widgets, whatever widgets  
9 are."

10 Our clients asked, beginning at slide  
11 42, whether the Hydro has demonstrated -- demonstrated  
12 that rate shock to avoid potential rate shock is  
13 necessary to access the financial markets. Our  
14 clients understand Manitoba Hydro to be adducing three  
15 (3) separate arguments. One (1), that a healthy  
16 retained earnings cushion would allow Hydro to operate  
17 without sudden rate increases in the event of  
18 financial challenges; two (2), that the lack of this  
19 healthy equity cushion would create risks for the  
20 province; and three (3), and this didn't immediately  
21 become apparent to our clients, that rate shock level  
22 rate increases provide a cushion in and of themselves  
23 beyond the target.

24 And at transcript 62, page 6277,  
25 there's a delicious conversation between Mr. Bowman

1 and Mr. Ghikas, in which Mr. Bowman reverses the roles  
2 and with some incred -- incredulity asked:

3 "Is it your suggesting that if you  
4 have rates high enough that your net  
5 income is large, then if adverse  
6 events happen all you do is end up  
7 with lower net income?"

8 And Mr. Ghikas confirms that Mr. Bowman  
9 is correct.

10 Unless you doubt the assertion of Mr.  
11 Ghikas, Ms. Carriere has testified that under a 7.9  
12 percent rate path during a five (5) year drought,  
13 Hydro still has positive net earnings. And Mr.  
14 Colaiacovo asks:

15 "Doesn't that beg the question? If  
16 the point of having reserves is to  
17 withstand a drought, why are your  
18 rates so high that during a drought  
19 you're still building up your  
20 reserves?"

21 He deftly dissects Hydro's case theory  
22 of rate shock to avoid potential rate shock at slide  
23 44:

24 "Are you actually doing a rate shock  
25 to prevent a rate shock or to ensure

1                   against a rate shock? Okay then.  
2                   Well, doing something with certainty  
3                   in order to avoid its potential in  
4                   the future at some uncertain level  
5                   of probability is a questionable act  
6                   to take."

7                   And at slide 45 he re -- reiterates  
8                   similarly -- similar concerns. At slide 46, both the  
9                   evidence of Ms. Stephen and Mr. Colaiacovo address the  
10                  issue of whether Manitoba's access to capital markets  
11                  will -- has been or will be impaired. Mr. Steve --  
12                  Ms. Stephen and Mr. Colaiacovo appear to be in  
13                  agreement that to date access to capital has not been  
14                  imperilled by Keeyask and Bipole III. She confirms  
15                  that at transcript page 938. And Mr. Colaiacovo goes  
16                  on to state that there is no real practical risk that  
17                  Manitoba Hydro will not get long-term debt money that  
18                  it needs, outside the rare event such as the financial  
19                  crisis in '08.

20                  At slide 47, our clients ask: Is there  
21                  evidence on the record that the 7.9 percent rate path  
22                  is necessary to satisfy the financial markets? Some  
23                  of the best evidence came in August of this year, when  
24                  the Board on an interim basis did not accept the 7.9  
25                  percent rate path. And our client put to Manitoba

1 Hydro the question of whether there was a run to the  
2 barricades in terms of the spread between Canadian  
3 long-term bonds and Manitoba bonds. And, of course,  
4 answer was no.

5 In fact, it compressed that time. Not,  
6 of course, because of the 3.36 percent decision, but  
7 because bond markets are sophisticated. They  
8 understood what's going on, and they took the bigger  
9 picture of the overall relationship between Manitoba  
10 and Canadian bonds.

11 Again, some of the best evidence of  
12 Hydro's exceptional ability to attract debt capital  
13 comes from Hydro itself. And these are submissions on  
14 slide 48 from Exhibit Coalition-47, at page 83. And  
15 these are taken from a submission by Manitoba Hydro to  
16 the National Energy Board in August -- August of 2017.

17 Contrast the message delivered to the  
18 Manitoba Public Utilities Board in this hearing with  
19 the narrative presented to a different regulator in a  
20 different proceeding, but at a contemporaneous time,  
21 not only Hydro's own's financial strength, but its  
22 relationship with the province. And we bolded:

23 "The province's strong credit rating  
24 and capital market liquidity provide  
25 Manitoba Hydro with an exceptional

1 ability to attract debt capital."

2 August 2017.

3 What additional evidence do we have  
4 that 75:25 in 2027 is not the be-all and the end all?  
5 We have the evidence of the market's reaction in the  
6 NFAT. Again, in that hearing Hydro strenuously  
7 supported a twenty (20) year plan to get back to  
8 75:25, and markets did not react adversely to that to  
9 the degree that there was any market reaction at all.

10 At slide 50, we point out how markets  
11 reacted in the context of the most recent severe  
12 drought, albeit a one (1) to two (2) year drought, in  
13 Manitoba Hydro's history. Hydro's cash flow levels  
14 dropped. Financial performance suffered dramatically.  
15 And no change to Manitoba Hydro's credit rating.

16 And as the Chairperson noted in his  
17 inquiries of Mr. Colaiacovo, just like the PUB, the  
18 financial markets recognize that rates can always be  
19 increased during a drought. And financial markets  
20 recognize that in response to that drought, over our  
21 clients' objections, the Public Utilities Board did  
22 impose a 5 percent rate increase to assist Manitoba  
23 Hydro to recover.

24 As Mr. Colaiacovo points out at slide  
25 51, Manitoba Hydro's target of 75/25 has often been



1 honoured by omission rather than by achievement. But  
2 despite that it has not been met that consistently  
3 over the past twenty-two (22) years. One does not see  
4 punishing actions in the financial market.

5           To finally underscore our clients' view  
6 that the 7.9 percent rate increase is not necessary to  
7 ensure reasonable access to the financial markets, our  
8 clients want to underline that there's a cost to rate  
9 shock level rate increases. And in essence, you're  
10 taking high-cost money from ratepayers, from  
11 ratepayers like Lyndie Bright or Emily Mayham, instead  
12 of low cost money from the capital markets. This is  
13 not an invitation to financial promiscuity, but it is  
14 making the point that there -- this capital is not  
15 free.

16           I'm not sure if it's politically  
17 correct anymore to use the term "little old lady on  
18 Agnes Street," so I'm going to substitute "senior on  
19 Agnes Street." But Mr. Forrest made this -- what I  
20 think is a very folksy but very eloquent point at  
21 slide 53, that ultimately it's these ratepayers,  
22 seniors in rural Manitoba, consumers in remote  
23 communities, newcomers in Manitoba's largest city, who  
24 are bearing the risk of this endeavour. And in our  
25 clients' view, turning to slide 54, rate shock to

1 prevent rate shock unduly punishes consumers who have  
2 already borne above inflation rate increases since the  
3 great recession.

4                   And in Hydro's rebuttal evidence, they  
5 -- they sought to challenge Mr. Colaiacovo's  
6 contention that Manitoba Hydro ratepayers had paid  
7 their fair share of costs since 2012, apart from the  
8 new capital projects. And our client chose not to  
9 cross-examine Mr. McCallum on this point, and I rarely  
10 give compliments to Board counsel, because they  
11 thought the answer was well made in this cross-  
12 examination, Mr. McCallum.

13                   Manitoba ratepayers who have been  
14 paying above inflation rates since the great recession  
15 believe strongly that they've pulled their weight.  
16 The analysis of Mr. Colaiacovo supports that, and the  
17 cross-examination of Manitoba Hydro's rebuttal  
18 evidence refutes Hydro's contention.

19                   So, Mr. Chair, I'm going to -- I'm  
20 planning to keep going till I finish this section  
21 unless the Board -- I -- this -- I could take a break  
22 here. It's not a bad time for a break, or we -- but  
23 if I keep going it'll be a half an hour more. So I --  
24 I leave it to the Board's judgment. If you'd like a  
25 break now, it's not a bad time.

1 THE CHAIRPERSON: Yeah, we'll take the  
2 morning break.

3

4 --- Upon recessing at 10:15 a.m.

5 --- Upon resuming at 10:32 a.m.

6

7 THE CHAIRPERSON: Dr. Williams...?

8

9 CONTINUED BY CONSUMERS COALITION:

10 DR. BYRON WILLIAMS: Our client --  
11 turning from our critique of 75/25 in '27, our  
12 clients, guided by Mr. Colaiacovo, as well as Mr.  
13 Osler, raised the question: For ratesetting purposes  
14 and for comfort for the financial markets, have we got  
15 the right target? Is it -- is the debt ratio target  
16 the right target for a pure cost recovery public  
17 utility going through a major investment?

18 Maybe when you're not in a major  
19 investment period, maybe it was a right target back in  
20 1996. So, how would one set an appropriate target?  
21 And this is a forward-looking question but a critical  
22 one at slide 56. And the Board, through its other  
23 proceedings, might consider looking at the process in  
24 -- related to the dynamic capital adequacy approach  
25 developed by Manitoba Public Insurance, including the

1 technical conferences.

2                   If this is a smoothing reserve,  
3 consistent with the statutory purposes, what types of  
4 questions might we ask? An important one is: What  
5 level of risk tolerance should we have? Are we  
6 protecting against a 1:20 year risk, a 1:100 year  
7 risk. What type of risk should we be protecting  
8 against? Should it only be drought? Should there be  
9 others? What type of risks are less appropriate for a  
10 smoothing reserve? Are there moral hazard risks of  
11 creating too generous of a reserve? What is the  
12 appropriate period for smoothing; is it the short-term  
13 focus of Bonneville Power; is it a more reasonable  
14 five (5) to seven (7) year period? What is it?

15                   Our clients believe that these are not  
16 questions that can be ultimately determined in this  
17 hearing, given the many other issues, but these are  
18 critical issues, not just for the next rate  
19 application, but for Manitoba Hydro's ongoing  
20 relationship with its ratepayers and with the  
21 financial markets and with this Board.

22                   And Mr. Colaiacovo, in a very lengthy  
23 quote, at slide 57, expresses some frustration with  
24 trying to understand Manitoba Hydro's characterization  
25 of unacceptably risky. What does that mean? Mr.

1 Colaiacovo, the ultimate rational economic actor, is  
2 asking: What's your logical pathway? What threshold  
3 of probability is unacceptably risky? What  
4 consequence -- what threshold of consequence is  
5 unacceptably risky? How do we make this  
6 determination, apart from vague assertions of  
7 unacceptable risk?

8                   And Mr. Colaiacovo's advice, which are  
9 clients asked this Board to consider carefully, is  
10 that we can develop a more rigorous process that will  
11 give greater guidance to the markets and to this  
12 Board.

13                   The starting point has to be drought  
14 and on that point, Mr. Osler and Mr. Colaiacovo agree.  
15 You have to be able to demonstrate, in no uncertain  
16 terms, that Hydro's capable of managing its hydraulic  
17 -- hydrological risk. But as the evidence of this  
18 hearing has amply demonstrated, one doesn't need 25  
19 percent in retained earnings to do that. And Mr.  
20 Peters went through an extensive cross-examination  
21 with Mr. Colaiacovo including at pages 4915 and 4916  
22 to that point.

23                   And as Ms. Carriere notes, the cost of  
24 a five (5) year drought is actually lower today than  
25 it was at the time of the NFAT, due to the decreased

1 low export prices. That's the one good news story out  
2 of low export prices.

3 I'll move quickly through slides 59 and  
4 60. Mr. Colaiacovo's advice is that interest rate  
5 fluctuations should not be managed by reserves, and at  
6 slide 60, in the long run, he says that neither should  
7 export prices. But there might be some consideration  
8 to smoothing in the short-term. These, again, are  
9 matters for a technical conference.

10 But at slide 61, Mr. Colaiacovo gives  
11 some insight into his thinking of how this might  
12 assist rate setting and assist in providing clarity to  
13 the financial markets. The first paragraph looks at  
14 the adverse circumstance. What level of rates is  
15 necessary to satisfy the market that Manitoba Hydro is  
16 appropriately protected in the event of a five (5)  
17 year or seven (7) year drought? But that's only part  
18 of the analysis, and then what about if water is at a  
19 more typical level, what's that balancing act? So  
20 this is just an illustrative example of how Mr.  
21 Colaiacovo considers this might assi -- assist the  
22 Board.

23 I have a couple of short snappers over  
24 the next few slides. Our client has emphasized the  
25 need to dig deep and not to take a superficial look at

1 the issues in this hearing. And the cross-examination  
2 of Mr. Colaiacovo, in our clients view, highlighted  
3 the difference between analytical rigour and  
4 simplistic propositions. One proposition put forward  
5 was that the higher the sawtooth the better off  
6 Manitoba Hydro will be. And as Mr. Colaiacovo  
7 conceded, yes, in a nominal dollar expenditure amount,  
8 yes. But does it make sense from an inflation-  
9 adjusted or a discount-rate adjusted basis? Frankly,  
10 does it make sense from a consumer perspective?

11 Another proposition put to Mr.  
12 Colaiacovo by Mr. Ghikas on behalf of Manitoba Hydro  
13 was that we should be concerned about magnitude of  
14 debt. And Mr. Colaiacovo makes the point magnitude of  
15 debt in isolation is just a fact, not a critical  
16 issue. The key issue is debt in relation to assets;  
17 that's the leverage question.

18 So there's the difference between a  
19 simplistic proposition and analytical rigour. And as  
20 the Board weighs credibility in this proceeding, our  
21 client would ask it to look carefully at the  
22 simplistic proposition versus the care presented by  
23 witnesses such as Mr. Colaiacovo.

24 Intervenors were chastised a little  
25 bit, moving to slide 64, on Monday for not spending a

1 lot of time on Manitoba Hydro's Capex. It's new  
2 standard and its new -- and developed for the course  
3 of this hearing. From our clients' respectful view,  
4 recognizing that markets need to get paid, financial  
5 markets need to get paid, it's important to note, as  
6 Ms. Stephen candidly admitted, that this new cash flow  
7 measure was not even shared with credit rating  
8 agencies. And as Mr. Colaiacovo points out, reporting  
9 agencies typically look at cash flow to debt and  
10 they'll look at the financial structure and liquidity.  
11 But cash flow to Capex is not on their list.

12                   And in cross-examination with Mr.  
13 Peters, Mr. Colaiacovo took a common-sense approach to  
14 the reality that Manitoba Hydro is in a major  
15 investment period. Until 2023, Hydro is going to have  
16 cash flow that are less than their property, plant and  
17 equipment, just as contemplated at the time of the  
18 NFAT. It's the reality of bringing in projects of  
19 this magnitude and trying to share their risks and  
20 costs equitably over time, without damaging the  
21 Manitoba economy.

22                   But as Mr. Colaiacovo points out, while  
23 that's entirely consistent with the major capital plan  
24 -- expenditure plan, in about 2023 cash flows will re  
25 -- rebound; that's the sawtooth reality when you're



1 begin -- bringing major projects on line.

2           In the next section of our analysis our  
3 clients consider the broader implications of 7.9  
4 percent proposal, as well as the plan of six (6)  
5 successive 7.9 percent, in terms of the public  
6 interest. And Mr. Shepherd made this assertion that  
7 in terms of Hydro's debt, the risks and consequences  
8 of this debt could impair not only Hydro, but also the  
9 financial well-being and competitiveness of its  
10 customers for years, if not decades to come.

11           From our clients' perspective, though,  
12 the real issue is whether Hydro has made the case that  
13 rate shock is the preferred response to protecting the  
14 Manitoba economy, or whether there are superior  
15 alternatives. And PS, where is Hydro's evidence in  
16 support of this assertion? It's quite fond of bond  
17 rating agencies. So let's see what DBRS says about  
18 Manitoba's competitive strengths.

19           Ms. Stephen, a very candid witness for  
20 Manitoba Hydro, notes that one (1) of the strengths  
21 flagged by DBRS is Hydro's low-cost hydroelectric  
22 generating capacity which offers a distinct --  
23 distinct competitive advantage when competing for new  
24 businesses. She also candidly agrees that DBRS  
25 observes that significant rate increases might

1 diminish this advantage.

2                   Where is Hydro's evidence in support of  
3 the assertion that 7.9 percent will strengthen the  
4 economy? It did not examine the economic impacts of  
5 rate increas -- increases on customer classes, as Mr.  
6 Shepherd agreed. No attempt was made to quantify the  
7 economic impact of rate increases in Manitoba. No  
8 assessment was undertaken of the opportunity costs for  
9 ratepayers in the original application. No assessment  
10 of the effects of rate shock on the -- on the economy,  
11 jobs or labour income was presented. Just words.

12                   We've had some dialogue in this hearing  
13 about whether 7.9 percent constitutes rates -- rate  
14 shock. And from our clients' perspective, if it walks  
15 like rate shock and it talks like rate shock, it's  
16 probably rate shock. And Dr. Yatchew makes this point  
17 and moved beyond semantics and directing your  
18 attention to the bottom half of this paragraph. It's  
19 a shock. If you're in business and 15 percent of your  
20 costs are electricity costs -- there are few instances  
21 of industries where that's the case -- you're taking a  
22 significant hit. You're going back to your  
23 spreadsheet and looking at the business plans and  
24 think about what your capital investments are going to  
25 be in the coming years.

1                   A very careful witness carefully used  
2 the word "shock." And that shock will be felt  
3 disproportionately by low income consumers. And as  
4 Dr. Simpson highlighting in AMC Information Request  
5 flagged energy poverty rates rise faster and stay  
6 higher under the 7.9 percent rate path. Equilibrium  
7 is not restored after twenty (20) years under Hydro's  
8 plan. Energy poverty not only grows for longer, it  
9 assumes a permanently higher level.

10                   The evidence of Dr. Compton and Dr.  
11 Simpson in this hearing is that a 7.9 percent path is  
12 likely to slow growth. Again, we have to be careful;  
13 that's not to say that there will be a recession, that  
14 means that growth will go grossly -- more slowly than  
15 as compared to inflationary increases or as compared  
16 to the 3.95 percent path.

17                   Their evidence is set out at slide 72.  
18 As compared to inflation, significant impacts for  
19 gross domestic product and jobs. And Dr. Compton, in  
20 particular, is -- and Dr. Simpson as well were at  
21 pains to point out that this is not a worst-case  
22 scenario. This is their -- their best estimate. In  
23 response to some very helpful questions by Board  
24 Member Grant, they also looked at issues, in  
25 particular, relating to savings and their conclusions

1 were, and their numerical results, were -- were very  
2 similar to the ones presented on slide 72.

3           As Dr. Compton said, I don't see this  
4 as the worst-case scenario. I think this is the  
5 effect that Hydro rate increases will have on the  
6 economy.

7           Dr. Yatchew's evidence also seemed to  
8 be supportive of rate smoothing. He noted the impact  
9 in some locations, especially for industry sensitive  
10 to electricity prices. He suggested that pricing  
11 electricity higher than necessary is sub optimal  
12 because it erodes revenues when marginal cost of  
13 production is slow. And interestingly, from an  
14 environmental perspective, he flagged what he  
15 described as a carbon leakage probl -- problem.  
16 You're very likely cause migration, and that migration  
17 may be to less environmentally friendly fuels.

18           And that's an important point when we  
19 get to marginal costs and to Mr. Chernick's analysis  
20 of marginal costs under the rate design section.

21           At slide 75, we move beyond mac --  
22 academic analysis to the words of the Mining  
23 Association, of the Federation of Independent  
24 Business, and the Association of Municipalities. The  
25 Federation of Independent Business highlights its

1 concerns about sign -- significant impacts on  
2 businesses and employees, suggesting energy costs were  
3 among the top three (3) cost pressures. The mining  
4 Association raises concerns about cumulative rate  
5 increases on its specific industry and for Manitoba's  
6 north, more generally. And it's not a coincidence  
7 that the Association of Manitoba Municipalities raised  
8 Hydro rates as resolution number 1. AMM delegates  
9 voiced serious concerns when met with Hydro's proposal  
10 of 7.9 percent increases. Concerns about municipal  
11 operating budgets, particularly for recreation  
12 infrastructure. And those concerns were expressed by  
13 little communities like the RM of Pipestone and large  
14 communities, in the rural context, such as Steinbach.  
15 And we heard the evidence of the City of Winnipeg.

16                   So if 7.9 percent has not been  
17 demonstrated by Hydro to be necessary, what range of  
18 alternatives should be considered? Our clients  
19 observed that a rate at or below 3.95 percent would be  
20 consistent with the implicit NFAT commitment. And  
21 from our clients' view, the NFAT analysis is highly  
22 relevant; that hearing had an in-depth discussion of  
23 the range of risks; a sophisticated consideration of  
24 the matter of intergenerational equity; a recognition  
25 of the need for smoothing; and also significant

1 deliberations in terms of a reasonable rate path to  
2 accommodate the scope of risk.

3           And given Manitoba Hydro's assertion  
4 that the NFAT was only about resource planning and not  
5 about rates, we had to go back to the Board's decision  
6 last night and if you go to the section titled Impact  
7 On Development Plans, you'll see a table comparing  
8 rate increases, both annual and cumulative, for  
9 different development plans, and one (1) of the  
10 factors that the Board was expressly directed to take  
11 into account by the government was the impact on  
12 domestic electricity rates over time with and without  
13 the plan and with alternatives.

14           Manitoba Hydro told us back in the NFAT  
15 that it was entering this historic level of investment  
16 from a position of strength, the strongest financial  
17 position in its history. The risk of adverse events  
18 related to droughts, exports and capital costs and  
19 load were expressly contemplated in the NFAT. There  
20 were complex considerations of intergenerational  
21 equity. The gas plan, as compared to the Hydro -- the  
22 Keeyask plan looked relatively advantageous out fifty  
23 (50) years. There was expressed consideration of rate  
24 smoothing. And as Ms. Carriere candidly admitted, 7.9  
25 percent was not on the agenda at the NFAT; not within

1 the realm of imagination.

2           As Mr. Osler points out, rate smoothing  
3 would be consistent with long-term regulatory practice  
4 and long-term industrial planning needs. And he  
5 highlights the -- from the industrial perspective, the  
6 necessity of stable and predictive -- predictable  
7 rates, recognizing that from time to time they might  
8 need to be deviated from, for example, for reasons of  
9 drought, but at the bottom in the bolded statements he  
10 offers an implicit or perhaps express judgment of the  
11 rate shock plan of Manitoba Hydro. And he notes that  
12 this is not something that you -- should be changed  
13 capriciously; this patient approach to stable,  
14 predictable rates. Rate smoothing would also appear  
15 to be consistent with the advice of Dr. Yatchew.

16           At slide 81, we address Hydro's  
17 assertion that it has experienced a material change in  
18 current financial circumstances that could not have  
19 reasonably contemplated at the time of the NFAT. And  
20 Mr. Harper and Mr. Bowman addressed this analysis in  
21 very different ways. Mr. Harper took Manitoba Hydro's  
22 word that its predictions, its forecasts were  
23 reasonably reliable, and that it was prudently  
24 managing its activities. And so even accepting those  
25 premises, he looked at integrated financial forecast

1 16, the very foundation of this application, and  
2 suggested that it did not demonstrate a material  
3 change in circumstances.

4                   This calls into question the Hydro's  
5 choice to embark on this 7.9 percent rate application.  
6 IFF16 was not grounds to allege a material change in  
7 circumstances. IFF16, the Update did demonstrate some  
8 deterioration. But as Mr. Harper observed, extending  
9 the 3.95 percent path to 2033/'34 allowed for  
10 comparable achievements. He did not see this as -- as  
11 a significant difference.

