



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

re:

MANITOBA HYDRO

2021/22

INTERIM RATE APPLICATION

Before Board Panel:

Robert Gabor - Board Chairperson
Marilyn Kapitany - Board Vice Chair
Larry Ring, QC - Board Member
Irene Hamilton - Board Member
Hugh Grant - Board Member
Shawn McCutcheon - Board Member

(by Teams)

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
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Pages 648 to 769

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1 --- Upon commencing at 1:03 p.m.

2

3 THE CHAIRPERSON: Good afternoon. We
4 will proceed now with the closing submission by
5 Manitoba Hydro. Mr. Czarnecki...?

6

7 CLOSING SUBMISSION BY MR. BRENT CZARNECKI:

8 MR. BRENT CZARNECKI: Thank you, and
9 good afternoon, Mr. Chairman, Vice-Chair Kapitany,
10 Board Member Ring, Board Member Hamilton, and Dr.
11 Grant, and also Member McCutcheon, as well as all
12 Interveners and their representatives and their legal
13 counsel and members of the public watching through the
14 live stream.

15 Just by way of housekeeping, before I
16 formally get going, Mr. Chair, Hydro has filed
17 Undertaker -- Undertaking number 5, which I would ask
18 to be marked as Exhibit Number 10 (sic).

19

20 --- EXHIBIT NO. MH-11: Response to Undertaking 5

21

22 MR. BRENT CZARNECKI: And we have also
23 filed the PowerPoint presentation titled 'Manitoba
24 Hydro 2021 Interim Electric -- Electric Rate
25 Application Oral Submission', and I would ask that

1 that be marked as Exhibit number 11 (sic), please.

2

3 --- EXHIBIT NO. MH-12: PowerPoint Presentation
4 entitled 'Manitoba Hydro
5 2021 Interim Electric Rate
6 Application Oral
7 Submission'

8

9 MR. BRENT CZARNECKI: Thank you. To
10 start, Mr. Chairman and Board members, it's always an
11 honour and a privilege to appear before the Manitoba
12 Public Utilities Board and to present Manitoba Hydro's
13 final closing submissions.

14 And I would say, given the last
15 eighteen (18) plus months or so, it is especially so
16 to be here before you live and in colour. It is nice
17 to see everyone in person, as well as it was very nice
18 seeing everyone virtually, but, to me, this is a very
19 special day to be here in this room once again.

20 And before starting the formal
21 submission, Hydro itself appreciates all of the
22 efforts in having this Interim Application heard in
23 such an accelerated manner. It was a mere four (4)
24 weeks ago when we filed on November 15th, and we are
25 here before you on December 14th presenting final

1 submissions in the hope that we can have rates
2 effective January 1st, 2022.

3 Special thanks to all the efforts of
4 the Board, the staff, the consultants, and the
5 Interveners for their efforts to ensure this
6 Application was heard in an expedited fashion using
7 the technology that was available to -- to us.

8 And I especially wanted to thank Mr.
9 Peters -- I note he made remarks in his closing on
10 Friday -- for all of his cooperation in reaching out
11 to myself as counsel, and for the PUB staff that
12 reached out to my clients to try and keep this thing
13 on track and in scope, realizing it's difficult of a
14 tiptoe once in a while to do so.

15 All of those efforts we think have paid
16 off such that this panel has the best information
17 available to them given the expedited process such to
18 make a decision that will reflect the public interest.

19 I would also like to acknowledge that
20 this was the very first appearance for Ms. Grewal and
21 Mr. Tess, and our first attempt to participate in a
22 hearing virtually. Thanks to all involved for their
23 patience as we attempted to use the new technology
24 with very few glitches.

25 Now, given the compressed time frame of

1 his oral hearing, much of what you'll hear this
2 morning -- or, pardon me, this afternoon -- may be
3 similar or repetitive of the evidence you've already
4 heard over the past few days of oral testimony.

5 I apologize in advance because,
6 unfortunately, the reality of Manitoba Hydro that was
7 spelled out in the Application has not changed since
8 we filed on November 15th of 2021. We wish it had,
9 but that is not the case. Our application is still
10 reflective of the current situation that Manitoba
11 Hydro is faced -- faced with.

12 Now, we are before you today to address
13 the significant financial impacts of the drought and
14 the revenue requirement impacts of major capital
15 projects existing in the current year of 2021 to 2022
16 -- fiscal year, that is.

17 The current drought conditions were
18 unforeseen and entirely beyond Manitoba Hydro's
19 control. While Manitoba Hydro may prepare for and
20 operate its system anticipating that drought may
21 occur, that should not diminish the fact that when
22 drought conditions occur, it is an urgent and
23 unforeseen circumstance which has been previously
24 recognized by this Board in the past.

25 While again Manitoba Hydro may prepare

1 for and operate its system anticipating drought may
2 occur, that should not diminish the severity of the
3 financial impact of a drought.

4 There should be no question that the
5 current drought conditions has had a significant
6 impact on Manitoba Hydro's 2021/2022 financial
7 position, and will have continuing financial impacts
8 into the future. The financial impacts are, without
9 any doubt, deleterious to Manitoba Hydro.

10 Manitoba Hydro is currently forecasting
11 a \$398 million reduction of net extra-provincial
12 revenue as compared to the 2021/2022 budget. Putting
13 that into perspective, that's a reduction of
14 approximately 78 percent from the 2021/2022 budget.

15 And even if the PUB approves the
16 proposed 5 percent rate increase, Mr. Chairman and
17 Panel members, Manitoba Hydro has to borrow \$348
18 million just to meet the basic operating needs of the
19 Utility.

20 Unfortunately, this drought has come at
21 a time when Manitoba Hydro's gross revenue requirement
22 has increased due to the coming into service of major
23 capital projects. This revenue requirement impact is
24 growing and will continue to grow in the coming years
25 as has been anticipated by all parties in this

1 proceeding.

2 These real and immediate