12                   Manitoba Hydro at slide 82 says, but  
13 what about if we're not using a twelve (12) year  
14 weighted average term to maturity for new debt, what  
15 if we move out to twenty (20) years? Well, so what.  
16 As Mr. Harper observed, that does not support a  
17 radical 7.9 percent departure. Even if you accept  
18 Hydro's words about its forecasts. Even if you accept  
19 Hydro's words about its prudent management, 4.34 gets  
20 you to 2033/'34 at 75 percent debt.

21                   From our clients' perspective that 4.34  
22 number is important; that is not the rate increase  
23 they're going to be recommending to you, but that sets  
24 an analytical upper bound, an upper cap and the upper  
25 level of the zone of reasonableness, from our clients'



1 perspective.

2                   Intergroup, moving to slide 33, and in  
3 particular, Mr. Bowman took a different look at  
4 whether Manitoba Hydro had demonstrated a material  
5 change in circumstances. It compared Hydro's pathway  
6 to the NFAT expectations. Those box and whisker  
7 diagrams. Those zones of reasonable expectations.  
8 And concluded that the results for Hydro were largely  
9 consistent with the trajectory -- trajectory  
10 acceptable to the Board in integrated financial  
11 forecast 15.

12                   In Mr. Bowman's colloquial words,  
13 generally Hydro straight down the fairway for where we  
14 expected the plans cost to be. That is not to say  
15 that there have not been adverse developments. There  
16 have also been positive developments, but the NFAT  
17 wasn't just about the expectations from a P50 result.  
18 It was an examination of risk tolerance and within  
19 that range of reasonableness, Mr. Bowman concludes  
20 that Manitoba Hydro's results are straight down the  
21 fairway.

22                   Early in the hearing, but much less so  
23 now, the idea that we needed rate shock over the next  
24 few years to support a more aggressive approach to  
25 weight -- weighted average term to maturity of twelve

1 (12) years instead of eighteen (18) or twenty (20) was  
2 central to the early submissions of Manitoba Hydro in  
3 this -- in this case.

4                   There's a great reference at transcript  
5 page 707, where Ms. Stephen breaks the room to --  
6 breaks the news to Mr. McCallum that given changes in  
7 the yield curve, she's going long. And she's going  
8 long aggressively and Ms. Stephen is a very capable,  
9 talented man -- manager of the Treasury Branch, much  
10 like her predecessor Mr. Schultz. And she noted that  
11 her -- her last two (2) debt issues were thirty (30)  
12 year issues. And Mr. McCallum the next day  
13 acknowledged that. And made the point that Mr.  
14 Colaiacovo has made that this issue of weighted  
15 average term to maturity should not be the tail that  
16 drives -- that wags the dog. Treasury Branch  
17 operations are very dynamic. They change in response  
18 to the marketplace. And the events in December belie  
19 the early assertion by Manitoba Hydro that rate shock  
20 level rate increases were necessary to achieve  
21 advantageous financial results,

22                   A final point eloquently made by Mr.  
23 Bowman is when you move from a stable, predictable  
24 path and turn on a dime without an underlying material  
25 change in circumstances that undermines confidence in

1 the regulatory process, not just for the new guys,  
2 this new Hydro board, but what happens when inevitably  
3 ten (10) years from now we've got another new Hydro  
4 Board under a new government with a new agenda?

5           Manitobans rely on this Board for  
6 independent evidence-based analysis. They remember  
7 the rate turmoil of the '80s. They remember the  
8 importance of someone independent taking the politics  
9 out of these decisions. Our clients want to  
10 underscore this point, their commitment to the  
11 regulatory process now more than ever.

12           If the 7.9 percent rate path is not  
13 justified, what is a reasonable range? And here you  
14 have Mr. Colaiacovo who's probably blushing by the  
15 amount of times that I've cited him on the record  
16 saying, you know, doing his own musing; somewhere  
17 between 3 and 4 1/2 percent. We'll come back to that  
18 in a -- in a couple more sections.

19           These are our clients' recommended  
20 findings regarding the overall health of the  
21 Corporation. Our client recommends that Man -- the  
22 Public Utilities Board find that Manitoba Hydro has  
23 not demonstrated that a 7.9 percent rate increase is  
24 necessary to ensure reasonable access to affordable  
25 debt in the financial markets, or to protect the

1 province of Manitoba, or to respond to a material  
2 change in circumstances not contemplated during the  
3 NFAT or subsequent GRA's.

4                   Our clients recommend that the Public  
5 Utilities Board find that the current circumstances of  
6 Hydro, in their totality, including the 3.3 percent  
7 interim rate increase have not impaired materially its  
8 current access to affordable debt.

9                   Our clients recommend that the PUB find  
10 a greater certainty for the capital markets, and for  
11 rate-setting purposes might be guarded by a more  
12 probabilistic assessment of risk with a particular  
13 focus on drought, which could be the subject of a  
14 technical conference led by PUB staff.

15                   Our client urge this Board to find that  
16 the record demonstrates that a 7.9 percent rate  
17 increase is more likely to harm Manitoba ratepayers  
18 and the economy as compared to a smooth rate increase  
19 at or below the NFAT range.

20                   Our clients ask this Board to find that  
21 smoothing at or below the NFAT range makes sense given  
22 the long-lived and lumpy nature of the assets and  
23 considerations of regulatory stability,  
24 intergenerational equity, risk and affordable access  
25 to capital markets.

1                   Our clients, finally, note that even  
2 assuming an unbiased forecast appropriate  
3 implementation of Board Orders and prudent management,  
4 which our client does not accept, Manitoba Hydro has  
5 not demonstrated a material change in circumstances to  
6 justify a radical departure from the NFAT range.

7                   Our clients want to turn to the issue  
8 of forecasting and moving to slide 90, our clients  
9 believe firmly that a past record matters. Manitoba  
10 Hydro has the onus of proving the reliability of its  
11 forecasts, but it does not come to this proceeding  
12 with an unblemished past record.

13                   In our clients' respectful submission,  
14 its forecasting approach has not earned the benefit of  
15 the doubt. In -- in terms of a roadmap as set out at  
16 slide 91, our clients will focus on two (2)  
17 forecasting issues: the reliability of export revenue  
18 for -- forecasts, recognizing that a compelling case  
19 can be made that export market revenue forecasts over  
20 the life of the IFF are very conservative and biased  
21 downward due to an express Manitoba Hydro policy  
22 choice not an evidence-based choice but a policy  
23 choice.

24                   Our clients will also examine the more  
25 complex issue of the load forecast. Obviously, one

1 (1) of the elephants in this room is Keeyask and our  
2 clients related -- go back to slide 91 for one second,  
3 our clients' comments related to the reliability of  
4 capital forecast, both sustaining and large, will be  
5 deferred to the next section when we address the  
6 prudence and necessity of expenditures. So we haven't  
7 left that behind. We'll just address it in the next  
8 section, following this section.

9           There's really a simple credibility  
10 finding to be made in terms of export revenues. Whose  
11 opinion do you prefer? Daymark, as substantially  
12 supported by MISO results, FERC results, counterparty  
13 results, apparently third-party forecasting results,  
14 and the evidence of Manitoba Hydro in this proceeding  
15 and the NFAT, or do you prefer Manitoba Hydro's policy  
16 choice on export revenue forecasting?

17           Mr. Peters raised the question of bias  
18 as set out at slide 93, in his discussion with Mr.  
19 Peaco from Daymark. And Mr. -- Mr. Peters -- this is  
20 one (1) of the more memorable quotes from the hearing  
21 -- Mr. Peters refers Mr. Peaco to Hydro's suggestion  
22 that the goal is to have an unbiased consensus  
23 forecast by accepting the other experts' view of the  
24 future. And Mr. Peaco sees that, and then Mr. Peters  
25 asks a fairly challenging question, Do you agree with

1 Hydro's statement? And Mr. Pea -- Peaco observes,  
2 Well, they didn't implement that in their analysis.

3                   And perhaps that's the end of the  
4 question. But what is the source of the bias? And  
5 Mr. Cormie, at transcript page 1,271, directed this  
6 panel and Intervenors to the source of the policy bias  
7 -- to the source of the bias, and noting that the  
8 decision to remove the capacity revenue is a policy  
9 decision.

10                   Daymark, in response to questions by  
11 the Chair, highlighted that Hydro's forecast for  
12 export revenues was not P50, and indeed, was very  
13 conservative, not just conservative, very  
14 conservative, focusing upon the capacity and premium  
15 assumptions. And if you go to the second paragraph,  
16 about the fourth line down, you'll see Mr. Peaco  
17 indicating the real problem is that they've assigned  
18 zero value to capacity, which essentially means that  
19 they're going to have no new firm energy contracts for  
20 the twenty (20) years. A zero capacity revenue for  
21 surplus dependable energy over twenty (20) years for  
22 all their volume I would consider something closer to  
23 a P100. It's virtually certain that it's going to be  
24 that or higher. And again, he reiterated his ultimate  
25 conclusion that the forecast in its entirety is very

1 conservative, with the capacity premiums being the  
2 driver of that conclusion.

3                   Towards the end of the hearing, Mr.  
4 Cormie, in discussion with Mr. Peters, also  
5 highlighted another important factor that, to Mr.  
6 Cormie's understanding, was not -- was not yet  
7 reflected in the IFF. This Board has heard a lot of  
8 conversation about new transmission connections to the  
9 United States and the opportunities those provide in  
10 terms of a price difference, Mr. Cormie observing  
11 that:

12                   "Right now, on average, at 2 to 5  
13 percent difference in these prese --  
14 prices, due to -- when -- when the  
15 enhanced transmission comes online."

16                   And Mr. Peters:

17                   "Has that 2 to 5 percent been  
18 reflected in the export price  
19 forecast?"

20                   And candidly, Mr. Cormie observed:

21                   "We have not yet reflected in the  
22 IFF the additional revenue that  
23 would be associated with that  
24 improvement."

25                   Our clients believe the key conclusions



1 of Daymark are strongly supported by recent FERC  
2 decisions, one (1) from January of 2018, as well as  
3 the December 2017 report by the US Energy Information  
4 Administration. Daymark makes the point that a very  
5 substantial amount of coal retirement -- retirement is  
6 coming, largely age-driven, and less so, policy-  
7 driven. And if one thinks to Manitoba Hydro's  
8 discussion with regard to the export market, they've  
9 made a lot of Mr. Trump and -- and his efforts to  
10 revitalize the dying economic industry of coal.

11                   You don't need to turn to it, but I'll  
12 just note in our supplemental book of documents, at  
13 Tab 8 -- you do not need to go there -- we have  
14 included the entirety, which is an exhibit in this  
15 hearing, of a decision -- a unanimous decision by Mr.  
16 Trump's FERC, a unanimous decision to recognize the  
17 dynamic change in the marketplace and reject a subsidy  
18 for aging coal and nuclear. And the -- the second-  
19 last bullet on this page notes that the Energy  
20 Information Administration report of December 2017,  
21 not 2018, I -- we cannot see that far into the future  
22 -- is also supportive of these conclusions.

23                   Our clients want to turn to the more  
24 challenging issue of load forecasting. There's no  
25 doubt that there's significant bias in Hydro's export

1 revenue forecast. In terms of load forecasting, it's  
2 -- but in terms of load forecasting, the discussion is  
3 more nuanced. It's important to recall that load  
4 forecasting has two (2) key roles. One (1) is  
5 planning purposes. It gives insight and where -- in  
6 terms of where to invest and to make trade-off  
7 decisions. It also, for the purposes of this GRA,  
8 provides a basis for predicting the revenues of the  
9 Organization, Manitoba Hydro.

10 Daymark also notes that there's an  
11 emerging trend for modern resource planning to not  
12 just use -- use a -- a simple result from a load  
13 forecast best estimate, but to look at alternative  
14 scenarios and stochastic modelling. Our client  
15 observes that since the NFAT, there has been a  
16 significant effort by Manitoba Hydro to increase its  
17 load forecast consistent with a number of the  
18 recommendations by Dr. Gotham and Dr. Simpson,  
19 including their recommendation that Hydro should  
20 estimate a price response.

21 So while our client has little positive  
22 to say about the export revenue forecast, the load  
23 forecast is -- is more mixed in terms of our clients'  
24 conclusions. However, there are still grounds for  
25 concern, especially as they relate to large

1 industrials, where there appears to be evidence of  
2 downward conservatism in terms of the longer-term  
3 load, but with the challenging and countervailing  
4 impact of significant uncertainty relating to the rate  
5 shock magnitude of rate increase, and the reality that  
6 these are mobile elastic customers.

7                   Over the long term, Daymark identifies  
8 conservatism in large industrial load. It may be  
9 overly conservative, in Ms. Kelly's words at slide --  
10 page 100. 101 flags the fact that it's very difficult  
11 to estimate into the future large industrial load.  
12 There's academic literature on this record from  
13 Consumer Coalition Exhibit 37 highlighting that this  
14 type of load is highly elastic and lumpy. It's  
15 challenging to forecast, and that challenge is  
16 compounded by the reality that the 7.9 percent path  
17 does not appear to have been the subject of  
18 conversations between large industrials in preparing  
19 the load forecast. And here's a conversation on slide  
20 101 between Ms. Morrison and Mr. Peters to that  
21 effect.

22                   The uncertainty with the load forecast  
23 is, how will Manitoba consumers, and in particular,  
24 large industrials respond to 7.9 percent or more  
25 particularly, 7.9 percent times six (6)? This is a

1 large increase that hasn't occurred in recent history.  
2 How soon, asks, Ms. Kelly, Will the large industrials  
3 say I'm going to vote. I'm going to vote with my  
4 feet.

5 I appear to have been obsessed with the  
6 subject of multi-collinearity in the course of this  
7 hearing, for which I apologize. I'm not confident I  
8 can even pronounce it properly. Our clients' major  
9 point on this is that while Daymark replete --  
10 repeatedly flags this is as a concern, those concerns  
11 are less relevant for the revenue requirement  
12 purposes, but are of concern for future scenario  
13 planning, especially if they walk down the stochastic  
14 path. We note that generally, while there's some  
15 difference between Dr. Yatchew and -- and Manitoba  
16 Hydro, both Daymark and Dr. Yatchew conclude that the  
17 elasticities developed by Manitoba Hydro are within  
18 the zone of reasonableness.

19 The simple points our client want to  
20 make about multi-collinearity is that it doesn't put  
21 the overall predictive power of the regression  
22 calculation at risk. It doesn't affect the overall  
23 fit of the model or produce bad production --  
24 predictions, as long as the explanatory variables are  
25 consistent, which Daymark confirmed they are.

1                   From our clients' perspective in this  
2 hearing, multi-collinearity is a red herring when it  
3 comes to the claim that the elasticity is  
4 unreasonable, but it is a material issue if Manitoba  
5 Hydro wishes to go to stochastic modelling for  
6 alternative analysis. And if that's the future Hydro  
7 anticipates, than the multi-collinearity issue will  
8 need to be addressed.

9                   There was a fascinating discussion  
10 between Board Member Grant and -- and Daymark about  
11 the essential conservatism of eco -- econometric  
12 analysis and the need to be alive to alternative  
13 analysis, especially in this disruptive climate. And  
14 the advice of Daymark was important, and highlighting  
15 the fact that there are a lot of utilities using  
16 either scenario analysis or stochastic analysis to get  
17 a better feeling for disruption in the marketplace,  
18 whether solar, wind, natural gas, or otherwise,  
19 electric cars, and that's an important long-term take-  
20 away from the conversation with Daymark.

21                   At slide 107, you'll see my dogged  
22 attempts to pin Daymark down. What was their ultimate  
23 conclusion on load? And Ms. Kelly says, Ultimately,  
24 she thinks it may be a little conservative based on  
25 the magnitude of the difference in the top consumers.

1 I thought I had her there, but she went on to say  
2 she's not completely certain.

3                   So the take-away from our focus on  
4 forecasting is there are substantial reasons to -- to  
5 conclude that in terms of export revenues, Hydro's  
6 forecasts are biased significantly downward. In terms  
7 of load, there appears to be some conservative,  
8 especially as related to large industrials.

9                   The recommended findings on slide 8 I  
10 believe I've captured, but I do want to go to two (2)  
11 specific recommendations from our client. Manitoba  
12 consumers and this Public Utilities Board have been  
13 raising concerns about the integrity of the export  
14 revenue forecast for over half a decade. Prior to the  
15 NFAT, the concern was that it was biased upwards. In  
16 this hearing, the concern is that it's -- the thumb is  
17 on the scale downwards.

18                   Manitoba ratepayers are entitled to a  
19 forecasting methodology related to export revenues  
20 that can be reasonably reliable. Our client believes  
21 that a process to improve the revenue forecasting  
22 methodology should be directed by this Board coming  
23 out of this process. In terms of the load forecast,  
24 our client believes there would be merit in  
25 revisiting and revising the methodology for top

1 consumers, but also going to Dr. Grant's point about  
2 disruptive risks in the future, providing advice back  
3 to the Board on alternative scenarios and alternative  
4 futures after consultation with stakeholders.

5                   Mr. Chair, I'm going to turn to prudent  
6 and necessary expenditures. I anticipate this will  
7 probably take about forty (40) minutes. I'm happy to  
8 keep going, or if you'd like, I -- I see your -- or if  
9 you'd like a -- a short break. It's -- it's totally  
10 up to you.

11                   THE CHAIRPERSON: No, I -- no, I'd  
12 suggest we keep going. Thank you.

13                   DR. BYRON WILLIAMS: Moving to slide  
14 111, I just want to remind the panel of the words of  
15 Ms. Mayhem, whether she, as a consumer, should be held  
16 responsible for financial irresponsibility or  
17 mismanagement. And as Mr. Harper points out at slide  
18 1 -- 1 -- 112, customer tolerances for high rate --  
19 rate increases are influenced by a number of factors,  
20 including the magnitude of the rates, their  
21 expectations regarding inflation. He notes in  
22 Ontario, one (1) of the big problems, which has turned  
23 into a political problem, is that consumers have a  
24 concern that the large increa -- rate increases are  
25 fundamentally problems with the management of the

1 system, which has driven a lot of the adverse consumer  
2 response.

3                   So the question our client -- clients  
4 ask is, How, going to slide 113, Can Manitoba Hydro be  
5 held accountable? We know the answer in a competitive  
6 marketplace, but how, in a mon -- monopoly  
7 environment, where customers have no other choice, can  
8 Hydro be held accountable?

9                   I'm going to start -- break with  
10 tradition and start with our recommended findings for  
11 this section starting on slide 14. First of all, a  
12 shout-out to the treasury branch. There's clear  
13 evidence in this hearing that it is well-managed and -  
14 - and its duties are well-exercised. But our clients,  
15 moving to the second bullet, conclude that while  
16 Manitoba Hydro provides reliable service, it has  
17 failed to demonstrate that it offers economic or  
18 efficient service. And our client, in drawing this  
19 conclusion, rely on a number of core indicia, that  
20 Hydro's expenditures are not demonstrably prudent and  
21 reasonable.

22                   They looked to the benchmarking  
23 undertaken by Boston Consulting Group in particular,  
24 as well as London Economics, which raised the concern  
25 that Hydro is not generally a top quartile or even a



1 second quartile performer. They note Hydro's  
2 suggestion that it has found an ability to reduce over  
3 eleven hundred (1,100) operational positions over  
4 recent years while continuing to claim that it can  
5 provide reliable, quality service.

6                   They observe with regret that  
7 notwithstanding long-standing PUB requests dating back  
8 to 2008 for Manitoba Hydro to modernize its asset  
9 management processes, process benchmarking by both UMS  
10 and METSCO concludes that the management of day-to-day  
11 capital expenditures is not competent and not  
12 consistent with the optimization of the portfolio.

13                   Our client also note with regret  
14 Manitoba's slow pace in terms of acting on kis -- key  
15 sustaining capital management milestones. And they  
16 observe that to the extent that there are belatedly  
17 ongoing improvements in Hydro's capital asset  
18 management, many were not employed for the purposes of  
19 capital expenditure forecast 16. The capital  
20 expenditure forecast 16 that this Board is relying  
21 upon for its rate application, to the extent even that  
22 there have been improvements in capital asset  
23 management, is -- is based on the old system.

24                   In terms of large capital projects,  
25 which was more a focus of MGF, our clients note that

1 the Keeyask contract, with relar -- regard to the  
2 general civil contractor, was highly and use -- useful  
3 -- unusual, and certainly, based on the MGF evidence,  
4 there are grounds to conclude, or at least to be  
5 concerned that Manitoba Hydro may not have been  
6 sufficiently vigilant in 2016.

7           Our clients also recommend that the  
8 Board find that a commitment to cost effective demand-  
9 side management is essential to defer load, reduce  
10 customer bills, and enhance energy efficiency, but  
11 that the Board find that there is a demonstrable  
12 failure to undertake post-NFAT integrated resource  
13 planning, stemming in part from uncertainty related to  
14 Efficiency Manitoba. This raises significant concerns  
15 about the reliability of projected DSM expenditures.

16           Our clients also observe that there has  
17 been -- and ask the Board to find that there's been no  
18 demonstration by Manitoba Hydro of scalable, optimized  
19 DSM spending, given excess load, reduced marginal cost  
20 thresholds, and the flexibility under the newly  
21 proclaimed -- proclaimed Efficiency Manitoba Act, to  
22 make recommendations regarding appropriate targets.  
23 Our clients will talk more about this in section 4,  
24 but they asked the Board to underline in its decision,  
25 and to Efficiency Manitoba through its decision, the

1 importance to invest more in accessibility related to  
2 DSM for vulnerable communities, including all-  
3 electric, low-income, should add tenants and on  
4 reserve.

5           In terms of recommended filing --  
6 findings reg -- regarding the reliability of capital  
7 expenditure forecasts, in terms of day-to-day capital,  
8 sustaining capital, our client finds lit -- recommends  
9 that the Board find little grounds for confidence in  
10 initial project estimates or estimated in-service  
11 adjustments, ISA -- excuse me, on it -- and that the  
12 evidence suggests that on a test year basis, recent  
13 experience suggests it's more likely to be  
14 overestimated than underestimated.

15           In terms of large capital costs, our  
16 clients recommend that there -- the Board find that  
17 there is significant uncertainty related to -- to  
18 Keeyask. Hydro appears unlikely to meet the revised  
19 target of 8.2 billion, and there is -- is some  
20 uncertainty whether the 8.7 billion target is  
21 achievable. Our client also notes the MGF estimates.  
22 In terms of the other projects, our clients'  
23 recommended findings are -- are set out on slide 160.

24           Going back to benchmarking, our clients  
25 are particularly concerned from the results presented

1 by Boston Consulting Group, which were canvassed in  
2 our clients' cross-examination of the Hydro policy  
3 panel around transcript page 502. For a number of  
4 significant activities, Manitoba Hydro ranked in the  
5 fourth quartile. Boston Consulting Group found that  
6 in terms of full-time equivalent positions, it was  
7 benchmarked in the 88th percentile. And in our  
8 conversation with Mr. Shepherd, he said, You have to  
9 dig -- kind of like Mr. Colaiacovo -- beyond the  
10 benchmarks and into the details.

11                   So our client asked him whether Hydro  
12 had undertaken a formal written response or follow-up  
13 to the BCG conclusions regarding benchmarking. And  
14 the answer was no. And perhaps less surprising, there  
15 had been no invite to Boston Consulting Group to come  
16 back to perform future benchmarking exercises.

17                   As set out at slide 118, the partial  
18 benchmarking results of London Economics also suggest  
19 that additional benchmarking exercises might be  
20 valuable. As noted in the second bullet of this page,  
21 the illust -- illustrative analysis of London  
22 Economics suggest that other utilities have maintained  
23 service quality with fewer resources. London  
24 Economics also highlights the UMS conclusions that  
25 some of the key elements of asset management are

1 missing, and that Hydro has not been focussed on  
2 driving improvements in asset management.

3           At slide 119, we canvass a bit of our  
4 discussion with London Economics about benchmarking.  
5 The second bullet makes a key point that if one is to  
6 do efficiency benchmarking, it should be coupled with  
7 quality of service indicators, as you see quite often  
8 done in the United Kingdom, both to incent  
9 productivity, but also to ensure that utilities are  
10 really pushing efficiency improvements rather than  
11 seeking to reduce service quality.

12           The costs of a benchmarking exercise  
13 and the time estimates are set out at the third bul --  
14 the reference provided, the third bullet. And our  
15 client observes that benchmarking may be especially  
16 important given Hydro's allegations it can maintain  
17 services whilst shedding eleven hundred (1,100)  
18 operational positions over recent years.

19           And that's a two (2) edged sword. If  
20 it can actually maintain efficiency by shedding --  
21 while shedding those position, it begs the question,  
22 Why were consumers paying for those positions? But it  
23 does raise the risk of whether Hydro can actually  
24 achieve what it says it can.

25           Our client asked at slide 120, What can

1 we infer from the alleged ability of Hydro to maintain  
2 service quality while eliminating a significant amount  
3 of positions? Unless you do not trust the math of the  
4 Consumers Coalition, we've come up with the -- the  
5 numbers upon which we're relying.

6 I want to turn to the evidence of  
7 METSCO, beginning at slide 121 in terms of asset  
8 management. Why have the Board and the Consumers  
9 Coalition been talking about asset management since  
10 2008? The objective is, in a highly siloed  
11 Corporation, to create a common framework for  
12 investment. The same risk failures, the same risk  
13 management system ensure that everyone's decisions are  
14 being made on the same ground so that the proper  
15 prioritization choices to protect reliability in a  
16 economically efficient manner is done. So that, in  
17 essence, we are comparing apples to apples across  
18 lines of business and operating efficiently, like  
19 modern asset management practitioners have been doing  
20 in New Zealand, Australia, Europe, and increasingly in  
21 North America over the last twenty (20) to thirty (30)  
22 years.

23 This is been a decade-long effort by  
24 the Manitoba Public Utilities Board and Intervenors.  
25 And perhaps eyes rolled at transcript pages 1,343 to

1 1,356 as our client took Manitoba Hydro through that  
2 act -- effort of going back to 2008, but that reality  
3 is important, because there's a credibility issue,  
4 here. Manitoba Hydro has made bold promises for the  
5 next three (3) to five (5) years, a path to  
6 competency. Our client and this Board has tried --  
7 been trying to put Manitoba Hydro on that path to  
8 competency for close to a decade.

9           UMS concluded that Manitoba Hydro was  
10 far below the confidence level and asset management.  
11 And in fairness, there are other North American  
12 utilities that are with it. Although, if you look at  
13 the UMS chart, you'll note that vertically integrated  
14 BC Hydro is in that competent level.

15           Notwithstanding the efforts by this  
16 Board and Intervenors over the past decade, UMS ranked  
17 Hydro at one point five (1.5) out of a scale running  
18 between zero and four (4), somewhere between awareness  
19 and developmental, far below the maturity ranking for  
20 competence.

21           But recall, as Mr. Bakulev, on behalf  
22 of METSCO pointed out, but the UMS ranking does not  
23 apply to CF -- EF16. They were -- UMS, to get  
24 Manitoba Hydro to one point five (1.5) was relying on  
25 Hydro's commitment to incorporate tools such as C55.

1 The utility, they got a one point five (1.5), still  
2 not competent as Mr. Bakulev the points out, is not  
3 the same utility that prepared the capital expenditure  
4 forecast in 2016. That utility is less mature, in the  
5 opinion of UMS.

6 METSCO is a highly credible,  
7 independent presence in this Board. As the Board  
8 would have heard in their discussion of their  
9 qualifications, they've been working with large  
10 generators across -- in Russia, among the largest  
11 distributors in Europe. They have been relied upon by  
12 the Ontario Energy Board, and filed as part of an  
13 exhibit in this record is an example of the cutting-  
14 edge work -- let me back -- let me rephrase that, not  
15 cutting-edge but good practice work that they're doing  
16 for EPCOR, a sterling example of the unrealized  
17 potential within Manitoba Hydro to optimize decision-  
18 making.

19 And we're going to urge this Board to  
20 go back to that exhibit and look at what METSCO is  
21 doing EPCOR to get some sense of what Manitoba Hydro  
22 is not doing for its board, and is not doing for this  
23 -- for the consumers, and is not doing for its  
24 independent regulator.

25 In weighing credibility there is no



1 doubt that Manitoba Hydro engineers know their system,  
2 care about their system, and deliver good reliability  
3 results. But they have not demonstrated that they can  
4 do so in a cost-effective manner that prioritization --  
5 prioritizes the right expenditure at the right time.  
6 And the evidence of METSCO and UMS on that point is  
7 overwhelming, uncontroverted, and compelling.

8                   Mr. Hjartarson, at slide 126 says,  
9 Where's the methodology that guarantees apples to  
10 apples and good management, good prioritization? We  
11 don't see that methodology. We don't see evidence of  
12 it. Do you need more projects that need to be done?  
13 Are you doing the wrong projects? We don't see that  
14 justification for why these projects or these  
15 programs.

16                   And at slide 127 our client have  
17 flagged some of the most critical conclusions of  
18 METSCO, and observe that this is no way to manage  
19 hundreds of millions of dollars in sustaining capital  
20 expenditures. Mr. Balashov concludes that there is no  
21 systematic and consistent way that would allow Hydro  
22 to plan and prioritize across different business lines  
23 or different geographical areas. A direct quote --  
24 quote from Dr. Bakulev:

25                   "No evidence on the record that

1                   would show they have tools to  
2                   understand the impact on  
3                   availability based on the different  
4                   scenarios that they could -- that  
5                   they could have analyzed."

6                   Mr. Hjartarson reinforces the point:

7                   "We're not sure if the spending is  
8                   the actual right spending. Are they  
9                   missing something? Or are they  
10                  overemphasizing something?"

11                  Perhaps most damningly, Mr. Balashov  
12 concludes:

13                  "Manitoba Hydro does not currently  
14                  employ defined quantitative  
15                  thresholds."

16                  Seeking to explore Hydro's  
17 methodologies, METSCO concludes that they're unable to  
18 validate the methodologies that Hydro has employed,  
19 and also to verify the type of computations that they  
20 have employed. Go to Ontario. Go to BC. Look at the  
21 type of information that independent regulators and  
22 consumers, and Hydro's board should be entitled to be  
23 provided by their company. There is no consistent  
24 definition of risk.

25                  If you're looking for internal Hydro

1 support for the conclusions of METSCO, look at -- look  
2 about the comments of maintenance execution. And you  
3 don't need to turn there, but in the supplemental book  
4 of references our clients have looked at a really  
5 interesting assessment from front level, front-line  
6 generation staff expressing their concerns about  
7 Hydro's lack of quality maintenance procedures.

8           A critical issue for regulatory  
9 purposes is our clients' conclusion supported by the  
10 evidence of METSCO that Hydro's estimates cannot be  
11 relied upon for ratesetting purposes. There are two  
12 (2) distinct problems here. The original estimates  
13 are consistently lower than actual costs, as observed  
14 by Mr. Balashov. So that's the overall project cost.

15           But when you look at the in-service  
16 additions actually going online, actually being put in  
17 place, that's where Hydro's overestimating. The  
18 actuals that they're actually spending on, delivering  
19 on, are significantly lower than estimates. METSCO  
20 calculates that in a three (3) year period Hydro came  
21 short of its forecasted in-service additions by 11  
22 percent within major generation and transmission, and  
23 18.4 percent for business operations capital. And  
24 this is -- is in cross-examination by the Board METSCO  
25 -- METSCO confirm the estimates of in-service

1 additions that go into rates are higher -- higher than  
2 the actual work that the utility can do.

3

4 (BRIEF PAUSE)

5

6 DR. BYRON WILLIAMS: Mr. Hacault --  
7 Me. Hacault was like a forensic accountant exploring  
8 Gillam in this hearing. He was like a dog with a  
9 bone. And I was wondering why till we got to this  
10 examination of Mr. Midford. And here's an example of  
11 something going the other way, the Gillam project.  
12 Emblematic of questionable estimating. An initial  
13 project budget 366 million. Now it's down to 225.

14 In Coalition Exhibit 32-1, there are  
15 splendid examples of how modern utilities use capital  
16 scenario analysis and other best practices to assess  
17 their overall portfolio and -- and the appropriate  
18 place in the queue for specific investments. And our  
19 client wants to bring to your attention two (2) very  
20 different approaches.

21 At tab 1 of that book you will observe  
22 the work that METSCO did for EPCOR for the  
23 distribution and transmission folks. And that's  
24 really good practice, very sophisticated, looking at  
25 eight (8) to ten (10) different scenarios in terms of

1 expenditure levels, impacts on the reliability, and  
2 then developing towards the end of that document an  
3 investment queue, a prioritization ranking. So it's  
4 very sophisticated and something that Manitoba Hydro  
5 can only aspire to over the next three (3) to five (5)  
6 years.

7                   But also in that book is something a  
8 little simpler, significantly simpler, but still very  
9 valuable. The Toronto Hydro reliability forecast,  
10 looking at three (3) different scenarios, looking at  
11 smoothing analysis. Still valuable information for  
12 the regulators. So a good practice example in tab 1,  
13 an acceptable practice example in ti -- tab 5, and for  
14 this Board to contrast against the failure of Manitoba  
15 Hydro to present a compelling explanation of what it's  
16 actually doing across these three (3) lines of  
17 business.

18                   We'll note that in terms of capital  
19 expenditure forecast 16, no alternative analysis was  
20 employed, and the corporate value framework was not in  
21 place. On that point, we believe this is a fair  
22 representation of the transcript. I believe the  
23 generation side of Manitoba Hydro took some issue with  
24 that assertion. We do believe this fairly represents  
25 the hearing record.

1                   At slide 133, METSCO highlights that  
2 they have found lividen -- limited evidence of  
3 reliance on asset health and risk data. The good news  
4 being Hydro's assets, due in significant part to  
5 climate, do degrade over a longer period of time than  
6 industry peers. And also, of course, as we've noted  
7 before favourable reliability performance. But as  
8 METSCO pointed out repeatedly, favourable reliability  
9 performance does not mean cost-effective reliability  
10 performance.

11                   Our clients flag at slide 134 their  
12 concerns, and more importantly, METSCO's concerns,  
13 with Manitoba Hydro's less than heroic pace in  
14 addressing capital asset good practice since the UMS  
15 report. METSCO is talking in the first bullet about  
16 documents that were planned to be developed last year,  
17 but haven't been developed and their lack of  
18 confidence in Hydro completing their plans. That the  
19 corporate dashboard in September of 2017 was still not  
20 in place, and that it appears that Hydro has -- does  
21 not -- has not -- it does not appear that Hydro has  
22 developed a formal stance on the twenty (20) UMS  
23 recommendations. Nor has it requested the detailed  
24 information that underlies those assessments.

25                   At slide 136, METSCO flags a pretty

1 fundamental concern about implementing technology  
2 before the roadmap is developed, with the point being  
3 that the tool is being implemented prior to a clear  
4 version -- vision of what are the benefits and -- and  
5 how the tool will be employed in the future.

6 At slide 136, our client highlights a  
7 couple of statements by Hydro itself that have not  
8 alleviated its concerns. There is an important point  
9 at slide 137 that Dr. Bakulev was making. And -- and  
10 I -- our clients worry that it may have been lost in  
11 all the -- all the noise of that evidence. It's  
12 clear, if you go to the EPCOR material, that Hydro's  
13 not going to be there next year.

14 But if you look at the Toronto Hydro  
15 material, the point being made on slide 137 by Dr.  
16 Bakulev and Dr. Yar -- Mr. Hjartarson is that Hydro  
17 still has enough information to do a lot better job in  
18 the short term than what it currently is doing:

19 "I honestly believe -- says Dr.  
20 Bakulev -- based on the depth of  
21 some of the analysis that we have  
22 that you have the data to be able to  
23 develop these tools."

24 And here he's speaking about the tools  
25 for investment prioritization. And Mr. Hjartarson

1 warns about following the mistake of collecting data  
2 first, but he makes the point, going back to the  
3 roadmap that it's important that you have the process  
4 drive so you get the correct information.

5                   So our clients' observations from this  
6 slide is it's not enough to wait another three (3) to  
7 five (5) years, that there are opportunities to do  
8 something in the short term that can give greater  
9 confidence in Hydro's investment process.

10                   In terms of recommendations, METSCO ar  
11 -- articulates the value of milestones in holding  
12 Hydro account -- accountable. And our client note  
13 that the revenue requirement -- requirement might be a  
14 tool not to disallow cost, which is clearly beyond the  
15 Board's jurisdiction, but to the extent that the Board  
16 is dissatisfied with Hydro's progress in day-to-day  
17 asset management, to send a denunciatory signal in the  
18 revenue requirement that the Board requires more  
19 transparency, more accountability, and more efficient  
20 business practices. And even if that signal was small  
21 and not related to any particular asset, it might be  
22 powerful.

23                   Like Boston Consulting Group and London  
24 Economics, Hydro points out that benchmarking --  
25 excuse me -- METSCO points out that benchmarking can



1 add value, and that the unique factors related to  
2 Manitoba Hydro can be adjusted for. That's what good  
3 benchmarking does.

4                   And there was a puzzling question put  
5 by Manitoba Hydro to METSCO in cross-examination,  
6 somehow seemed to imply that as a vertically  
7 integrated company Manitoba Hydro might be less  
8 capable of applying modern capital asset management  
9 tools. And Mr. Hjartarson had a good response to  
10 that, in that the ISO standard applies not only to  
11 utilities, it applies to anybody who manages assets.

12                   Implicit in METSCO's -- in METSCO's  
13 analysis was that insight into day-to-day capital  
14 asset management should provide insight into the  
15 Corporation's broader capabilities in terms of capital  
16 asset management. The expectation is that Hydro would  
17 be better in terms of day-to-day capital asset  
18 management, because it's more regularized. So if  
19 capital asset management processes at the sustaining  
20 level are this challenged, what can we infer about  
21 greenfield project management?

22                   Slide 142 highlights a discussion that  
23 counsel for the Consumers Coalition had with Hydro  
24 witnesses about Hydro's challenges in terms of capital  
25 expenditure forecasts for major projects such as

1 Keeyask, Bipole III, and the Manitoba/Minnesota  
2 transmission line. This is well familiar to the  
3 Board. On these big projects, there's been a  
4 notorious history of underestimation.

5           And a point that our client wanted to  
6 make sure was not lost is -- is that while MGF has  
7 been reporting on Hydro's control budget for Bipole  
8 III post NFAT, the 2014 control budget, there were  
9 significant challenges with the estimate -- estimated  
10 costs for Bipole III that went into the NFAT, which  
11 raises concerns from our clients' perspective about  
12 Hydro's estimating process.

13           Buried ins -- or not buried -- in  
14 capital expenditure forecasts 11 through 13, and  
15 relied upon by the Board in the NFAT, was a  
16 significant underestimate for the Bipole III project,  
17 based upon a high risk rejection of a long-standing  
18 technology. And like most people in this room, my  
19 eyes roll to the back of the head when I have to say  
20 line commutation converter technology and voltage  
21 source converter technology.

22           But here's the point. Line commutation  
23 converter technology, or LCC, involves among other  
24 things synchronous condensers. This is the long-  
25 standing technology, which as Mr. Fogg confirmed,

1 dates back to the '80s, that exists in the  
2 marketplace, and is actually the same approach in  
3 Hydro's current HVDC system.

4                   Yet, the voltage source converter  
5 technology, or VSC, was built into the estimates for  
6 expan -- CEF11 through 13, notwithstanding the  
7 recognition that it added an additional risk factor.  
8 And here's Mr. Fogg candidly saying that:

9                   "I would say that the assumption of  
10                   a voltage source converter  
11                   technology represented risk from the  
12                   standpoint that it was a new  
13                   technology that hadn't be -- been  
14                   executed at that time."

15                   So what happened? Hydro moves away  
16 from this long-standing classic technology, adopts  
17 this higher risk technology, hadn't been executed at  
18 that time. What happened? Lo and behold, and as set  
19 out at slide 144, when the bids came in right in the  
20 middle of the NFAT, the market voted in favour of the  
21 long-standing technology, LCC.

22                   There you see Mr. Fogg's direct quote  
23 in -- in response to my suggestion that:

24                   "The market, spoke overwhelmingly in  
25                   favour of line commutation converter

1 technology. All three vendors did."

2 And what was the largest contributing  
3 factor to the increase in the Bipole III budget post  
4 CEF13? It's closely, intimately related to the  
5 inclusion of the synchronous condensers. So our  
6 client notes a high risk estimating behaviour,  
7 rejecting the classic technology, which Manitoba  
8 ratepayers paid for when the revised -- revised  
9 estimates for Bipole III came in.

10 Turning to Keeyask, and the Board's had  
11 extensive in camera evidence on this, our client has  
12 not had that opportunity. So these are our general  
13 high-level conclusions. Our client observes that the  
14 main driver of the Keeyask \$2.2 billion cost overrun  
15 appears to be related to the general civil contract,  
16 and in particular lower than expected productivity in  
17 terms of earthworks, and in particular concrete.

18 Our client observes as well that this  
19 low productivity was compounded by a perverse  
20 incentive in the contract between the general civil  
21 contractor, Manitoba Hydro, which is explored at  
22 transcript page 1 -- or at PowerPoint slide 146, in  
23 this conversation between Mr. Peters and Mr.  
24 Strongman. Mr. Peters asked what happens when the  
25 profit margin has disappeared. Candidly, Mr.

1 Strongman answers, "The incentive perversably," I  
2 think you meant to say:

3 "Perversely slips. There appears to  
4 be more incentive to drag it out as  
5 opposed to finishing."

6 And Mr. Peters goes on to explore this  
7 conversation further and -- and Mr. Strongman ela --  
8 elaborates:

9 "So the two (2) factors appear to be  
10 an overambitious productivity build,  
11 coupled with a contract with a  
12 perverse incentive."

13 At slide 147, our client recommends and  
14 acknowledges the significant uncertainty with the  
15 Keeyask estimates. And it's challenging for all in  
16 this room, but our clients observe as well that this  
17 summer is critical. And that -- and that, too,  
18 Hydro's evidence appears to be that to get to that 8.7  
19 billion P50 target, it requires another significant  
20 increase in productivity, about 10 percent is our  
21 understanding of the evidence. And if that's the case  
22 then at the end of this construction year, we may have  
23 more confidence in that figure.

24 I guess the point our client is making  
25 is they recognize there's significant uncertainty with

1 Keeyask to a significant degree. It's up to the  
2 general civil contractor and Hydro now. And we have  
3 competing estimates of what a reasonable cost will be,  
4 and that by the end of the construction system, and  
5 even as acknowledged by Hydro, even by September of  
6 2018 that will be a point in which we can have a lot  
7 better insight.

8                   Our client strongly urges that this  
9 Board should have a role in reviewing the Keeyask  
10 control budget at the end of the current construction  
11 season for ratesetting purposes, to remind everyone,  
12 as MGF said, of the importance of holding folks feet  
13 to the fire. And at that point in time we'll also  
14 have better information about the stretch target,  
15 which to our clients understanding include -- of 8.2  
16 billion which includes quite ambitious productivity  
17 improvements of in the range of 30 percent.

18                   In the last section in terms of  
19 prudence, our client wants to talk about demand-side  
20 management and modern integrated resource planning.  
21 And Board members who participated in the NFAT or in  
22 hearings prior to the NFAT will recall that both our  
23 clients and the Green Action Centre were concerned  
24 about a missed opportunity. A missed opportunity to  
25 defer major new capital projects through modern

1 integrated resource planning, and through better use  
2 of demand-side management.

3                   So here we are on the other side of the  
4 NFAT, and in the current rate application, and we've  
5 got some significant challenges. In walking into this  
6 discussion, our client wants to underscore their  
7 continued reliance upon the importance of demand-side  
8 management and on modern integrated resource planning.  
9 And at slide 148 we capture from our clients' cross-  
10 examination of Hydro and MIPUG, or InterGroup, why  
11 this is so important to ratepayers.

12                   Integrated resource planning enables us  
13 to optimize the supply and demand-side mix for the  
14 best interest of consumers, including lowest costs.  
15 It has the potential to defer new load, and for  
16 everyday day-to-day ratepayers it has -- gives them  
17 the ability to better manage the impacts of rate  
18 increases by becoming more efficient.

19                   Repeatedly on slide 148, though, you'll  
20 see we also use the word "cost-effective." Our client  
21 endorses the points made on this page. Our clients'  
22 concern though, turning to slide 149, is that  
23 integrated resource planning at Manitoba Hydro and in  
24 Manitoba is effectively in limbo, pending the  
25 development of Efficiency Manitoba. The 2016 DSM plan

1 was based on estimated marginal cost of electricity of  
2 about seven-point-seven (7.7) cents per kilowatt hour.

3 Hydro points out that that plan in  
4 terms of programs that fit within the total resource  
5 clock -- total resource cost test has not been updated  
6 because it's awaiting Efficiency Manitoba to begin.  
7 Hydro points out that from a planning perspective, it  
8 hasn't conducted a formal integrated resource plan  
9 since the NFAT. And again, it's the issue related to  
10 Efficiency Manitoba and demand-side management.

11 Slide 150 points out Hydro's conclusion  
12 that declining marginal costs may leave some DSM  
13 expenditures currently in its program as uneconomic  
14 under the total resource cost assessment. And at --  
15 you'll see the second bullet, a representation of the  
16 significant drop in marginal cost. And I note on this  
17 page that we've got seven-point-seven (7.7) or seven-  
18 point-nine-four (7.94). I'm not quite sure why that  
19 discrepancy is.

20 But the point is that marginal costs  
21 have dropped a lot, and there are issues relating to  
22 Hydro's methodology in estimating these costs,  
23 suggesting that it is actually more likely than not  
24 that they are still -- its marginal costs are still  
25 overestimated. And you'll see both Mr. Peters's



1 cross-examination of this point, as well as the  
2 Consumer Coalition and the references on the  
3 transcript at slide 150.

4 And as Ms. Morrison points out:

5 "If you're using five-point-seven  
6 (5.7) and reassessing individual  
7 programs they would possibly no  
8 longer be cost-effective under the  
9 total resource costs. But t Hydro  
10 is not there right now. We aren't  
11 assessing programs at this point in  
12 time because -- because of the  
13 issues related to Efficiency  
14 Manitoba."

15

16 (BRIEF PAUSE)

17

18 DR. BYRON WILLIAMS: From the  
19 perspective of cost-effectiveness, going to slide 152,  
20 excuse me, a review of DSM targets may be required.  
21 Our clients drawn no conclusions. Our clients remain  
22 firmly committed to integrated resource planning and  
23 to ensure that in the future planning is not biased  
24 against demand-side management. But they note the  
25 material upward pressure on rates and the observations

1 of Dr. Yatchew that when you've got lots of excess  
2 capacity and the marginal cost of producing  
3 electricity is low, very low, then it's more  
4 challenging to justify expenditures. Mr. Bowman, at  
5 slide 150, concludes that the current approach to DSM  
6 planning is not consistent with integrated resource  
7 planning.

8                   Mr. Chair, I'd like your permission --  
9 I'm going to go through the next couple slides and I'd  
10 like your permission to step down just for a health  
11 break for five (5) -- five (5) minutes after slide  
12 156.

13                   THE CHAIRPERSON:     Certainly.

14                   DR. BYRON WILLIAMS:     Where was our  
15 client going in terms of its overall rate  
16 recommendation? There's been a lot of talk in this  
17 hearing about a zone of reasonableness. Our clients'  
18 zone of reasonableness in terms of the range of  
19 reasonable rate increases is nowhere near Hydro's  
20 recommended seven-point-nine (7.9). Our zone of  
21 reasonableness is guided by Mr. Colaiacovo's  
22 suggestion of 3 percent to 4.5 percent. Mr. Harper's  
23 recognition of 4.34 percent is an upper bound,  
24 assuming Hydro's estimates are reasonable and  
25 management is prudent, and the more did narrow zones

1 advocated by Mr. Bowman of three-point-three-six  
2 (3.36) to three-five-seven (357).

3                   Our clients are also guided by the  
4 ratepayer message of the need for accountability. And  
5 so our clients have adopted a working range of 2.95  
6 percent to 3.5 percent. The upper bound would be in  
7 recognition of risks related to Keeyask capital costs.  
8 The lower bound, slightly below Mr. Colaiacovo's, is  
9 consistent with our clients' belief that there is a  
10 need to send an accountability message.

11                   Our client ultimately has selected 2.95  
12 percent. I will not take the board there, but I do  
13 want to note at tab 11 of the Consumer Coalition  
14 supplemental book of reference documents, you'll see a  
15 mathematical path that the client followed in coming  
16 to 2.95 percent. I do not want to pretend that that  
17 mathematical path is how they ultimately reached their  
18 decision. That accountability message was very  
19 important to our clients, but it is something that  
20 guided the clients' observations.

21                   Slide 155 has some general additional  
22 recommendations, apart from the recommendation of a  
23 2.5 percent revenue requirement rate increase for  
24 '18/'19. One (1) consistent with recommendations by  
25 the Board in prior proceedings, and with Mr. Forrest

1 in this hearing, is that the PUB be given oversight,  
2 statutory oversight, of major capital projects as well  
3 as sustaining capital.

4 Two (2), that METSCO's recommendations  
5 regarding sustainment, including as they relate to  
6 public participation, and including a range of  
7 scenarios, be adopted. And we understand those to  
8 include that Manitoba Hydro in the short-term could  
9 move to portfolio scenarios using a balanced  
10 scorecard. In the long-term become competent and more  
11 analogous to EPCOR. And that there should be public  
12 participation in the choice of scenarios.

13 Consistent with the recommendation of  
14 METSCO and London Economics. as well as with the  
15 observations of Boston Consulting Group, our clients  
16 believe that there needs to be a major effort put  
17 towards benchmarking, both for efficiency reasons, but  
18 also relating that to service reliability objectives.

19 And finally, noticing the reality that  
20 integrated resource planning appears to be in a state  
21 of limbo in this province related to Hydro that there  
22 be a working group on integrated resource planning,  
23 including stakeholders, Efficiency Manitoba, and  
24 Manitoba Hydro.

25 And, Mr. Chair, if I could just stand

1 down for five (5) minutes.

2 THE CHAIRPERSON: Dr. Williams, I'm  
3 wondering if you want to stand down or would you  
4 prefer to have the lunch break and conclude after  
5 lunch?

6 DR. BYRON WILLIAMS: I'm subject to  
7 the Board's will. I -- I -- it would be helpful to  
8 conclude over lunch, but I -- I'll -- I'll work with  
9 the Board's schedule.

10

11 (BRIEF PAUSE)

12

13 THE CHAIRPERSON: Sorry. We have --  
14 we have a -- sorry, Ms. Ramage...? Okay. Did you say  
15 it would be helpful to conclude now or after --

16 DR. BYRON WILLIAMS: I -- I would  
17 prefer to take the lunch break, but I'll work with the  
18 Board.

19 THE CHAIRPERSON: Yeah, so would we.

20 DR. BYRON WILLIAMS: I'll take the  
21 hint.

22 THE CHAIRPERSON: We'll break for an  
23 hour.

24

25 --- Upon recessing at 12:10 p.m.

1 --- Upon resuming at 1:13 p.m.

2

3 THE CHAIRPERSON: So we'll finish with  
4 -- with Dr. Williams, first and then we'll deal with  
5 Mr. Hacault.

6

7 CONTINUED BY CONSUMERS COALITION:

8 DR. BYRON WILLIAMS: Thank you and  
9 we're -- we're at about slide 157. It may -- may seem  
10 like it's longer. Part 4 in terms of a just and  
11 reasonable rate design. And struggling with the issue  
12 of how should the overall revenue requirement be  
13 reflected in rates for different classes of consumers.

14 And we're not going to get to our  
15 ultimate recommendations, but these are elements of  
16 kind of the core findings that our client has -- has  
17 developed. When they look at the issue of whether  
18 there should be differential rates by class, one of  
19 the -- they -- they look at it from a variety of  
20 perspectives, the first being, embedded costs, rates  
21 are designed to recover embedded costs of Manitoba  
22 Hydro. But al -- so -- also from an efficiency  
23 perspective from -- from the perspective of marginal  
24 costs and also on an idea introduced by METSCO in  
25 their evidence just relating to the reliability

1 premium, and hopefully I can do justice to METSCO's  
2 observations there.

3 Just focusing on embedded costs and the  
4 output from the cost of service study, I think it's  
5 common ground that there's a significant amount of  
6 judgment in terms of cost of service studies when one  
7 is allocating massive joint costs. They're also data  
8 limitations.

9 The evidence has shown that in terms of  
10 zones of reasonableness to account for the imprecision  
11 in cost of service studies, the most common employed  
12 by Canadian regulators are 90 to 110 or 95 to 105.  
13 Depending upon whether you prefer the opinion of Mr.  
14 Bowman or Mr. Harper, our clients obviously prefer  
15 that of Mr. Harper. Residential currently stands at  
16 94.8. I think Mr. Bowman would say 93 something.

17 The important point is that Bipole III  
18 is coming as is Keeyask and, certainly, res -- the  
19 residential class will be well within the zone of  
20 reasonableness with Bipole III coming online. Given  
21 that, given its current standing at or near the  
22 current zone of reasonableness of 95 to 105, and with  
23 Bipole III coming online, our clients will recommend -  
24 - observe that there is no basis for a  
25 disproportionately higher rate for the residential

1 class.

2                   They also note that in terms of looking  
3 at marginal costs, certainly, the estimates of Mr.  
4 Harper and others from an efficiency perspective,  
5 there is no basis to impose differential rates on  
6 residential customers as they tend to be significantly  
7 above the -- in -- in that regard.

8                   The final note relates to METSCO and  
9 in our supplemental book at tab -- it's at tab 7, page  
10 34, there is a slide presented by METSCO and on the  
11 right-hand side, it looks at interruption costs and  
12 the point is, I understand this being made by METSCO  
13 just at a high level, is that while we all depend on  
14 Hydro's reliable service, METSCO's general conclusion  
15 -- this isn't related to Manitoba Hydro specifically,  
16 but that is, the reliability of service is  
17 significantly more valuable to larger and small  
18 commercial and industrial operations as compared to  
19 residential customers.

20                   And the inference our client took from  
21 that is, to a certain degree, built into their rates  
22 is a reliability premium, which is more valuable to  
23 other customers. Our clients by no means suggest that  
24 this is determinative but it's another interesting way  
25 to look at the issue which I think can help guide us



1 in -- in future.

2                   Turning to slide 159, we'll get into  
3 energy poverty in a -- in a few minutes, but our  
4 clients recommended findings here, is that there are  
5 ample grounds to conclude that the best defence  
6 against energy poverty is a lower overall rate  
7 increase, coupled with effective social benefit  
8 programs. That conclusion they draw from the evidence  
9 which I'll go into detail later.

10                   Our clients conclude, perhaps not  
11 surprisingly, that whether the rate increase is 7.9 or  
12 3, it will tend to increase energy poverty, but that  
13 the 7.9 percent rate path has far greater  
14 implications. I'm not going to take the Board there,  
15 but I do want to note that in the supplemental book of  
16 references, tab 10, is a really thoughtful argument  
17 prepared by my colleague Ms. Dilay; an overarching leg  
18 -- look at the legal issues related to this hearing,  
19 including the question of whether the Board has  
20 jurisdiction to impose differential rates based upon  
21 income. So time does not permit a review of that in  
22 the course of this oral argument, but I would  
23 recommend that to my -- to the Board's reading.

24                   But our client does conclude that the  
25 Board has jurisdiction to implement a bill assistance

1 program should it -- whether or not it should choose  
2 to exercise that discretion is another thing.

3           In terms of its recommended findings,  
4 our clients conclude that a bill assistance program  
5 would benefit those who are eligible and here's the  
6 key point and who participate. But they also conclude  
7 that it is highly unlikely that bill assistance will  
8 reach even half of the population eligible to  
9 participate. They'll go into this in more detail, but  
10 they note that the target market in Manitoba is likely  
11 to be more challenging than in programs such as  
12 Pennsylvania, given the existing support to energy  
13 poverty through -- whether through employment and  
14 income assistance or band assistance. These  
15 populations which are relatively more easy to unroll  
16 are already been -- being served to a significant  
17 degree by another program.

18           Our clients observe and are concerned  
19 that to the extent that those who are eligible for  
20 bill assistance do not participate, their risk of  
21 energy poverty will be increased. And in the event  
22 that any -- there is a bill assistance program, and  
23 that it is paid for only by the residential class, the  
24 risk of energy poverty for those who are eligible and  
25 do not participate will be materially increased.

1                   Our clients also recommend a finding  
2 that bill assistance also will tend to harden -- harm  
3 those who are not eligible, including those who lie  
4 just outside whatever line is defined.

5                   Our client would note that there are  
6 important design considerations for bill assistance in  
7 the event that a decision is made to proceed with it;  
8 including the treatment of those in receipt of  
9 government assistance, as well as mechanisms to  
10 enhance participation rates and program delivery.

11                   A natural inference from my clients'  
12 recommended findings is that if bill assistance were  
13 to proceed, it should be supported by all Manitoba  
14 Hydro ratepayers, not just residential, given its  
15 policy objectives.

16                   In terms of rate design, our clients  
17 have asked me to highlight the breath of experience  
18 and insights of their witnesses, starting with our  
19 ratepayer panel; lived experiences, rural and urban;  
20 important insights on rate impacts, smoothing and on  
21 bill assistance and we'll -- we'll have -- flag that  
22 discussion because that was a highly nuanced  
23 discussion. They'll note that the -- apart from the  
24 Hydro folks, the person in the room with the most  
25 experience in terms of rate design is Mr. Harper,

1 given his more than two (2) decades of experience  
2 inside a major Utility which gives him insight into  
3 the administrative challenges. And also the insight  
4 offered by Dr. Simpson, who's been an independent  
5 friend to this Board for many years, both as an  
6 economist and a policy analyst.

7           A point our client wants to emphasize  
8 on these rate design and bill assistance and energy  
9 poverty issues is they did not put forward a panel  
10 that was intended to agree with each other or with the  
11 ultimate positions of the Coalition. You'll note  
12 within the evidence of Dr. Simpson and Mr. Harper  
13 nuances of perspective. When we get to how the  
14 ratepayer panel approached these issues, you'll see  
15 distinct perspectives.

16           That's consistent with our clients  
17 long-term objective of bringing forth a diversity of  
18 opinions from a diversity of different geographical,  
19 social and economic experiences. And it's consistent  
20 with their mandate as community organizations and the  
21 pract -- practical realities they have of interacting  
22 with clients and with stakeholders from across all  
23 regions of Manitoba; none of whom, by the way, our  
24 means tested. Those constituencies and those areas of  
25 interaction include newcomers, seniors, families with

1 employment income and collaborations with schools,  
2 daycares and donors, urban and rural.

3                   Next slide, please. A key message from  
4 this hearing, and certainly from the -- the twenty-  
5 three hundred (2300) voices in this hearing, as well  
6 as the Ontario experience is that there is a growing  
7 need for greater consumer engagement by Utilities.  
8 And Mr. Harper highlighted this point, as do some of  
9 the materials provided in Coalition 32-1, Tab 5,  
10 related to Toronto Hydro. Those innovative measures  
11 of stakeholder engagement, online surveys, focus  
12 groups, quantitative surveys, a variety of tools of  
13 getting consumer input.

14                   And currently in Ontario, as Mr. Harper  
15 noted, Utilities are now mandated to have mandatory  
16 town halls prior to presenting an application to the  
17 Board. They're expected to communicate and, more  
18 importantly, to listen to the clients about what  
19 clients want, what they expect and what their pa --  
20 willing to pay for what they expect. And given the  
21 monopoly status of Manitoba Hydro and the absence of  
22 alternatives for consumers, our clients see this is an  
23 important development.

24                   In terms of energy poverty, there are  
25 many things one could say about the stakeholder

1 engagement panel. A lot of effort was put into it and  
2 -- and, clearly, some value was driven -- derived from  
3 it. But what was clearly missing was engagement with  
4 consumers as opposed to stakeholders.

5                   And on slide 162, you see the fruits of  
6 Ms. Dilay's cross-examination of the Hydro panel in  
7 terms of the things that weren't tested with  
8 Manitobans, with consumers, with regard to energy  
9 poverty. How much maximum income Manitobans should  
10 spend on energy expenditures? Should there be bill  
11 assistance? How much would consumers be willing to  
12 pay? Whether they would consider participating in an  
13 energy affordability program? What would make it  
14 easier to participate in a bill affordability program?  
15 Just a sense of the issues that have not been tested  
16 with Manitobans and of concern to our clients.

17                   I'm going to dance back on slide 163  
18 to a few cost of service issues but we'll move through  
19 these fairly quickly, I expect. When Bipole III comes  
20 on line, our clients would note that it is reasonable  
21 to conclude that no major class will lie below the  
22 lower bound of the zone of reasonableness. And Mr.  
23 Harper points out the need to recognize that the  
24 target will move when Bipole III comes into play, and  
25 move again, when Keeyask comes into play. And there

1 you see the confirmation that residential customers  
2 are at a high level estimated post Bipole III to be at  
3 96.7 in terms of their revenue to cost coverage.

4 Our clients are concerned that at a  
5 time when any rate increase is likely to be  
6 significantly above inflation, interclass revenue  
7 adjustments would compound consumer challenges.

8 And here you have on slide 164 just Mr.  
9 Barnlund can -- can -- confirming my inelegant math  
10 that if one took into account Hydro's 7.9 percent rate  
11 application and coupled with its alternative rate  
12 design proposal, plus Mr. Bowman's time of use  
13 proposal, residential customers, standard customers,  
14 would be very close to that 10 percent benchmark,  
15 Hydro's benchmark for rate shock.

16 Our clients conclude that there is no  
17 case for inverted rates in the current proceeding.  
18 Our clients are in rare accord with Manitoba Hydro on  
19 the purpose of rate design to -- not to decrease  
20 consumption but to encourage efficient consumption.  
21 And given where in -- current rates are, as well as  
22 where the estimated marginal cost of serving  
23 residential customers, as well as the projected  
24 trajectory of residential rates, our clients see no  
25 analytic purpose in inverted rate which for -- which

1 for the upper block would exacerbate the gap between  
2 the marginal cost -- the estimated marginal costs and  
3 the actual rate.

4 I won't spend a lot of time on slide  
5 167 or on Hydro's alternative rate design. I might  
6 spend a couple of slides on it to remind the panel  
7 this was for a -- a differential rate between standard  
8 and all electric and -- and in Hydro's worldview, paid  
9 for out of the residential class.

10 Our clients would note that there is no  
11 cost of service basis for this, either on an embedded  
12 cost basis and no efficient -- efficiency rationale  
13 for this on a marginal cost basis. So if the Board  
14 were to walk down that path, which is still open to  
15 the Board, it would have to be on the grounds of  
16 public policy and public acceptability.

17 And if the Board were to walk down the  
18 path, which our clients do not recommend, they see  
19 little rationale for recovering such a cost  
20 exclusively from other residential customers.

21 Slide 168 makes the point that Hydro's  
22 alternative rate design raises some troubling trade-  
23 offs. It would serve to shield high usage, middle and  
24 high income all electric customers for a proposed rate  
25 increase, along with low income all electric



1 customers. It would also serve to raise rates for a  
2 substantial population of standard low income  
3 customers, in excess of seventy-two thousand (72,000)  
4 estimated by Manitoba Hydro. That's concerning to our  
5 clients.

6                   And on slide 169, you'll see our  
7 clients making the point that low income persons in  
8 standard residential class could pay higher under the  
9 alternative rate design filed by Manitoba Hydro.

10                   Slide 170 makes the point that the rate  
11 application, as our clients have stated previously, is  
12 likely to have a significant impact on Manitoba  
13 consumers. And Mr. Barnlund was quite can -- candid  
14 in acknowledging the hard choices, the reality of  
15 energy poverty and the reality that -- of the choices  
16 it can lead to; taking money from the food budget,  
17 keeping the thermostat at an uncomfortable  
18 temperature.

19                   And our clients would note that any  
20 Hydro rate increase, and certainly a rate shock level  
21 rate increase, will not only raise costs for  
22 ratepayers, it will also raise costs for social  
23 programs. Programs such as employment and income  
24 assistance and band assistance to the degree that they  
25 support recipients, their costs will increase as well.

1                   The ratepayer panel tell -- testified  
2 powerfully to the rate impacts of -- of the projected  
3 Hydro rate increases: The -- the young farm family;  
4 the tenants of Mr. Mazier, Ms. Mayham, a single parent  
5 working in Winnipeg, retired persons, both in rural  
6 and urban Manitoba, or Ms. Trudeau, a young working  
7 woman struggling to pay her bills and support her  
8 parents.

9                   And you see Lyndie Bright on slide 171.  
10 Lyndie Bright who's just beginning to escape from  
11 poverty leaving welfare and moving to a pension,  
12 talked about the choices she makes in an urban  
13 environment; lowering the heat, the things she doesn't  
14 use. And single parent Ms. -- Ms. Mayham talked about  
15 having to dig deeper into her food budget, the hard  
16 choices she and her children make when they're --  
17 experience any cost pressures but, in particular, cost  
18 pressures three (3), four (4) times the rate of  
19 inflation.

20                   Our clients think there's been a very  
21 good discussion about energy poverty in this hearing  
22 and while they not -- we may not come to total  
23 agreement with the Green Action Centre, the Manitoba  
24 Keewatinowi Okimakanak or the Assembly of Manitoba  
25 Chiefs, they appreciate the insight and contribution

1 that they have made to this dialogue and they want to  
2 start by highlighting areas where they believe there  
3 is common ground among all parties to this hearing, or  
4 at least most parties to this hearing.

5           One is that energy efficiency is a key  
6 tool to address energy poverty, not just in the short  
7 term but over time.

8           Two is a recognition that low income  
9 persons, tenants and Indigenous persons living in  
10 remote communities, including on reserve face  
11 disproportionate barriers in accessing energy  
12 assistance program.

13           Three, a recognition shared perhaps by  
14 all in this proceeding, that persons living on reserve  
15 are disproportionately exposed to energy poverty risk  
16 due to substandard housing, a lack of substitutes and  
17 disproportionately vulnerable economic circumstances.

18           Another area of not unanimous but  
19 general agreement is theoretical support for  
20 government action as opposed to Utility action;  
21 whether it's Mr. Chernick, Mr. Simpson, or otherwise,  
22 Dr. Simpson, or otherwise. And obviously one of the  
23 key reasons being the fact that it would be under a  
24 government administered program, the burden of support  
25 would tend to fall on higher income households. But

1 of course, there were doubts expressed by many,  
2 including Dr. Simpson and Chernick, that increased  
3 government action would incur. Although our clients  
4 would note that you'll never know unless you ask.

5                   What has unfortunate in this hearing  
6 and for this, our legal team takes a part of the  
7 blame, is that there's been little examination of the  
8 situation of others living in remote communities,  
9 including Indigenous persons living off reserve and  
10 adjacent to reserve. If you think of Cross Lake  
11 Community Council or Norway House Community Council or  
12 Pikwitonei. And that's an oversight that our legal  
13 team apologizes for, but notes has been conceded by  
14 Mr. Raphals, on behalf of the Assembly of Manitoba  
15 Chiefs.

16                   So energy poverty. How do you fight  
17 it? Our clients start from the premise that the -- a  
18 key driver of energy pov -- poverty is higher rates.  
19 Dr. Mason appears to reach a similar conclusion. This  
20 is from transcript reference page 2818, but you'll see  
21 it elsewhere in his written evidence. I think energy  
22 poverty is primarily driven by increasing costs. Some  
23 of the literature on the record in this proceeding,  
24 for example, Green et al. suggests that the relatively  
25 low levels of energy poverty in Quebec and British

1 Columbia are likely, to some extent, to be the result  
2 of comparatively low electricity prices.

3           The Board will also note on this  
4 record, I didn't provide a reference, but in Dr.  
5 Yatchew's evidence there's a survey of -- of energy  
6 poverty across Canada from a different -- using a  
7 different test but reaching similar conclusions  
8 identifying again, generally, low electricity price  
9 jurisdictions as having lower incidence of energy  
10 poverty.

11           In the NEB survey, the one (1)  
12 exception to that would be Alberta. It's interesting  
13 that there has been no analysis presented in this  
14 hearing considering whether the ratios of energy  
15 poverty are lower in jurisdictions with bill  
16 assistance as compared to similarly situated  
17 jurisdictions without bill assistance.

18           For our client that's an important  
19 question because, as you know, with low participation  
20 rates in these programs, there are collateral adverse  
21 impacts on those not participating and our client  
22 would have welcomed evidence, if there is any, peer-  
23 reviewed evidence on what are the actual impacts in  
24 comparable jurisdictions.

25           A central and ultimately insurmountable

1 barrier to our clients' endorsement of bill assessment  
2 -- assistance is unacceptably low participation rates.  
3 The report of Dr. Mason, as confirmed in cross-  
4 examination by Ms. Dilay, finds that bill assistance  
5 participation rates are low, and that they generally  
6 fail to reach more than half of those who might  
7 benefit.

8                   In cross-examination, the Coalition  
9 took Dr. Mason to information from Peaco, P-E-A-C-O,  
10 near Philadelphia, Pennsylvania, one of the best  
11 ranked Utilities in terms of energy poverty. To  
12 demonstrate the participation rates in their  
13 jurisdiction are less than 50 percent, and notably for  
14 the poorest of the poor, the lowest income customers  
15 in the Peaco territory participation rates at 25  
16 percent; that is gravely concerning to our clients.

17                   By anecdote, Mr. Harper suggested that  
18 participation rates in Ontario, again, appear to be  
19 less than 50 percent. Mr. Harper, who has perhaps to  
20 his regret, many years of lived experience within  
21 Hydro Utilities, highlight some of the challenges  
22 relating to participation. He notes that the annual  
23 participation for Manitoba Hydro's low income DSM  
24 programs is less than 5 percent; that there will be  
25 challenges in requalifying individuals; and also that

1 careful consideration has to be given to those who  
2 already receive benefits for their electricity costs  
3 through social programs. Are we going to be replacing  
4 government assistance with ratepayer assistance? Is  
5 not a good policy choice; if not, how do we  
6 administratively address that issue?

7 Both Dr. Mason and Mr. Chernick  
8 acknowledge that there will be collateral costs for  
9 those who are not eligible or who do not participate.  
10 And it's notable if you go to the third bullet on this  
11 page, that if the Chernick proposals are accepted both  
12 for a low income and for all electric and if the  
13 revenue transfer is restricted to residential, that  
14 would mean a rate increase to residential customers  
15 who are either not eligible or not participating of  
16 about \$.01 cent per kilowatt hour, which is material,  
17 especially when you consider that low income persons  
18 who do not enroll in the program would pay higher  
19 rates.

20 Perhaps most insightful to our panel in  
21 this dialogue, with all due respect to the experts,  
22 was the ratepayer panel. And we've shared with you on  
23 the next two (2) slides the very nuance reaction of  
24 different panelists. So, Ms. Dilay asked Mr. Barton,  
25 the retired police officer living in rural Manitoba,

1 should there be a program to assist low income?  
2 Interestingly, he starts off with sort of divided on  
3 the policy issue but on the personal basis, would you  
4 be willing to pay more? For sure.

5                   Then she had a similar conversation  
6 with Ms. Bright, a low income senior living in  
7 Winnipeg who believes that bill assistance would be  
8 good, a very good thing. Would you be willing to pay  
9 more on your energy bill to support low-income  
10 customers? And, Ms. Lyndie Bright, the person who  
11 runs her house at 65 degrees Fahrenheit, who as you  
12 heard in evidence has to watch every nickel, dime, and  
13 penny, I believe I cannot pay any more.

14                   We'll go to the next slide, slide 179.  
15 You'll see the response of Ms. Mayham, the single  
16 mother living in Winnipeg. Should there be a program;  
17 yes and no. Yes because there -- people need help but  
18 at the same time, whose definition of poverty are we  
19 going to be using?

20                   And that's an issue that our clients  
21 have struggled with greatly and if one thinks of the  
22 reality of Winnipeg Harvest no means testing, the --  
23 the consumers, the -- the food bank users who come  
24 through their door come from a variety of experiences  
25 and who knows in terms of bill assistance will it



1 reach the tenant struggling whose bills are caught --  
2 or who are paid for through their rent. There's many  
3 definitional issues that I think are challenging to  
4 our client.

5                   Mr. Mazier, would you be willing to pay  
6 more? Focusing on transparency, before we get into  
7 this conversation, we've got to know about  
8 transparency. And I would be remiss if -- not -- not  
9 -- to fail to note Ms. Trudeau, who was unanimous both  
10 in her desire for the program and her willingness to  
11 contribute to it.

12                   Dr. Mason makes a suggestion, as  
13 captured at slide 180, that there'd be much closer  
14 cooperation with government programs, both those  
15 supporting those who are -- do not receive paid  
16 employment, as well as rent assist and -- and -- and  
17 other programs for those who are in employment in  
18 terms of enhancing -- making sure that these programs  
19 be adjusted to accommodate energy increases.

20                   A noble suggestion, but our clients  
21 asked a legitimate question: Is there enough  
22 flexibility in existing social program -- programs to  
23 respond to more of the energy poverty issues? We  
24 don't have a conclusion only a question.

25                   What is -- at slide 181, what is

1 greatly concerned -- concerning to our client is the  
2 likelihood of silos when it relates to energy poverty.  
3 If we think of the challenges we already have between  
4 federal government, provincial government, Manitoba  
5 Hydro, charity and throw Efficiency of Manitoba into  
6 the mix, not a bad thing, just saying that complexity.  
7 And then we recognize that -- that clearly energy  
8 efficiency and low rates are two (2) of the key  
9 drivers.

10                   Who's coordinating these folks? Who's  
11 getting these folks in the same room to -- to make  
12 sure that we have a coordinated systemic approach to  
13 energy poverty? And that's a key concern to our  
14 clients.

15                   Our clients also note, by contrast, in  
16 both Ms. Dilay and myself asked some questions of  
17 Hydro about the UK programming, the United Kingdom  
18 programming and what appears to be a more centralized  
19 coordinated approach in that jurisdiction.

20                   Before getting to some final  
21 recommendations, our clients have asked me, with the  
22 greatest of respect, to -- just to respond to a couple  
23 questions that came up in a conversation between Board  
24 Member Grant and Mr. Harper, and one inference one  
25 could have drawn from that conversation was that our

1 clients had a disproportionate focus on Winnipeg or  
2 suburban issues. Our clients believe that that is a  
3 misapprehension and we just simply say that that's not  
4 something they -- they believe can be properly aba --  
5 addressed based on the evidentiary record. They do  
6 anticipate writing to the Board secretary outside the  
7 hearing process after deliberations are made public  
8 just to comment, but after the hearing and the order  
9 have issued.

10                   And it's an oversight that I take  
11 responsibility for as legal counsel in that I don't  
12 think that our team has done a good enough job  
13 explaining our clients' deep ties in urban settings,  
14 but also in rural settings; explaining the role our  
15 clients have taken on payday lending issues;  
16 explaining the institutional makeup of our clients'  
17 boards and stakeholder groups; explaining the  
18 relationship between food banks and Winnipeg Harvest  
19 with food banks across rural northern Manitoba and on  
20 First Nations; explaining the relationship between  
21 Winnipeg Harvest and food support programs in schools  
22 and daycares; and considering both organizations'  
23 reliance on generous donations from rural and urban  
24 Manitoba. So that's my responsibility and my  
25 oversight and I just if -- to the extent that the

1 Board has questions about that, I certainly would  
2 invite them.

3 To finish up the rate design  
4 recommendations, our clients ask the Board to  
5 reconfirm its findings in Order 164/'16; that other  
6 rate-making principles such as efficiency and public  
7 policy will be taken into account in setting just and  
8 reasonable rates.

9 There's been considerable discussion  
10 about contributions to government by Manitoba Hydro.  
11 I expect My Friend Mr. Orle may comment more on this,  
12 but our clients would be supportive of a  
13 recommendation to government that a portion of capital  
14 taxes, water rentals and debt guarantee fee be  
15 redirected back towards extensive MS. DAYNA STEINFELD:  
16 programs for vulnerable communities.

17 And near the end of the hearing in our  
18 clients' cross-examination of Mr. Raphals, we brought  
19 to his attention an Order in Council out of British  
20 Columbia in terms of giving a higher ranking, higher  
21 weighting to benefits aimed at tenants, low income  
22 persons and First Nation and other cooperative housing  
23 in terms of energy efficiency programming and that's  
24 the kind of insightful programming that our clients  
25 think is worthy of consideration.

1                   Our client can live with the zone of  
2 reasonableness either of 95/105 or 90 to 110. They're  
3 certainly not opposed to Hydro's recommendation to  
4 broaden it.

5                   Our clients take the view that inverted  
6 rates are not justified.

7                   Our clients confirm that the Public  
8 Utilities Board, sorry -- they confirm their  
9 understanding that the Public Utilities Board has  
10 jurisdiction to enter -- this says introduce inverted  
11 rates, but it should say that the PUB has jurisdiction  
12 to introduce bill assistance; that is our clients'  
13 understanding and as well articulated in tab 10 of  
14 their supplemental materials, but they do not  
15 recommend it for the reasons set out in the -- these  
16 submissions.

17                   Slides 184 through 188 simply reiterate  
18 the recommendations our clients have made, as well as  
19 confirm their support for a couple of smaller  
20 recommendations Mr. Harper had made. I do want to  
21 draw the Board's attention on slide 186 to -- to just  
22 make clear that while our clients have considered a  
23 range between 2.95 percent and 3.5 percent for the  
24 revenue requirement, they recommend an approved rate  
25 increase of 2.95 percent, in part, because of the --

1 the accountability reasons, but also in part as set  
2 out at tab 11 of our supporting materials, taking into  
3 account opportunities for rationalization relating to  
4 business operations, capital expenditures, adoption of  
5 the Board's directions relating deferral accounting,  
6 and the expectation that export revenues will be  
7 higher than the P50 values.

8 Our clients' reasons for this are set  
9 out extensively both in the oral submissions and at  
10 tab 11.

11 Just to conclude, our clients are  
12 incredibly grateful for the opportunity to participate  
13 in this proceeding. They applaud the efforts by the  
14 Manitoba Public Utilities Board to reach out to  
15 consumers. The payback being twenty-three hundred  
16 (2300) voices, plus enhanced participation as  
17 presentations and -- and thank you for the support  
18 through participant funding or the costs process for  
19 our clients' participation.

20 Subject to the Board's questions, our  
21 clients thank you and wish you good luck on your  
22 deliberations.

23 THE CHAIRPERSON: Thank you, Dr.  
24 Williams. I'll see if -- does the Panel have any  
25 questions? Thank you, Dr. Williams.

1                   Before we ask Mr. Gange to proceed, I  
2 understand there's a request from MIPUG?

3                   MR. ANTOINE HACAULT:     Yes and I'll  
4 apologize on the record for the way I'm dressed. I  
5 wasn't anticipating being here today.

6                   I'll start by saying that I have had  
7 discussions with counsel for Manitoba Hydro and I  
8 understand they are working on whether or not there is  
9 any part of Exhibit Manitoba Hydro 140 which has been  
10 put on the record and when I last spoke to her, she  
11 didn't have a response as to what, if any, portions of  
12 the IFF runs which form part of this response can be  
13 disclosed to -- to others on the public record.

14                  I wanted to clarify by referring to two  
15 (2) other documents which are on the record as to what  
16 we were hoping to be able to get on the public record  
17 and it will be subject to review, obviously, by the  
18 PUB and with further input from Manitoba Hydro but I  
19 thought it might be useful to see how Manitoba Hydro  
20 dealt with a similar request under PUB Manitoba Hydro  
21 round 2, 25(a). They were able to blackout certain  
22 parts of the information in that particular response.

23                  We understand and probably believe that  
24 all of the detailed numbers, apart from the domestic  
25 revenues, which would come from the rate increases

1 might assist somebody in doing a re-engineering or  
2 back calculation. So, when we circulated an email  
3 earlier today, we were not looking for any of the  
4 detail that's leading to the income number. We are  
5 also not trying to insist on an income number or net  
6 negative number that may, and the Board -- and the  
7 Board will know better when it sees the documents also  
8 result in kind of commercially sensitive information  
9 disclosure.

10                   But given all the variables that are  
11 put in the rate runs which don't include -- that --  
12 where include a lot of variables, we were hopeful that  
13 we could at least get something similar to what's on  
14 this exhibit, which would give the even annual rate  
15 increase number.

16                   We were also hopeful that we could have  
17 information on what happens to the equity ratio, so  
18 the financial ratios, which are shown on this  
19 particular example, for equity, capital coverage.

20                   The other thing that would be perhaps  
21 even less information but would be able to be  
22 extracted would be information similar to what's been  
23 disclosed in Manitoba Hydro Exhibit 93. So you'll see  
24 the information is pretty restricted and focused on  
25 this particular table. It takes out the long-term



1 rate increase, so just the number not -- of -- the  
2 percentage. When we hit the 25 percent equity ratio,  
3 the maximum long-term debt, the minimum equity, the  
4 net negative income, without specifying when it occurs  
5 but just the total, and the retained earnings. So we  
6 were hopeful that that wouldn't result in a  
7 detrimental impact on the Corporation.

8                   We fully understand the need to protect  
9 Manitoba Hydro from reverse engineering with respect  
10 to numbers and don't intend to cause any issues there,  
11 but it's pretty difficult for us to come up with rate  
12 recommendations. If these are reasonable runs or  
13 reasonable proxies, we have no idea what that number  
14 might even look like. Thank you very much.

15                   THE CHAIRPERSON: Thank you. Ms.  
16 Ramage...?

17                   MS. PATTI RAMAGE: Yes. Just to be  
18 clear, the -- the -- or the undertaking we're talking  
19 about is a request from Board counsel that was made  
20 off-line on January 28th. It seeks -- it asked  
21 Manitoba Hydro to provide four (4) scenarios, two (2)  
22 are based on Manitoba Hydro update with interim  
23 assumptions, two (2) based on Coalition/Manitoba Hydro  
24 second round 19 and that's critical in this. That  
25 there is a base in each case.

1                   In all cases, Manitoba Hydro is to  
2 assume the inclusion of export capacity and dependable  
3 energy premiums. And this Board has already accepted  
4 Manitoba Hydro's request to treat that information  
5 with CS -- as CSI, simply put, because it will  
6 negatively impact Manitoba Hydro's ability to  
7 negotiate export contracts if counterparties are aware  
8 of those numbers.

9                   So, the problem we're having here and -  
10 - and perhaps I can update, Manitoba Hydro is working  
11 on a redacted response similar to the format that Mr.  
12 Hacault is speaking of on -- and that was found in  
13 PUB/Manitoba Hydro second round 25. The one that's up  
14 in front of you.

15                   But we want to make sure that everyone  
16 understands, you won't get the same kind of  
17 information in the second document as the base now,  
18 when it comes out and -- and -- and I'm getting ahead  
19 of myself a little bit because it would be nice to let  
20 our people get that information together and -- and  
21 file the redacted document but because you have a base  
22 even -- virtually every number in it allows you to back  
23 calculate and get the capacity revenue and premium.

24                   So whereas we disclosed equity ratio in  
25 the base document, if you know what -- if you apply

1 the assumptions that have been requested and you see  
2 what the change is to the equity ratio, you can work  
3 backwards and you will, ultimately, determine what the  
4 -- the capacity value is and the premium is.

5                   So that's the challenge we face but we  
6 are working on providing this redacted version. But I  
7 -- I want to temper expectations in terms of what can  
8 go on the public record at this point when you're  
9 dealing with a base versus, now, adjust that base for  
10 a specific thing.

11                   THE CHAIRPERSON: Do you know when  
12 you're going to see the redacted version?

13                   MS. PATTI RAMAGE: Well, I can tell  
14 you they're working on it right now, but our  
15 challenges -- we are trying to listen to final  
16 argument --

17                   THE CHAIRPERSON: Right and --

18                   MS. PATTI RAMAGE: -- at the same time  
19 and so --

20                   THE CHAIRPERSON: -- and the challenge  
21 that we have with Mr. Hacault is he's putting in final  
22 argument --

23                   MS. PATTI RAMAGE: Right.

24                   THE CHAIRPERSON: -- tomorrow, so that  
25 -- we see there's a timing probably.

1                   The other problem is, the panel hasn't  
2 seen anything.

3                   MS. PATTI RAMAGE:     Right.

4                   THE CHAIRPERSON:    So we're -- we're  
5 sort of looking at a request made in a vacuum. I  
6 mean, we're going to have to take a look later on and  
7 discuss with counsel, but I'm not going to know if  
8 we're in a position to make a decision and especially  
9 if you don't have a redacted version to -- to show M.  
10 Hacault and see if it answers any of his questions.

11                   So the only thing I could suggest is  
12 try and get the redacted version to M. Hacault as  
13 soon as possible. We'll take a look at it, but I  
14 don't think we're going to be moving to a decision  
15 until you've produced a document for him to review  
16 and, you know, we will look at it and if necessary I  
17 guess we'll -- we'll -- let me take that's -- take it  
18 back.

19                   We'll take a look and see what we've  
20 got now. You work on it. I suspect we'll be talking  
21 about this either later today or early tomorrow  
22 morning. If necessary, we may sort of -- make some  
23 minor adjustments to the schedule but we'll -- we'll  
24 take a look at it but I don't know what else -- any  
25 suggestions, Mr. Peters?

1 MR. BOB PETERS: I think, Mr. Chair,  
2 you've -- you've identified the time crunch that the  
3 parties and the Board are under.

4 I did not hear from Ms. Ramage, other  
5 than her -- her financial analysis -- analysts are  
6 working on it. I do not know if there is an estimated  
7 time of providing a CSI version to the Board and  
8 redacted version pub -- publicly. But I'll leave that  
9 to Ms. Ramage, if she can provide any further guidance  
10 at this time.

11 MS. PATTI RAMAGE: I can only say  
12 they're working on it. This is sort of a late request  
13 --

14 THE CHAIRPERSON: Yes.

15 MS. PATTI RAMAGE: -- and, therefore,  
16 they can only do what they can do.

17 THE CHAIRPERSON: Sure, okay. No, we  
18 appreciate that.

19 Mr. Gange...?

20

21 (BRIEF PAUSE)

22

23 FINAL SUBMISSIONS BY GREEN ACTION CENTRE:

24 MR. WILLIAM GANGE: Thank you, Mr.  
25 Chair, members of the Panel. I'd like to thank you

1 for the excellent attention to detail that all of you  
2 have shown throughout this process, and I'd like to  
3 thank my wonderful Learned Friends from Manitoba Hydro  
4 and -- and from Board counsel and everybody else.

5                   This has been a challenging process as  
6 everybody has said to you. We've provided to you our  
7 Exhibit 25, which is our written argument and -- and -  
8 - and Exhibit 26 is on the screen, which is our  
9 PowerPoint presentation. I don't even know that I'm  
10 going to be able to get through the PowerPoint  
11 presentation in one (1) hour but I'll -- I'll do my  
12 best and skip the points that -- that I see as perhaps  
13 not quite as important and -- and leave it and -- and  
14 trust that you'll review the -- the written final  
15 argument.

16                   If we could go to slide 2, Kristen,  
17 thank you. Green Action Centre is a -- is a party  
18 that's been in -- in front of this Board for a  
19 considerable period of time. It used to be called  
20 Resource Conservation Manitoba/Time To Respect Earth's  
21 Ecosystem which from time to time, you will see in --  
22 in previous decisions referred to as RCM/Tree.

23                   And the -- the -- the mantra and the  
24 intention of the Green Action Centre, and its -- its  
25 predecessor organizations has been the same. We

1 recognize that the hydro system is a hugely valuable  
2 resource of relatively cheap, reliable, renewable  
3 power that energizes our lives and enables Manitobans  
4 to lower their climate impacts.

5                   In this hearing, we especially have  
6 focused on the problems of poverty. We understand  
7 that those problems are not going to be solved solely  
8 by Manitoba Hydro nor should they be, but at the same  
9 time, we do believe that Manitoba Hydro has a mandate  
10 and the tools to supply power to meet the needs of  
11 lower income Manitobans.

12                   I'm going to read you a quote:

13                   "Energy affordability for low income  
14 families is very much an issue that  
15 requires more or less immediate  
16 attention in Manitoba."

17                   Please look at the date of that? Board  
18 Order 116/'08 rendered July 29th, 2008. We've been  
19 fighting this battle over and over and over. July  
20 29th, 2008 and we do not yet have an affordable --  
21 affordability plan that has been put forward by  
22 Manitoba Hydro.

23                   In that same ruling 116/'08, the Board  
24 at that time read -- wrote that:

25                   "The Board will direct Manitoba

1 Hydro to propose for Board  
2 consideration as soon as possible  
3 for the coming heating season  
4 that was on July 29th, 2008], but no  
5 later than September 30th, 2008, a  
6 low income bill assistance program  
7 where such a program would occur in  
8 conjunction to and compliant -- and  
9 complement an expanded low income  
10 DSM program."

11 That was the direction that was given  
12 back then. The question that has been raised by  
13 Manitoba Hydro is -- in this -- in every hearing is  
14 the jurisdiction of the Board to create a bill  
15 affordability program. In Board Order 73/'15, the  
16 Board specifically took this issue on, put in its  
17 cross-hairs, and made a ruling. In 116/'08, the Board  
18 said, this Board has the jurisdiction to develop a --  
19 a -- an affordability program.

20 And in -- on 73/'15, the Board  
21 comprised of different individuals, said the same  
22 thing. If we go to the next slide. At pages 29 and  
23 30 of the 19 -- of the 2015 decision, the Board notes  
24 that:

25 "While Manitoba Hydro is regulated



1 on a cost of service basis, Section  
2 26(4) of the regulating act at that  
3 time  
4 regulating act] specifically  
5 authorizes the Board to consider any  
6 compelling policy considerations  
7 that the Board considers relevant to  
8 the matter. In that respect, the  
9 Board's jurisdiction is similarly  
10 brought as that of the Ontario  
11 Energy Board. Subsection 26(3)  
12 further stipulates that the Public  
13 Utilities Board Act applies with any  
14 necessary changes to the Board's  
15 rate setting mandate. As such,  
16 rates are not only required to meet  
17 the requirements of subsection 39  
18 (1) of the Manitoba Hydro Act, but  
19 also must be just and reasonable.  
20 In the Board's view, affordability  
21 is a factor to consider when sitting  
22 just and reasonable rates."

23 And then the fascinating comment and I  
24 think the compelling point that -- that ought to be  
25 giving you guidance:

1 "As such, it is the Board's  
2 intention to evaluate any future  
3 proposals for bill assistance  
4 programs from a comprehensive policy  
5 perspective, rather than through the  
6 lens of jurisdictional constraints,  
7 provided that such proposals fall  
8 within the legislative framework set  
9 by the Manitoba Hydro Act, the Crown  
10 Corporations Public Review and  
11 Accountability Act and the Public  
12 Utilities Board Act."

13 This Board has the jurisdiction to  
14 consider its home statute and the legislation that  
15 gives its authority to regulate Manitoba Hydro. The  
16 Board has previously made its findings regarding  
17 jurisdiction. No party has ever appealed those  
18 findings of the Board. They have never been appealed  
19 by Manitoba Hydro. They have never been appealed by  
20 any of the Intervenors and, as a result, those policy  
21 decisions that have been made by previous Boards  
22 remain the policy of this Board.

23 There ought to be as a central  
24 component of the regulatory process certainty and  
25 predictability of rate-making decisions and of rate-

1 making proc -- policy procedures so that it would be  
2 quite inappropriate, I would say, with all due  
3 respect, for a Board in -- in -- in 2008 and a Board  
4 in 2015 to say, yes, this falls within our  
5 jurisdiction.

6           For no steps to be taken with respect  
7 to that, for no appeal to be taken, for no application  
8 to -- to vary and then for this Board to say, well, we  
9 don't think we have that jurisdiction. Of course, you  
10 have that jurisdiction and -- and as a fundamental  
11 part of the regulatory process, the decisions that  
12 have been made by previous Boards remain the policy  
13 until such time as somebody challenges them. That's  
14 not happened.

15           And My Learned Friends and, again, I  
16 have the highest regard for My Friends from Manitoba  
17 Hydro but an argument was made that -- or pardon me, a  
18 comment was made during argument that no court in  
19 Manitoba has ruled on the jurisdiction of this Board  
20 with respect to affordability.

21           Well, of course, no court has made a  
22 ruling on that because Manitoba Hydro has never  
23 challenged it. It has accepted the Board rulings. If  
24 there was -- if -- if -- if there was to be a  
25 challenge, it's going to come from Manitoba Hydro. So

1 no, there has not been a court challenge. It doesn't  
2 matter because it's never been challenged.

3                   With all due respect, it -- it is our  
4 position that the question of the limitations of the  
5 jurisdiction of the Board ought to be summarily  
6 dismissed. This ought to be an easy one. However, I  
7 recognize that it would be foolhardy on my part simply  
8 to say, oh, the Board's undoubtedly going to accept  
9 Gange on regulatory procedure.

10                   And so, I will attempt to -- to review,  
11 as briefly as I can, within this hour time limit the -  
12 - the relevant provisions. The Crown Corporations  
13 Governance and Accountability Act, Section 25(8) --  
14 25(4) (a) (viii) and (ix) gives to you -- makes -- or  
15 gives you a mandate to say in -- reaching a decision  
16 pursuant to this part:

17                   "The Public Utilities Board may take  
18 into consideration any compelling  
19 policy considerations that the Board  
20 considers relevant to the matter,  
21 and any other factors that the Board  
22 considers relevant to the matter."

23                   So, any compelling policy  
24 considerations or any other factors. If you think  
25 it's relevant, it is relevant. It is difficult for me

1 to conceive of a greater scope of jurisdiction in this  
2 field than that Act provides to you.

3 In none of the other legislation that  
4 we're going to review does it even come close to  
5 giving the regulator the authority and the -- the  
6 authority and the jurisdiction that you have.

7 Let me point out another piece of -- of  
8 the jurisdictional puzzle. Under section 39(2.1) of  
9 the Manitoba Hydro Act:

10 "Manitoba Hydro is authorized to --  
11 to set rates,  
12 review, of course], the rates  
13 charged for power supplied to a  
14 class of grid customers within the  
15 province shall be the same  
16 throughout the province."

17 Those are very specific words, the rate  
18 to be charged to a class must be the same. And if you  
19 remember in the previous decisions and it --  
20 especially in the 73/'15, it talked about setting up a  
21 class of low income customers and that class would be  
22 charged the same rate no matter where you were in the  
23 province. That's very very different than the  
24 legislation in other provinces.

25 So -- I guess I got ahead of myself.

1 73/'15:

2 "The Board does not read the  
3 legislation requirement for postage  
4 stamp rates to prohibit the creation  
5 of a lower income customer class,  
6 provided that no geographic  
7 limitations are imposed on such a  
8 class. Similarly, while subsection  
9 43(3) prevents the co-mingling of  
10 government funds with Manitoba Hydro  
11 funds, it does not prohibit the  
12 creation of a rate class that pays  
13 less than the average cost to serve  
14 such customers."

15 And -- and that, with all due respect,  
16 members of the Board is your jurisdiction. You have  
17 the authority to create a low income class.

18 Now, My Learned Friend from Manitoba  
19 Hydro referred to the Dalhousie Legal Aid Service  
20 case. This case has been reviewed by the Board  
21 previously, and My Learned Friend Ms. Fernandes  
22 expertly pointed out that there is a dissenting  
23 opinion in this case, and there is. There is a  
24 dissenting opinion in which each and every argument  
25 that Manitoba Hydro advances in this case was con --

1 or no, I'm -- I'm sorry -- I'm sorry. I -- I'm  
2 getting ahead of myself. I -- I'm going to go to the  
3 Ontario case before I do that. I'm sorry.

4                   With respect to Dalhousie Legal Aid  
5 Service, in this case, the -- in this case, the court  
6 found that the -- excuse me, the -- the low income  
7 rate that had been designed by Mr. Colton for the Nova  
8 Scotia board did not work. And of course, it did not  
9 work because of section 67(1). All tolls, rates, and  
10 charges shall always, under substantially similar  
11 circum -- similar circumstances and conditions, in  
12 respect of service of the same description, be charged  
13 equally to all persons, and at the same rate. That  
14 Act bound that board in knots.

15                   All tolls, all charges, substantially  
16 similar circumstances, charged equally to all persons.  
17 That isn't anything similar to our Act. It is an  
18 exceptionally restricted Act with respect to  
19 jurisdiction.

20                   Similarity, in British Columbia, Mr.  
21 Colton prepared a -- a low income strategy for the  
22 Intervenors here, the British Columbia old-age  
23 pensioners organizations. And in that case, the  
24 legislation expressly denied the ability to charge an  
25 unduly preferential rate or extend a privilege to a

1 person unless the privilege is uniformly extended to  
2 all persons under substantially similar circumstances  
3 for service of the same description.

4                   So, whereas this Board seized upon  
5 section 39(2.1) to say, Well, our Act talks about a  
6 class of customers; this Act in British Columbia said  
7 that the privilege had to be extended to all persons  
8 under substantially similar circumstances. And the  
9 British Columbia Utilities Commission held that a low  
10 income rate would be in violation of the Utilities  
11 Commission Act, which prohibits rates that are unjust,  
12 unreasonable, or unduly discriminatory.

13                   The other -- Ms. Fernandes also  
14 referred to a -- a case from Alberta, but I can't find  
15 it, so I -- I can't -- I can't make any comment on  
16 that case. But in Ontario, and the Advocacy Centre  
17 for Tenants, Ontario versus the Ontario Energy Board  
18 2008, in that legislation, the Ontario's Act, the  
19 Energy Board Act states that -- that:

20                   "The Board has its jurisdiction in  
21                   approving or fixing just and  
22                   reasonable rates. The Board may  
23                   adopt any method or technique that  
24                   it considers appropriate."

25                   Any method. And the -- the Board



1 itself said, We don't have the jurisdiction to order  
2 rates that are -- are differentiated on the basis of  
3 income. The court -- and this went up to -- on -- on  
4 appeal to the Ontario Supreme Court Divisional Court,  
5 so a -- a three (3) person court, and that court said,  
6 No, when you -- when an Act says that you can use any  
7 method or technique that you consider appropriate, you  
8 have that authority. So their jurisdiction is broad.  
9 Your jurisdiction is broader.

10

11

(BRIEF PAUSE)

12

13

MR. WILLIAM GANGE: Now I'll get to  
14 the point. Ms. Fernandes indicated that there was a -  
15 - a dissenting decision in -- in the Ontar -- the  
16 Ontario -- the Advocacy Centre case. There was. And  
17 the interesting point about that decision is that all  
18 of the arguments that have been raised here were  
19 raised in Ontario and were rejected, so that you can't  
20 say, Well, you know, that the Board didn't consider  
21 'X' or 'Y'. They considered every single point that  
22 could possibly be made, and the majority decision  
23 said, uh-uh, those decision -- those arguments are  
24 wrong.

25

In a subsequent decision, this case,

1 the Advocacy Centre for Tenants, was approved by the  
2 Ontario Court of Appeal, not it -- it -- this case  
3 wasn't appealed to the Court of Appeal. A subsequent  
4 decision came along in the Ontario Court of Appeal  
5 relied upon it. So it's our position that the  
6 decisions of the Board in 116/'08 and 73/'15 are  
7 correct. The legislation empowers the Board to take  
8 into account policy considerations and other factors  
9 that the Board considers relevant to the review of fac  
10 -- rates for services charged by Manitoba Hydro. This  
11 cons -- includes the consideration of the policy  
12 consideration of establishing an affordability program  
13 for low-income customers of Manitoba Hydro.

14 Now, My Learned Friends have also said,  
15 Well, the mandate of Manitoba Hydro does not include  
16 consideration of the -- of availability. Our position  
17 is that, in fact, the mandate of Manitoba Hydro does  
18 include that. And -- and in looking at the leading  
19 case with respect to the jurisdiction of the Board and  
20 Manitoba Hydro, the Consumers Association case, the --  
21 the intent of the legislation is to approve fair  
22 rates, taking into account such considerations as cost  
23 and policy, cost and policy, or otherwise as the PUB  
24 deems appropriate. Rate approval involves balancing  
25 the interests of multiple consumer groups with those

1 of the Utility.

2                   And from our perspective, that's  
3 exactly -- it's exactly right. You have to balance  
4 the interests of multiple consumer groups, and that  
5 includes people that -- from the suburbs. It includes  
6 the energy poor. It includes rural customers. It  
7 includes First Nations people. It includes people  
8 living in the North who live on -- on electrical power  
9 for heat. All of those things have to be dealt with.

10

11   (BRIEF PAUSE)

12

13                   MR. WILLIAM GANGE: The evidence that  
14 -- that is -- has -- has been provided to you -- and -  
15 - and we saw that in material from the Boston  
16 Consulting Group, whi -- which made reference to the  
17 fact that -- that Manitoba Hydro rates are relatively  
18 -- well, not relatively, they are low in comparison to  
19 the rest of Canada. But for the energy poor, they are  
20 high, and they are a burden. So that although the  
21 evidence, from my perspective, establishes that people  
22 can afford a rate increase -- or -- or pardon me, that  
23 some people can afford a rate increase, not all can,  
24 and a significant portion of the residential class  
25 lives in energy poverty and cannot afford a rate

1 increase as proposed by Manitoba Hydro, and cannot  
2 afford a rate increase at all.

3                   When the Board said on July 29th, 2008,  
4 that energy affordability for low income families is  
5 very much an issue that requires more or less  
6 immediate attention in Manitoba, rates were  
7 significantly lower than they are today. And the  
8 Board then was recognizing that there was a problem,  
9 and I am going to suggest that it would be difficult,  
10 after hearing all of the evidence that you have, not  
11 to conclude that there is a significant portion of the  
12 Manitoba ratepayer class that cannot afford the rates  
13 that are currently charged, let alone an increase.

14

15                   (BRIEF PAUSE)

16

17                   MR. WILLIAM GANGE: In 73/'15, when  
18 the Board said that in the future, it would consider  
19 proposals for affordability through the -- through the  
20 len -- through comprehensive policy perspectives  
21 rather than through the lens of jurisdictional  
22 constraints, the Board was acknowledging that the  
23 mandate of Manitoba Hydro does, in fact, include  
24 affordability as one (1) of its issues.

25                   If we can go to slide 21, Kristen,

1 please. Thank you. This issue was acknowledged by  
2 Dr. Simpson, transcript page 4,748 and 49. When -- so  
3 -- so I -- I asked him whether there is an urgency for  
4 low income customers to have something done to assist  
5 the energy poverty problem. And his answer, Assuming  
6 that the two (2) rate increases are significantly more  
7 than the 2 percent benchmark for inflation, yes.

8                   Dr. Mason -- Dr. Mason has a position  
9 as -- that as you know, is -- is counter to the  
10 position that's being advanced by -- by Green Action  
11 Centre, because Dr. Mason testified on -- on -- in  
12 several different portions that in his view, this was  
13 a government responsibility.

14                   I don't disagree with that, but just  
15 wishing that the government would do something does  
16 not make it happen, and in fact, in this case, Dr.  
17 Mason acknowledged that his -- and -- and he had said  
18 in his testimony that his preferred way of dealing  
19 with the poverty issue was similar to what was -- was  
20 undertaken in Manitoba under the Mincome approach.  
21 Fair enough. It's never coming back. And so Dr.  
22 Mason agreed with me that -- that with respect to  
23 energy poverty, Min -- the Mincome approach is off the  
24 table for the foreseeable future.

25                   So what do we do? The bill

1 affordability working group, the alternative rate  
2 design workshop report, further evidence from this  
3 hearing all provided information that, in our  
4 respectful submission, is sufficient for you to  
5 initiate bill assistance to supplement Manitoba  
6 Hydro's existing affordable energy and bill management  
7 programs.

8                   Let me get -- let me say this. The --  
9 the information and the suggestions that we have  
10 provided to you are not perfect. We understand that,  
11 but simply because they are not perfect -- Ms.  
12 Kapitany, are you sure? You stayed pretty -- pretty  
13 free of germs for the majority of this. Well done,  
14 but -- but the end may be near with respect to that.

15                   THE CHAIRPERSON: Did you think maybe  
16 she's just moved by your...

17                   MR. WILLIAM GANGE: Simply because it  
18 is not perfect is not a reason not to do anything.  
19 When we came here in 2008, we brought the evidence of  
20 -- of Steven Weir (sic), and -- and Mr. Weir (sic)  
21 provided a possible way of moving forward. The Board  
22 said, You know, that's fascinating, and it should be  
23 followed through on. Manitoba Hydro, develop a plan.  
24 They didn't do it.

25                   We then came back in 2011/2012 with a -

1 - a fellow that -- I -- I think that it was My Learned  
2 Friend Mr. Williams -- Dr. Williams said was the  
3 rockstar of affordability issues in North America, Dr.  
4 -- Roger Colton. And -- and Mr. Colton came and he  
5 laid out a plan that -- that he was suggesting could  
6 be taken to move forward. The Board was fascinated by  
7 it, and said, It's -- we need more information.

8                   That plan, by the way, is the plan that  
9 was then used by Colorado Xcel, that -- that Dr.  
10 Simpson has said to you was his ideal plan, and it was  
11 implemented by the Colorado regulator, and we had it -  
12 - we had it within our grasp, but it was too hard to  
13 do anything with in a single sitting, and so it was  
14 put off.

15                   So then we came back here in 2015 with  
16 Mr. Colton again to say, Okay. And -- and he learned  
17 something from his previous experience. And he said,  
18 Okay, you know, don't think I'm trying to tell you  
19 what to do, but here's things that you could consider.  
20 And -- and it's up to you guys to make a made-in-  
21 Manitoba plan.

22                   And so the Board said, Okay, let's --  
23 let's take Mr. Colton's advice and -- and develop a --  
24 a bill affordability group. That was nice. It didn't  
25 work. There -- there are -- there was tremendous work

1 done on there, but the end result of that  
2 affordability group was that they were supposed to  
3 come back here and provide to you an affordability  
4 plan. That did not happen. That was a failure. That  
5 was a failure on the part of that group, and even  
6 though it did fabulous work, we still are not much  
7 further ahead.

8

9

(BRIEF PAUSE)

10

11

MR. WILLIAM GANGE: So what we've done  
12 is we've had Mr. Chernick come and design a plan, and  
13 put it into boxes, and put numbers on it. And -- and,  
14 Mr. Simpson said -- or Dr. Simpson said, Yeah, the --  
15 it -- it has a lot of good things about it. It's not  
16 perfect. There's certain things that -- that I --  
17 that I prefer from the Colorado plan. Sure, we -- we  
18 preferred them too, back in 2012, but we didn't get  
19 anywhere.

20

So -- so that Mr. Chernick's plan is a  
21 plan that you can look at, and you can take, and you  
22 can discuss it with your advisors, and you can  
23 implement an affordability plan moving forward. And  
24 if that plan goes into effect and people come along  
25 and say, Well, it's not perfect, then we have a bit of



1 time until the next go round. Use that time to make  
2 it better. It's never going to be perfect, but make  
3 it better.

4 And the only way that you're going to  
5 get down that pathway is if you get on the road  
6 itself. We've been standing at the bus stop since  
7 2008, and that bus seems to be an express bus that  
8 doesn't stop at our stop.

9

10 (BRIEF PAUSE)

11

12 MR. WILLIAM GANGE: So -- so that --  
13 that bus stopped -- Professor Miller tells me, from  
14 his review of the affordability group, something like  
15 twenty-six (26) different jurisdictions, or different  
16 utilities throughout Canada and the United States have  
17 such a plan, and we don't. That's wrong.

18 So and -- and I'm -- I'm going to make  
19 mention of -- of one (1) other point, that in Ontario,  
20 if you read that -- that decision, and -- and the -- I  
21 -- I was examining Dr. Simpson on this point, to a  
22 certain extent, the -- the way that the Ontario plan -  
23 - which, my recollection -- my understanding was also  
24 designed by Mr. Colton -- it -- it went into effect,  
25 and there was a -- a fixed charge that was put on

1 every bill that went to affordability.

2 That met with a certain degree of  
3 displeasure. So what happened? The Ontario  
4 government legislated an affordability plan, because  
5 all of a sudden, the -- the government said, Okay, we  
6 cannot sit on the sidelines on this issue the way that  
7 our government has done, and -- and we've had two (2)  
8 different parties while we've been arguing this point.  
9 And nobody's been interested in taking it on.

10 When -- when Mr. Colton came in 2012,  
11 you may not recall this because you weren't here, but  
12 we -- the howling from the Manitoba Chamber of  
13 Commerce and the Winnipeg Chamber of Commerce was  
14 deafening, saying, How dare you bring in the rockstar  
15 of affordability and make this a suggestion for a rate  
16 increase. And so the government didn't touch it at  
17 all. But if there's something in effect, there is the  
18 possibility that -- that finally, this issue will be  
19 taken seriously by the government. But I don't want  
20 to wait for the government. Let's move forward, and -  
21 - and you have that ability to do so.

22 In -- in our written material -- I'm  
23 now -- well, probably ten (10) minutes shy of where  
24 I'm supposed to be -- we talk about energy poverty,  
25 and -- and I'm -- that -- and -- and we make the point

1 that -- that a major accomplishment of the bill  
2 affordability group was to provide the concepts and  
3 the methods for understanding energy poverty in  
4 Manitoba. And -- and the group arrived at a  
5 definition that energy poverty refers to circumstances  
6 in which a household is or would be required to make  
7 sacrifices or trade-offs that would be considered  
8 unacceptable by most Manitobans in order to procure  
9 sufficient energy from Manitoba Hydro.

10           You've seen the chart that -- that we  
11 have noted, the annual Hydro bill as a percentage of  
12 income. That's been discussed in significant detail  
13 throughout this process. What it is saying is that  
14 energy poverty is going to get worse, and no matter  
15 what you do in terms of the rate increase, whatever  
16 percentage you approve, more people are going to fall  
17 into that category of the energy poor.

18

19   (BRIEF PAUSE)

20

21           MR. WILLIAM GANGE:    At slide 28, we  
22 also referred to the PRA graph -- or pardon me, that -  
23 - I'm sorry -- that this chart came from the -- one  
24 (1) of the IRs, AMC/Manitoba Hydro-2-23(a)(c). And  
25 again, this chart shows a dramatic increase in energy

1 poverty from escalating rates. So the -- the  
2 inescapable conclusion that is in front of you is that  
3 you have a problem. It is going to get worse. Do  
4 something about it.

5                   We accept Dr. Simpson's conclusion that  
6 proposed rate increases represent a long-term problem  
7 for energy problem -- energy poverty that only direct  
8 rate assistance and energy efficiency plans can  
9 mitigate. Dr. Simpson made a number of  
10 recommendations, and -- and, quite frankly, Green  
11 Action Centre agrees and accepts all of the  
12 recommendations that -- that Dr. Simpson has made.

13

14                   (BRIEF PAUSE)

15

16                   MR. WILLIAM GANGE: As Dr. Williams  
17 likes to say, there's a number of short snappers here.  
18 Green Action Centre has for a long time been a  
19 proponent of geothermal solutions, and there ought to  
20 be a strategic priority for Manitoba Hydro and the new  
21 entity Efficiency Manitoba to address the stiff rise  
22 in bills for electric space heat customers by  
23 initiatives that reduce and affordably finance the  
24 capital costs of geothermal systems. Increased  
25 targeting of DSM and switching these customers to

1 geothermal heating would reduce the need for rate  
2 discounts for electrically heated homes.

3 I -- in our -- in our presentation, in  
4 the slideshow, we go on to our recommendations. I've  
5 already gone through those, and so again, I'd ask,  
6 beg, plead with you to -- to review the written  
7 material where we are able to go into greater detail  
8 with respect to those issues. But as I said, our --  
9 our position is that Mr. Chernick has given to you a  
10 pathway, and it's a way to move this -- this issue  
11 forward.

12 We've also referred to the PSCO program  
13 in Colorado. And again, that's the program that I was  
14 referring to earlier, under Xcel Col -- Colorado,  
15 designed by Mr. Colton. If -- if you were to go back  
16 and review his -- his testimony in 2015, it's  
17 fascinating, because he was hired, not by the  
18 regulator, not by an Intervenor, but by the Utility,  
19 by the Utility itself to design a affordability  
20 program. And the reason for that, as he testified,  
21 was it -- it perhaps is -- or amounts to enlightened  
22 self-interest, because he said, Look, if you come --  
23 if -- if a -- if a rate -- a utility comes before a  
24 regulator and asks for an increase, and the energy  
25 poor are coming before the regulator and saying, We

1 can't possibly afford that, the -- the potential  
2 outcome is that the regulator says, That rate increase  
3 is too high.

4                   And so the people in the suburbs, W.S.  
5 Gange, the -- the people and that -- that are -- are  
6 making well above medium income -- perhaps not W.S.  
7 Gange, but that -- that those people who could afford  
8 a rate increase do not pay it. And so the -- the  
9 Utility in that case sought within its interest to  
10 hire Mr. Colton to come and take care of the energy  
11 poor. And yes, it's paid for by those people that can  
12 afford to pay higher rates.

13                   And Ms. Kapitany, you raised an issue  
14 that -- with -- with Mr. Chernick of saying, But --  
15 but some people who are energy poor are not going to  
16 apply. And they -- and -- and is that equitable? And  
17 -- and I'm not sure if you were convinced by Mr.  
18 Chernick's response or not. You grimaced at the time,  
19 and so I thought you weren't. But of course, there  
20 are going to be people that -- that are not going to  
21 take the appropriate steps. And -- and they may pay  
22 more than they otherwise would have. I -- I -- that --  
23 - that's true.

24                   But there -- so there's -- there's a  
25 balancing. If -- if, in the weighing of those scales,

1 if more people are benefitted because they do take  
2 advantage of it, and if we work to make sure that  
3 those people that don't have -- that -- that have not  
4 applied for it have the knowledge and can -- and --  
5 and have the access to this, then we're all better  
6 off. We are all better off.

7                   But -- but there has to be a concerted  
8 effort to make sure that -- that those people that  
9 ought to apply do apply, that those people that have  
10 an ability to benefit, do benefit. And I understand -  
11 - I'm very frequently accused of being Pollyanna, and  
12 -- and I understand -- and I am. But -- but there are  
13 ways and means of trying to limit the damage and the  
14 and -- and most importantly, it's important to limit  
15 the damage as best we can.

16                   So that the -- the Colorado plan that  
17 was favoured by Dr. Simpson is, in our view, an  
18 excellent plan, but it probably and -- and maybe --  
19 maybe two (2) years from now, four (4) years from now,  
20 six (6) years from now, maybe this Board will approve  
21 such a plan, because maybe Manitoba Hydro will see in  
22 its self-interest that it makes sense to adopt  
23 something like this.

24                   But they won't do it if -- if every  
25 time that we come here, they say, There -- you don't

1 have the jurisdiction to -- to make us do this.  
2 That's never going to happen. As we know, over the  
3 last ten (10) years, it hasn't happened even when  
4 you've been saying to them, But we do have the  
5 jurisdiction, and you do have to tell us this.

6

7

(BRIEF PAUSE)

8

9 MR. WILLIAM GANGE: By my count, Mr.  
10 Chair, I have five (5) minutes.

11 THE CHAIRPERSON: I -- by my count,  
12 you have fifteen (15) minutes. I had you down for an  
13 hour, and you started at 2:05.

14 MR. WILLIAM GANGE: 2:05, isn't it  
15 five (5) to?

16 THE CHAIRPERSON: It's ten (10) to.

17 MR. WILLIAM GANGE: Okay. We just --  
18 we're looking at different watches.

19 THE CHAIRPERSON: According to that  
20 clock, so.

21 MR. WILLIAM GANGE: Then thank you.  
22 We talked -- during -- during this process, the issue  
23 of cross-subsidization -- cross-subsidization was  
24 raised, and -- and in particular, there were concerns  
25 that were brought that -- that the cross subsidy --



1 subsidization that would occur if the rate  
2 affordability was spread out over all customer  
3 classes, which is what Mr. Chernick recommends, that  
4 that would violate Bonbright's principles, that it  
5 would violate the cost of services prin -- the cost of  
6 service principles.

7                   And -- and as -- as an Mr. Raphals  
8 noted in his evidence cross subsidization of one (1)  
9 type or another through regulated utility rates is  
10 quite common. We don't like to recognize it, but it  
11 occurs. And the risk of cross subsidization ought not  
12 to be a factor preventing Manitoba Hydro from  
13 implementing of Board -- a bill affordability group  
14 across all customer classes.

15

16   (BRIEF PAUSE)

17

18                   MR. WILLIAM GANGE:    We -- I only heard  
19 a portion of Dr. Williams's argument, but he did refer  
20 to the Consumer Coalition's ratepayer panel and -- and  
21 quoted several of the ratepayers talking about how --  
22 how their rates may go up. Some of them not in favour  
23 of that. But, in fact, our listening to the  
24 residential ratepayer panel, from our perspective,  
25 supported a program that assisted low income

1 Manitobans in paying their electricity bills.

2           And our understanding was that most of  
3 those ratepayers would support an increase in their  
4 own monthly costs of energy in order to assist energy  
5 poor Manitobans. And -- and in some instances, this  
6 was even the case when the ratepayer would likely  
7 qualify as -- as an energy poor person themselves.

8           We recommended that -- we recommended  
9 Mr. Chernick's evidence that the cost of an  
10 affordability program be spread out over all non-LICO  
11 customers. So the -- the consumer classes, the  
12 business classes. And -- and I would point out that  
13 such an approach was also endorsed by Mr. Harper and  
14 was endorsed by Philip Raphals.

15           Manitoba Hydro has raised  
16 administrative issues and Mr. Mason said the same  
17 thing. Mr. Mason said, Gee, this is a -- a -- this is  
18 a big deal. It costs a lot of money to run a program.  
19 Manitoba Hydro doesn't have the expertise. They don't  
20 have the personnel. With -- with all due respect, we  
21 disagree with that perspective. Yes, it -- it is a  
22 big deal. I -- I'm not disagreeing with that, but it  
23 can be done.

24           And in -- in our -- from our view, the  
25 informational deficits are not as great as suggested

1 by Manitoba Hydro and their presenters. Don't forget  
2 that Manitoba Hydro already administers the Affordable  
3 Energy Program. It is based on a LICO-125 criteria.  
4 Manitoba Hydro administers those programs, and  
5 collects information on household income from the  
6 customers who apply.

7 Manitoba Hydro also has available to it  
8 information on household electricity costs. And since  
9 energy poverty is a function of energy costs and  
10 household income, Manitoba Hydro already has available  
11 to it the information that is key to determining  
12 eligibility for an income-based Bill Affordability  
13 Program. There is within Manitoba Hydro an available  
14 database of customer information to begin targeting a  
15 Bill Affordability Program. And from our perspective,  
16 it demonstrates that Manitoba Hydro has the cabili --  
17 capability to collect the information required to  
18 determine eligibility.

19 We also say, and -- and Mr. Cordingley  
20 was here asking questions about the ability of  
21 community groups to assist in the administration, the  
22 enrolment of affordability -- of the affordability  
23 program. And I believe that you heard evidence that -  
24 - that Winnipeg Harvest would be able and would be  
25 willing to take on responsibilities in order to give

1 information to its vulnerable client base, to assist  
2 in filling out applications, and to help those people  
3 that are -- that are within its base to participate in  
4 such a program.

5                   To me, that was an example of thinking  
6 outside the box, and recognizing that Manitoba Hydro  
7 is not necessarily the only party that can reach out.  
8 It could reach out through these community  
9 organizations.

10

11                   (BRIEF PAUSE)

12

13                   MR. WILLIAM GANGE: I'm -- I'm going  
14 to skip forward, Kristen, to page 38, please. I just  
15 want to touch a couple of points with respect to  
16 marginal costs. Mr. Chernick provided calculations as  
17 to the adjustment of Manitoba Hydro's marginal cost  
18 calculation. And according to Mr. Chernick's  
19 calculations current rates are below marginal costs,  
20 which would further support the implementation of an  
21 affordability raised -- rate design.

22                   The big -- well, there are number of  
23 issues that you have to face. And Green Action Centre  
24 has in -- in -- especially in this hearing, attempted  
25 to focus on what it sees as -- as its mandate before

1 you. So we have not -- we've -- we've not been here  
2 every day because we did not want to run up  
3 unnecessary legal expenses and -- and drive up the  
4 cost to Manitoba Hydro of this process.

5           But we do recognize that -- that  
6 perhaps the biggest question that faces you is  
7 determining a level of rate increase. We do not have  
8 a number that we're going to say, We think this is the  
9 appropriate number for you to -- to set. But we do  
10 have a number of issues that are set out in page 29,  
11 30, and 31 of the written argument to -- that -- of --  
12 questions that we believe are -- are things that you  
13 have to consider.

14           And, look, Manitoba Hydro on Monday  
15 raised a number of excellent points to justify its  
16 position. I didn't get to hear Mr. Williams, because  
17 we were getting this finished, but I'm sure that --  
18 that Mr. Williams, Mr. Hacault, Mr. Orle, and -- and  
19 the others will be making very passionate and -- and  
20 sound arguments why that -- that rate increase is not  
21 appropriate. We're neutral on this point, but we do  
22 think that there are issues that you have to consider.  
23 And -- and we hope that the issues that we've raised,  
24 29 to 31, are of assistance to you.

25           In conclusion, I'm just going to say

1 this, that Mani -- that Green Action Centre takes the  
2 position that the Board must take energy poverty  
3 seriously. Ten (10) years of directions from the  
4 Board that require Manitoba Hydro to implement an  
5 affordability plan have been ignored. The only  
6 approach that the Board has not attempted is to -- is  
7 to seize this issue yourselves and to order that an  
8 affordability plan be introduced at the time of the  
9 Board's decision.

10 Mr. Chernick's pathway is there. It  
11 may not be perfect but it's better than doing nothing  
12 as we have done for the last ten (10) years. And if  
13 the plan is implemented Manitoba Hydro, along with  
14 other interested Intervenors and community groups, can  
15 work on improvements for consideration at the next  
16 General Rate Application. Thank you. That's our  
17 presentation. Happy to answer any questions.

18 THE CHAIRPERSON: Thank you, Mr.  
19 Gange. Any questions?

20 BOARD MEMBER GRANT: I think Dr.  
21 Yatchew first mentioned -- questioned the potential  
22 wisdom of a demand-side management and aggressive  
23 demand-side management program at a time when you've  
24 got an abundance of electricity, green electricity,  
25 and you're facing potential large rate increases to

1 pay for that. And then I -- I believe I heard the  
2 Coalition sort of echoing that sentiment this morning.

3 I was wondering if you had any views on  
4 that because, you know, I'm thinking of a difference  
5 of opinion, talking about it at the NFAT at a time  
6 when an issue was postponing new capacity. And now  
7 with this new capacity coming online I'm just  
8 wondering if your view on demand-side management might  
9 be different.

10 MR. WILLIAM GANGE: Would it be  
11 appropriate for -- for Dr. Miller to respond to that  
12 question, Mr. Chair?

13 THE CHAIRPERSON: Certainly.

14 DR. PETER MILLER: Well, I think we're  
15 talking long and short-term. The -- the reason, of  
16 course, for setting those targets came out of the NFAT  
17 and the observation that you could, I don't know, 85  
18 percent of the capacity and energy of Conawapa for  
19 about 8 percent of the cost by DSM investments. So  
20 that -- that set the stage.

21 Now -- so the subsequent government or  
22 the -- or the current government has -- has run with  
23 that. And once they seize on a particular idea,  
24 there's not much adjustment that goes on as -- as  
25 circumstances change. But I think the long-range

1 picture is still correct. And so it has to do with  
2 the pacing of the DSM implementation.

3                   The other thing is, I haven't given up  
4 on -- on success in export sales. And we're looking  
5 at the whole electrification of -- of transportation  
6 in possibly, you know, serious beginning within the  
7 next five (5) or ten (10) years. And that's going to  
8 lap up a lot of our surplus power. So it -- it all  
9 has to do with this lumpy situation and the timing of  
10 things and -- and so on. There's my weas -- weasly  
11 answer.

12                   THE CHAIRPERSON: Mr. Gange, can I ask  
13 you a question? Kris -- Kristen --

14                   MR. WILLIAM GANGE: Yes, you may.

15                   THE CHAIRPERSON: Kristen, can you go  
16 to the screen 23. I think it's 23. There's -- yeah.  
17 In the second bullet on the 1, 2, the third line you  
18 use the word "initiate" bill assistance to supplement  
19 Manitoba Hydro's existing -- the existing programs.  
20 And then, Kristen, can you go the last screen of the  
21 presentation. You recommend that the Board order an  
22 affordability plan be introduced at the time. And  
23 then refer to Mr. Chernick's proposal, and then you  
24 say "if the plan is implemented."

25                   So I guess the question I have is sort



1 of specificity. If the Board decided to order a plan,  
2 there would be, I suspect, considerable work done.

3                   What with Green Action Centre see as  
4 the process? The actual process. Would you see an  
5 order and then a order for a workshop or...

6                   MR. WILLIAM GANGE: So -- so, Mr.  
7 Chair, our -- our intention in slide 23 was to be  
8 consistent with slide 41. So the -- when we say to  
9 "initiate bill assistance," what we meant by that --  
10 and -- and it may be that I wasn't as precise as I  
11 ought to have been in the -- with that -- that phrase.  
12 The "initiate" meant implement a bill assistance plan  
13 with your order.

14                   And what would the process be? From --  
15 from our perspective, Mr. Chernick's plan gives you a  
16 -- a rate design that you could use, with the  
17 assistance of your Board advisors for advice on how  
18 that rate design and would be put into effect. And --  
19 and, yes, there -- there may be all kinds of things  
20 that -- that have to be worked out to make it better.  
21 They can be worked out. Or Manitoba Hydro can apply  
22 to -- can -- can apply to review and vary your order  
23 and say, Well, that's not going to work, but here's an  
24 alternative. But the point that we're trying to make  
25 is that unless you do something, Mr. Chair, nothing

1 will get done.

2 THE CHAIRPERSON: And I guess the  
3 question I have, Mr. Gange, is based on your  
4 recommendation it sounds like you're saying,  
5 Instituted a bill affordability and it needs to be the  
6 Chernick model. Because --

7 MR. WILLIAM GANGE: Well, we did put  
8 two (2) alternates you. But -- but having said that,  
9 we're saying that -- that the Chernick model is coming  
10 to you as a fully functioning process that you can  
11 use, and that Manitoba Hydro could implement. And --  
12 and then we have two (2) years to review it and we  
13 have two (2) years to get information on it. And if  
14 there are -- are deficiencies, those deficiencies can  
15 be corrected.

16 And -- and but we're also saying there  
17 -- there is Chernick's plan. It makes sense, but if  
18 your Board advisors say to you, Well, I would tweak it  
19 this way, or I would change it in this fashion, of  
20 course, you have the right to do that. And if your  
21 Board advisors say, We think that we've got a better  
22 model for -- for following through the -- the  
23 framework that Chernick has set up, of course, you  
24 have the right to have that used as the model.

25 THE CHAIRPERSON: Any questions?

1 Thank you, sir. We -- we're going to take a break  
2 until twenty-five (25) after and then we'll hear from  
3 Mr. Orle. Thank you.

4 MS. PATTI RAMAGE: Oh, Mr. Chairman.

5 THE CHAIRPERSON: Certainly.

6 MS. PATTI RAMAGE: Can I just --

7 THE CHAIRPERSON: Ms. Ramage, yes...?

8 MS. PATTI RAMAGE: -- jump on just  
9 before the break just to move things along?

10 THE CHAIRPERSON: Oh, we have more?

11 MS. PATTI RAMAGE: We have more. I  
12 can give you an update. And that is that our capable  
13 staff, I hope they were still able to listen to Mr.  
14 Gange, but they have prepared a redacted version of  
15 what was filed as Manitoba Hydro Exhibit-140. And I  
16 do want to clarify for the record because something  
17 you had said confused me, but I wanted to check first.  
18 A blue paper copy was filed at 9:30 a.m. this morning.  
19 It obviously didn't reach --

20 THE CHAIRPERSON: Yeah, I understand  
21 it did.

22 MS. PATTI RAMAGE: Oh, okay.

23 THE CHAIRPERSON: But nobody --

24 MS. PATTI RAMAGE: Okay.

25 THE CHAIRPERSON: -- nobody on the

1 panel has seen it. We -- we simply heard about it as  
2 we were walking in at -- after lunch, so.

3 MS. PATTI RAMAGE: Well, there is now  
4 a redacted copy of that and it has been circulated  
5 electronically. And we are suggesting that be noted  
6 as Exhibit Manitoba Hydro 140-1.

7 THE CHAIRPERSON: Okay.

8

9 --- EXHIBIT NO. MH-140-1: MH-140 with redacted IFF  
10 scenarios

11

12 MS. PATTI RAMAGE: Mr. Simonsen will  
13 also be distributing a copy of Manitoba Hydro  
14 Undertaking Number 57, deal with the costs of stopping  
15 Keeyask entirely. We suggest that be Manitoba Hydro  
16 Exhibit 141. And the very good news is unless someone  
17 pulls a fast one (1) on me and asks for something  
18 else, that completes all of Manitoba Hydro's filings.  
19 We've got them all in.

20

21 --- EXHIBIT NO. MH-141: Response to Manitoba Hydro  
22 Undertaking 57

23

24 THE CHAIRPERSON: I'll ask if anyone  
25 has a fast one (1). Ms. Ramage, has a -- has an

1 electronic copy gone to Mr. Hacault of -- of the --  
2 the redacted document?

3 MS. PATTI RAMAGE: Yes, it's --

4 THE CHAIRPERSON: Okay.

5 MS. PATTI RAMAGE: -- it's gone to all  
6 parties.

7 THE CHAIRPERSON: Okay. Thank you.

8 Okay. We will -- you know what? We'll break till  
9 3:30. Thank you.

10

11 --- Upon recessing at 3:14 p.m.

12 --- Upon resuming at 3:32 p.m.

13

14 THE CHAIRPERSON: If we could continue  
15 now. Mr. Orle...?

16

17 FINAL SUBMISSIONS BY MKO:

18 MR. GEORGE ORLE: Mr. Chairman,  
19 members of the panel. My client Manitoba Keewatinowi  
20 Okimakanak appreciates and thanks you for the  
21 opportunity of been -- taking part in these  
22 proceedings. I'd like to begin with a special thank  
23 you to Dr. Williams and his client for including MKO  
24 in their meetings and deliberations with their experts  
25 enable -- to enable MKO to come to a determination as

1 to what position they would be taking on this  
2 particular hearing.

3 Part of the MKO initial position in  
4 applying to intervene was that having opposed the  
5 rates that were being proposed for NFAT, MKO now  
6 needed to be assured that there had been, in fact,  
7 some material change that has occurred since NFAT in  
8 order to justify the rates that were being proposed.  
9 Even the rate being proposed on a one-year basis.

10 MKO satisfied from the information  
11 provided to us by Dr. Harper and the discussions that  
12 we've had and we have adopted the arguments made by  
13 Dr. Williams that, in fact, there has not been a  
14 material change since NFAT. That the same  
15 determinations that were used by the panel at that  
16 time to determine the 3.9 percent increase over a  
17 number years would be sufficient to carry the  
18 Corporation and to protect the customers, ratepayers  
19 are the same today as they were three (3) years ago.

20 Our submission is that a rate of 7.9  
21 percent is not provable -- has not been proved and  
22 ought not to be awarded by the Panel.

23 Our position is that the amount awarded  
24 and discussed during the NFAT hearing of 3.9 percent  
25 ought to be a maximum of any rate that is proposed.

1 We are not taking any position in regards to Dr.  
2 Williams' proposal that there be some kind of  
3 reduction in the rate to show disapproval of what's  
4 occurred at Hydro. We are satisfied with using a  
5 reasonable rate that will go forward for the future  
6 and not deal with the past.

7           Having told you what we are prepared to  
8 accept as a decision by the Board as to a rate, I'd  
9 like to turn my attention to -- what to my clients is  
10 a more important issue and, that is, a form of relief  
11 which they desperately need and want from any increase  
12 in rates that is to be made.

13           In 2014 when this Panel delivered its  
14 decision on NFAT, the Panel deliberately set out that  
15 based upon that rate that there would still have to be  
16 some bill amelioration made for First Nations and the  
17 Panel, at that time, specifically said low income  
18 persons and First Nations. It wasn't a matter of just  
19 low income. It wasn't a matter of just First Nations.  
20 There were certain considerations that had to be taken  
21 into account in how one deals with a rate increase of,  
22 what at that time, was a significant magnitude.

23           And the first slide -- I'm going to  
24 just jump over the first two (2) parts, but the part  
25 that's important is that MKO First Nations are

1 residential ratepayers on reserve, First Nation  
2 governments on reserve are general ratepayers. Almost  
3 all of the energy used for heat is electrical. There  
4 is no gas service. You may have some wood-burning,  
5 you may have some other alternative sources, but in  
6 the main, these are ratepayers who are heating their  
7 homes in the climate that we have here in Manitoba  
8 strictly through electricity.

9           What we will be proposing is a form of  
10 relief that will be specific to MKO First Nations, and  
11 we do this not because we feel that MKO is somehow  
12 special, ought to get special treatment, or in some  
13 way ought to be treated in a way that discriminates  
14 against others. The position is that there is  
15 sufficient basis for dealing with MKO First Nations  
16 separately from other low income ratepayers or from  
17 other First Nation or Aboriginal ratepayers.

18           Begin with the question of: What's the  
19 meaning of equitable in a rate setting? It appears  
20 that Manitoba Hydro believes that equitable means  
21 equal, and that all ratepayers must be treated  
22 equally. MKO believes that equitable has a broader  
23 meaning and takes its context from what is fair in the  
24 circumstances.

25           MKO believes that equitable, as it



1 relates to MKO ratepayers, is governed by the policy  
2 and direction set out in the Path To Reconciliation  
3 Act. This Act was proclaimed in 2016. It wasn't here  
4 when we dealt with NFAT. It wasn't here when we dealt  
5 with the 2015 rate increase, but it has a number of  
6 recommendations and it has certain premises that it  
7 takes into account that government must take into  
8 account. And it's our suggestion that not only  
9 government, but anyone that's dealing with government  
10 or anyone that's dealing with First Nations has to  
11 take a look at what is meant by the Path To  
12 Reconciliation Act.

13                   The first part of it are certain  
14 recognitions; ones that we've heard many times before.  
15 Situated on traditional lands and territories;  
16 recognizing that Manitoba has benefitted and continues  
17 to benefit from the historical relationship and  
18 treaties with Indigenous peoples and Nations.

19                   A recognition of a subject of variety  
20 of abuses that have occurred to First Nations;  
21 recognizing that the Government of Canada has a role  
22 to play in it, as well as the province of Manitoba;  
23 affirming that the Government of Manitoba is committed  
24 to reconciliation will be guided by the calls to  
25 action of the Truth and Reconciliation Commission and

1 the principles set out in the United Nations  
2 Declaration on the rights of Indigenous peoples.

3 In then follows with the basic makeup  
4 of what this particular Act is meant to deal with.  
5 The first part is reconciliation and it defines  
6 reconciliation as referring to:

7 "The ongoing process of establishing  
8 and maintaining mutually respectful  
9 relationships between Indigenous and  
10 nonindig -- and nonindigenous  
11 peoples in order to build trust,  
12 affirm historical agreements  
13 the part that I've emphasize here  
14 is] address healing and create a  
15 more equitable and inclusive  
16 society."

17 That is the meaning that we wish to put  
18 towards equitable. That equitable as it relates to  
19 the manner in which Hydro deals with First Nations is  
20 to take a much broader approach then just saying, we  
21 will treat you equally. Treating equally is not  
22 equitable in all circumstances, and this particular  
23 Act indicates that there are certain things that you  
24 must do in order to have an equitable -- an equitable  
25 society, and it strives to move us towards that which

1 is a recognition that we're not there yet and if we're  
2 not there yet then why are we imposing the same values  
3 all the way across the board. There's more to be  
4 done.

5                   Starting at part 2 of the Act, it talks  
6 about the principles that are to govern and they deal  
7 with respect, engagement, understanding and the last  
8 principle, the principle that my clients feel is the  
9 most appropriate and one that should be taken into  
10 account is action. Reconciliation is furthered by  
11 concrete and constructive action that improves the  
12 present and future relationships between Indigenous  
13 and nonindigenous peoples.

14                   What are the facts that constitute the  
15 inequity which we maintain needs to be resolved?  
16 Number 1, 96 percent of the residents on northern  
17 Manitoba reserves live below the poverty line; 76  
18 percent of children on reserve live in poverty.

19                   MKO ratepayers do not have access to  
20 the most effective method of energy cost reduction  
21 being gas heating.

22                   MKO ratepayers use more energy just  
23 because of the fact that daylight hours and  
24 temperatures are different in their communities than  
25 those in the southern communities.

1 More MKO residents are subject to  
2 electricity cutoffs than the general population.

3 MKO ratepayers are obligated to pay as  
4 part of their Hydro bills, the amount that is paid to  
5 them for mitigation of Hydro work done on their lands,  
6 approximately \$58 million, as stated by Manitoba  
7 Hydro. These are built into all of the rates paid by  
8 ratepayers across Manitoba but it's particularly  
9 offensive that these ratepayers are paying themselves  
10 back for the damage that was done to their lands.

11 When we talk about concrete and  
12 constructive action to deal with these problems, it's  
13 our position that it's more important to look at what  
14 is not action. Not action is having further studies  
15 made. Not action is further payment of consultants to  
16 study more and more ways to solve the problems. Not  
17 action is further hearings to discuss possible action.  
18 And it's not action if you shift the onus to resolve  
19 these issues to different jurisdictions or different  
20 government entities.

21 What does the Public Utilities Board  
22 have available to be able to deal with these issues?  
23 And I'd gone through much of the same analysis that  
24 Mr. Gange did, and I'm not going to repeat it, but  
25 it's very clear that the Public Utilities Board does

1 have much more jurisdiction than what Hydro leads us  
2 to believe.

3                   Number 1, the Board has the ability to  
4 determine what a fair rate and reasonable rate is.

5                   The Board has the ability to provide  
6 for programs for affordability.

7                   And the Board is able to set rates for  
8 separate identifiable -- identifiable classes of  
9 ratepayers, as long as it's not done on a geographical  
10 basis. As a -- as an example of the -- of the last  
11 situation, the Board in its -- itself cited in Board  
12 Order Number 73/'15 that the curtailable rate program  
13 was a program that was already distinguishing between  
14 rates not only between classes, but within that class  
15 itself.

16                   So there -- there is precedent for the  
17 fact that the Board may take a look and take a look at  
18 rates that may be different from those of -- of other  
19 classes or even within the same class.

20                   Part of the problem that we've seen  
21 both throughout the testimony and from -- from pre --  
22 previous hearings is that we seem to be fixated upon  
23 what all the problems are. How can we fix the entire  
24 problem in one shot? It's as though if you can't have  
25 a made-for-all solution, then you disregard any

1 solution that might affect one part or another part.

2 My clients are in an urgent situation.

3 They cannot wait until all of the principles that are

4 going to guide every one of the low income families or

5 any of the problems that may occur in identification

6 are all addressed. It won't happen. It hasn't

7 happened for over nine (9) years, it's not going to

8 happen tomorrow.

9 There's a reason why MKO on-reserve

10 ratepayers can be qualified as either a separate class

11 or be subject to a particular program which will not

12 require fixing all of the areas that are a problem for

13 other low income or other First Nation groups.

14 Qualification of how poor you are. It

15 seems that there is no way that someone can prove that

16 they are poor enough to be able to be eligible for a

17 program. Hydro already qualifies First Nations in the

18 MKO community as being ones that require assistance.

19 In providing their programs, they don't ask MKO

20 reserve ratepayers to produce income statements.

21 They're -- they're eligible for the programs just by

22 applying so you already, again, have a precedent that

23 on First Nations -- MKO First Nations you don't need

24 to have proof that there are people that are qualified

25 to get help that be normally given to low assistance

1 people.

2                   A 96 percent population that lives  
3 below the poverty line really is not going to have a  
4 lot of outliers that you're going to have to be  
5 worried about that someone may take advantage of the  
6 program. Similarly, whether or not you use any  
7 particular definition, whether it's by the Census  
8 Bureau, whether it's by other organizations, the fact  
9 is they're poor. Anyone who's ever been on a reserve,  
10 anyone's who has ever worked with First Nations and I  
11 have, and I've been to many of them and I've spent an  
12 extended periods of time living there. You only have  
13 to look around and you know that there's poverty and  
14 its extensive.

15                   Mr. Shepherd himself talked about the  
16 awful treatment and the awful lifestyles on the  
17 reserves. Do we really need to go through more income  
18 standards, more proof, more analysis of just how much  
19 money they have before they are eligible for a  
20 program. I would submit that there's enough there and  
21 we don't need to worry about that part.

22                   There's been concerns about offsetting  
23 any responsibility to a government at any level  
24 ignores the reality -- sorry, offsetting  
25 responsibility to other governments or to other

1 entities, basically, ignores the reality of what is  
2 happening and it results in nothing being done.

3           Many of you probably won't remember but  
4 there was a comedy duo, Alfonse and Gaston and their  
5 entire routine was that they were so overly polite  
6 that they'd be hurtling towards danger and it would  
7 be, My Dear Gaston, please take the wheel. No, no,  
8 Alfonse, after you. No, after you. Meanwhile they're  
9 sliding towards destruction.

10           Well, that's what's happening with my  
11 clients. Provincial governments say, we'll take care  
12 of this, but that part is supposed to be taken by  
13 someone else. Federal government says, no, we're  
14 supposed to take care of this, but you have to take  
15 care of that. And nothing happens.

16           Saying that the source of the band  
17 funds should be a factor in determining whether or not  
18 they get assistance, frankly, it's a -- it's a  
19 paternalistic and it's an insulting way of dealing  
20 with the matter. First Nations don't get money from  
21 the federal government. They receive money because  
22 they're entitled to it, either under treaty or other  
23 agreements; that money comes to them to use for their  
24 communities and to run their communities.

25           To say that somehow you don't need help



1 because you're getting money from another source;  
2 that's akin to saying to -- to someone, well, we're  
3 not going to pay minimum wage because your father is  
4 very rich and he's helping to support you. You don't  
5 need to be paid. The money goes to them. It is then  
6 determined by them how they use it, and if they use it  
7 for social assistance, they use it for social  
8 assistance. If they use it for food assistance, they  
9 use it for food assistance.

10 But to say that somehow it takes away  
11 the responsibility of the community to look after  
12 these matters and to leave it somehow for -- for the  
13 government to deal with it, that -- that's -- that's  
14 not a proper answer to the question of whether or not  
15 people who are receiving social assistance ought to be  
16 paid their electricity bills by their community.

17 When you hear the phrase, why -- why  
18 should ratepayers pay the government or pay when it's  
19 something that's only going to benefit federal  
20 government or -- or people that are -- are served by  
21 the federal government. The same question can be  
22 turned around. Why should the federal government pay  
23 increased rates for electricity in their communities  
24 when that money is ostensibly being used to increase  
25 the equity of Hydro and to increase the equity of the

1 province of Manitoba?

2                   It's -- it's a good question. Why  
3 should we pay? You're -- you're putting out some  
4 outlandish rates that you're charging our communities  
5 and you're expecting us to pay that on their behalf,  
6 and it's all going towards increasing the equity that  
7 you have in that province, nothing to do with the  
8 federal government.

9                   At the NFAT hearing we heard and it was  
10 set out in the material tab 6 of the MKO NFAT book of  
11 documents, the federal government does not pay all of  
12 the electricity costs. The federal government as part  
13 of the money that they provide set out a budget; that  
14 budget may be the amount that's required for that  
15 particular entry, it may not. In many cases, the  
16 communities found that they did not receive enough  
17 money to pay for certain budget entries. And then  
18 they mix them around and they borrow from this  
19 community fund to pay for this problem. We've seen it  
20 in the housing. They don't get enough money for  
21 housing. They have to get the money from somewhere.  
22 They take it from somewhere else.

23                   To say that the community will not be  
24 affected if they receive less money to pay for the  
25 electrical costs that they have is -- it's not --

1 it's not reality.

2                   This is a group of people that can be  
3 easily identified. It's not a matter of having to --  
4 to go out and find out whether someone is eligible or  
5 not and then track them. They have treaty numbers.  
6 Hydro already indicates that they can track by treaty  
7 number. Hydro also is able to make adjustments to  
8 bills for members that are treaty -- that have a  
9 treaty number. They don't charge them tax because  
10 they're not allowed to charge tax.

11                   So the mechanism is already there. We  
12 know that they are poor. We know that we can identify  
13 them. We know that we can make the adjustments on  
14 their -- on their bills. So why can't we do it? The  
15 concern about, well, maybe you're going to have treaty  
16 people living off reserve and they might take  
17 advantage of it. Well, electricity is metered. You  
18 can't have a meter in Winnipeg and have it shown as  
19 being located in one (1) of the First Nations  
20 reserves. So we already have a way of being able to  
21 determine that, no, this electricity is actually being  
22 used on this particular reserve and it is being used  
23 by this household, that's all trackable.

24                   And if you take the position that this  
25 entire community is eligible for the program, then you

1 don't have to have opting in. You don't have the  
2 problem with participation because the entire  
3 community is automatically put into participation.

4           In terms of what we see as being an  
5 immediate way of dealing with some of these problems,  
6 we see that the Board has the ability that it can set  
7 a rate for MKO ratepayers. It can determine what a  
8 fair rate is. And if that fair rate is the rate that  
9 is currently being paid, then the Board has the  
10 ability to do that. And that's probably the main way  
11 of being able to make sure that these revenue  
12 increases do not further hurt the -- the First Nations  
13 communities.

14           MKO ratepayers provide 1.4 percent of  
15 Hydro domestic revenue; not applying the requested  
16 increase which is at 7.9 percent would result in Hydro  
17 foregoing \$1.6 million, which would have to be  
18 collected from other classes. On almost a billion and  
19 a half revenue is \$1.6 million. Such a heavy burden  
20 to place in order to alleviate this type of problem.

21           I suggest that -- that we've made more  
22 trouble than is necessary in this particular case by  
23 asking, well, who's the other ratepayers that are  
24 going to cover it? Are they able to cover it? How  
25 much more are they going to be paying? \$1.6 million

1 acr -- across all classes would not be a burden and it  
2 would be an immediate solution to this problem. No  
3 more talking; no more dealing. It's a problem; you  
4 deal with it.

5                   It's reviewable on a -- on the same  
6 basis as any other rates are -- are done. If it  
7 appears that it's now too low or that is still too  
8 high, it's always open to this panel or the Public  
9 Utilities Board to make a further adjustment on it.  
10 But it stops the problem right now, today, here.  
11 Without having to go through an awful lot of  
12 complicated machinations.

13                   The Board can, for example, set the  
14 heating bills to reflect the same cost as if the  
15 energy source was natural gas for heating. Hydro's  
16 been able to do it. They had separate meters running  
17 in their Hydro employees' homes on reserves. It's not  
18 a big deal. You can adjust the -- the meters to  
19 reflect a particular rate that is equivalent to gas  
20 and, again, you have an immediate problem that is  
21 solved with a reduction that's no different than  
22 what's being given to people in Winnipeg.

23                   You just assumed that they've got an  
24 electric furnace and you charge them -- I'm sorry, a  
25 gas furnace and you charge them accordingly and that's

1 not unfair. If you say that we're not able to give  
2 you that and we're able to give it to everybody else,  
3 then why can't you deal with a replacement, an equal  
4 program with equal benefits? You could set up an  
5 affordability plan just for the MKO First Nations  
6 based upon the model presented by Green Action in a  
7 matter of -- of making a simple decision as to what is  
8 that first block when it applies to MKO First Nations,  
9 it's not a complicated plan. It doesn't take an awful  
10 lot.

11                   And again, because we know that we have  
12 a -- a specified group, with specified concerns, and  
13 specified problems, it can be dealt with. And what's  
14 more, because it's a smaller group, a very  
15 identifiable group, it could be used as a test model.  
16 There's no reason you couldn't take Mr. Chernick's  
17 model, put it into play as quickly as you could get it  
18 into play, and then monitor it for a year or the two  
19 (2) years that it might be necessary, and see, is this  
20 a plan that we can roll out to the rest of the  
21 Province?

22

23

(BRIEF PAUSE)

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MR. GEORGE ORLE: Hydro can make a

1 calculation of the amount of the new charges that go  
2 upon MKO ratepayers, and they can rebate that amount  
3 proportionally to the First Nations for them to use as  
4 part of their own energy affordability plans. Hydro  
5 already says that it works in conjunction with Band  
6 councils to develop programs in the community. What  
7 would be so different in having the funds identified  
8 given to the community, and say to the community, You  
9 know best how you can deal with energy poverty in your  
10 community. Here are the funds, use them as you need  
11 them within the community. That's an affordability  
12 program.

13                   It's got limits on it also. If we use  
14 the basis of how much revenue they would forgo, we  
15 know that they're going to have a plan. It's going to  
16 be \$1.6 million, and let the First Nations deal with  
17 them. That -- that's not an outlandish plan. It's  
18 very similar to what we have in Manitoba under the  
19 tobacco tax rebate.

20                   First Nations people are not obligated  
21 to pay tax on tobacco. It's a horror to try to track  
22 every pack of cigarettes and determine how much of  
23 that is tax that is been paid by an Aboriginal or a  
24 First Nations person, so what happens is that there's  
25 a calculation made of all of the taxes paid on

1 cigarettes in that community, and then that amount is  
2 then refunded to the community. It's refunded to the  
3 community, to the community itself.

4                   It's not broken down by this person  
5 smokes ten (10) packs a day, or this person smokes a  
6 pack a day. In some cases, the communities divide  
7 these funds up on a per capita basis, recognizing that  
8 this is a tax that is beneficial for the whole  
9 community, and not just to be used for cigarette  
10 smokers.

11                   It's not a big deal. It's all run out  
12 of -- out of the accounting department with the  
13 Province, and all of these numbers are available.  
14 They're available from Hydro. These are plans that  
15 they may not work for everyone, but they're certain  
16 plans that -- that will work for my particular client.

17                   And I'm not setting these out as either  
18 being, You have to do all of them, or you can only do  
19 one (1) of them. There -- there may be a basis of --  
20 of introducing parts of these programs to work in  
21 conjunction with one another.

22

23                   (BRIEF PAUSE)

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25                   MR. GEORGE ORLE: We'd also like a



1 direction as to how to deal with arrears, arrears in  
2 electrical payments made by First Nations. You'll  
3 recall that as part of the hearing, the evidence was  
4 that among the thirty (30) MKO First Nations, there is  
5 no nation that has not got residential electrical  
6 bills in arrears. The lowest amount was 25 percent of  
7 the residents were in arrears on their electrical  
8 bills. The highest community had 80 percent of its  
9 residents had arrears.

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(BRIEF PAUSE)

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MR. GEORGE ORLE: One (1) of our  
suggestions is that Hydro may consider putting  
together a more comprehensive plan on how to deal with  
arrears. They could take a look at arrears that are  
in excess of a limitation date, and have those written  
off; a common accounting matter. Is there any reason  
to keep these -- these bills on for as long as you  
want, knowing that you can enforce them just by going  
and cutting off the electrical whenever you want to?

There should be a limit. There should  
be a time that when you know that you can't collect it  
anymore, get rid of this. Don't leave it hanging as a  
sword over the -- the heads of these communities.

1 Work out some sort of plan that combines repayment  
2 with forgiveness. Set up a plan where there's a  
3 reasonable payment made over three (3) years, and if  
4 the -- the ratepayer complies with it and is up to  
5 date on -- on their arrears, then write off the rest.  
6 You don't need to wring every single penny out of the  
7 communities that you're -- you're dealing with. These  
8 -- these are practical solutions that don't require an  
9 awful lot to have them done.

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(BRIEF PAUSE)

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MR. GEORGE ORLE: I'm not going to  
echo what Mr. Gange said, but he -- he did it quite  
eloquently. We can't just wait any longer. The  
pressure that -- that MKO First Nations are under  
right now, which they were under in -- in 2014, when  
the NFAT was heard, and it was recognized. It was  
recognized in 2015 when we talked about alternate  
plans. They've been talking about having the  
mitigation costs taken out of their bills. I believe  
that one goes back now almost fifteen (15) years, and  
nothing's been done.

People talk about how much these  
hearings cost, and the amount of time and effort that

1 goes through them. But what's the point? What's the  
2 value you get out of it if the recommendations that  
3 come out are ignored, and if you just decide that it's  
4 -- it's not within our scope at this time to deal with  
5 this problem?

6                   There comes a time when the action part  
7 comes in. It's a principal, one (1) of the principles  
8 of reconciliation. Let's take some action. Let's  
9 work towards some good being brought to the people in  
10 these communities, not just the fact that their  
11 resources are the ones that provide all of the  
12 benefits to the Province. They're entitled to a  
13 break. It's not something special. It's recognized  
14 by -- by legislation that there are steps that we have  
15 to take in order to ameliorate some of these problems.

16                   The last item I'd like to speak on is  
17 that I would urge the panel to send a message to the  
18 province. It's a message that we've been trying to --  
19 to get out, the Intervenors, various other members in  
20 the community, but it's not getting through. In 2014,  
21 the Public Utilities Board asked the government if  
22 they would forgo a number of the what I call hidden  
23 taxes, what they call payments to the Province. And  
24 that was made as part of the official response by the  
25 Public Utilities Board, Please reduce these amounts.

1                   And I believe that at that time, if all  
2 of the amounts that were being paid to the government  
3 were put back or forgiven, it would have meant a  
4 reduction of -- I believe it was 1.5 percent in the  
5 rates. That's only increased at this time.

6                   Now, when that report by the Public  
7 Utilities Board was put out, the Minister responsible  
8 publicly in a press conference said, Yes, we will  
9 implement those provisions. That was in 2014.

10                  Now, this wasn't idle chatter, and it  
11 wasn't just a promise being made by -- by a ordinary  
12 person, or just one (1) political party. This was a  
13 pro -- this was a promise made by the government. The  
14 government promised the people of Manitoba that they  
15 would reduce their portion of the -- of the payments,  
16 and they accepted that.

17                  I urge this panel to make clear in  
18 their reasons that they had in the back of their  
19 minds, the knowledge that this had been a  
20 recommendation, and it had been a recommendation that  
21 been accepted. Why hasn't it continued? I'd also  
22 urge the panel to include the information from the  
23 Boston Group, the one that talked about a three (3)  
24 pronged way of dealing with the problems of Hydro, and  
25 it was basically, We'll share the pain.

1                   But everybody shares the pain. Boston  
2 Group said, Province, you need to put some of this  
3 money back. The Premier took that to mean, I am not  
4 going to give a handout to Hydro. That's not what it  
5 was. It wasn't a handout. It was a matter of this  
6 consulting group saying, You can't just put all of  
7 this work on one (1) or two (1) parts of the -- of the  
8 solution. There's three (3) parts in this. There's  
9 Hydro, there's the ratepayer, and there's the  
10 government. It's a three (3) legged stool. If you  
11 cut off a leg, you don't have a stool.

12                   And what needs to be done here is that  
13 this can't be made into a political matter. It's a  
14 matter of good governance within Hydro. Hydro cannot  
15 be expected to divert funds to a purpose that isn't  
16 associated with either the -- the allocation of  
17 electricity, or the production of electricity, and  
18 it's as simple as that.

19                   Those are my comments, unless there's  
20 any questions from the panel.

21                   THE CHAIRPERSON: Do you have any  
22 questions?

23                   Mr. Orle, you -- you made reference to  
24 the -- the Minister who said they would implement the  
25 recommendations of the Board. Do you know who it was

1 and approximately when?

2 MR. GEORGE ORLE: It was within a -- a  
3 month after the report was delivered, and I'm sorry,  
4 Mr. Chairman, I can't recall the name of the -- of the  
5 Minister responsible for -- for the Hydro Board at  
6 that time.

7 THE CHAIRPERSON: Okay. I understand  
8 you represent MKO, but you have any comments or  
9 suggestions in terms of communities -- let me pick on  
10 Pimicikamak, which is a Cross Lake community right  
11 across the street, where you have First Nations people  
12 and non-First Nations people living, but outside the  
13 reserve. How would you deal with that, or?

14 MR. GEORGE ORLE: Mr. Chair, I -- I  
15 have a lot of respect for Dr. Williams and his client  
16 and the manner in which they're -- they're attempting  
17 to deal with the problems of -- of all low income  
18 ratepayers. I think that I -- I would defer to what  
19 suggestions they might have, but my initial reaction  
20 would be that if they're outside of the reserve, then  
21 I don't know to what extent they would be needed to  
22 provide some kind of -- of income statement, or if  
23 there was some other criteria.

24 You -- you may remember that -- that  
25 one (1) of the -- one (1) of the exhibits filed by Dr.

1 Williams talked about how you could access certain DSM  
2 programs in -- I believe it was British Columbia. And  
3 it had certain things that if -- if you were, say, on  
4 welfare, if you were receiving pensions, if you were  
5 on disability or whatever, that you would  
6 automatically be included in that program.

7           And I would suggest that -- that there  
8 be some look at is there something more than a -- a  
9 income tax form that we can use to make a -- a quick -  
10 - quick determination as to whether or not someone's  
11 entitled to a -- a low income program, or -- or a  
12 specific rate? I -- I would think it would be harder  
13 to determine a specific rate for these -- these  
14 parties, and they're not as identifiable as the MKO  
15 First Nations, but certainly for a program, there --  
16 there ought to be some way of building it into that.

17           Now, you'll recall that part of my  
18 presentation on this is that deal with MKO because  
19 it's a manageable amount, and I've calculated the  
20 amount that would be in lost revenue. I can't do that  
21 with -- with any of the other communities, and I can't  
22 give you any information on how that might impact upon  
23 either Hydro's bottom line, or how it might affect  
24 those communities.

25           THE CHAIRPERSON:     Okay.     Finally, Mr.

1 Orle, on December 4th, we addressed the issue of the  
2 settlement agreement, and you said that you would be  
3 going to Manitoba Hydro in a few days. I'm just  
4 wondering if you could put on the record what the  
5 status of that is.

6 MR. GEORGE ORLE: Manitoba Hydro has  
7 all the copies of the -- of the agreement, Mr.  
8 Chairman, and I believe that Ms. Ramage will, in her  
9 rebuttal on Wednesday, indicate to the -- the panel  
10 that -- that it was not -- that some time ago, it  
11 became clear that these diesel rates would not be able  
12 to be approved in this hearing, that there would have  
13 to be separate one, and Ms. Ramage will -- she's in a  
14 better position to tell you that than I am.

15 THE CHAIRPERSON: Thank you. What --  
16 sorry, I take it we're waiting for a reply?

17 MS. PATTI RAMAGE: Well, I can put on  
18 the record that my assistant texted me to say that  
19 something has arrived that looks like diesel  
20 agreements in my office today, but I haven't seen it  
21 yet. I will concur with Mr. Orle in terms of, on the  
22 last day of hearing is not the date to probably start  
23 looking at this, and I do suspect, but do not know  
24 those agreements.

25 It's complicated, because the MKO



1 representative, if -- in terms of the history, lost  
2 the agreements. And so I am not expecting a nice,  
3 neat agreement to come in. I'm not sure what I'm  
4 getting, because they were going to attempt to supply  
5 photocopies, and certified copies, and affidavits to  
6 try to make this thing up. So it won't be able to be  
7 addressed in the next seventy-two (72) or whatever  
8 hours, because we're going to have to review that,  
9 potentially go back to Canada to make sure they're  
10 satisfied with what's come in, and -- and I guess,  
11 first, we have to be satisfied that what's come in has  
12 met what probably seven (7) or eight (8) years ago was  
13 supposed to have been addressed.

14 THE CHAIRPERSON: Okay. I would ask -  
15 - and I appreciate that you're in this situation, and  
16 -- and we look forward to the reply. I would ask at  
17 some point, when you have a chance to review it, that  
18 you discuss it with counsel, quite frankly, in  
19 whatever format the panel or the Board would like to  
20 deal with this and not wait another year for another  
21 hearing. My understanding is this is been going on  
22 for fourteen (14) years.

23 MS. PATTI RAMAGE: Yes, so --

24 THE CHAIRPERSON: So I think all of us  
25 would like to put it to bed as soon as possible.

1 MS. PATTI RAMAGE: I mentioned to  
2 someone, Mr. Chair, that when this agreement -- when  
3 the memorandum of understanding was signed, my  
4 daughter was two (2), and she drove me to work the  
5 other day, so it's been going along --

6 THE CHAIRPERSON: Yeah.

7 MS. PATTI RAMAGE: -- a long time.  
8 The problem is is Manitoba Hydro accepted the funds  
9 under a condition from the -- from Canada that we have  
10 a signed agreement, and we have to know that that  
11 condition is met --

12 THE CHAIRPERSON: Okay.

13 MS. PATTI RAMAGE: -- and that's our  
14 problem.

15 THE CHAIRPERSON: Thank you. Yes.

16 MR. GEORGE ORLE: Mr. Chair, if I -- I  
17 might -- I don't -- I don't want to leave this on the  
18 position that somehow the panel or past panels have  
19 somehow been disregarded or ignored, in -- in what was  
20 being done. This -- this was signed over a decade  
21 ago, and I have had the -- the documents for six (6)  
22 months.

23 The documents came to me with certain  
24 conditions that I don't want to go on the public  
25 record of dealing with in regards to dealing with

1 Canada. We have tried as best as we could within  
2 those six (6) months to wrap up appeared to be a  
3 decades-old problem, and that is why the -- the  
4 documents are there now.

5 THE CHAIRPERSON: That -- that's fine.  
6 I would just repeat that we would hope to have this  
7 resolved as soon as possible and not wait till the  
8 next hearing, so thank you, Mr. Orle. Unless there  
9 any other matters, we will adjourn until 9:00 a.m.  
10 tomorrow morning. Thank you.

11

12 --- Upon adjourning at 4:18 p.m.

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14 Certified Correct,

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19 Cheryl Lavigne, Ms.

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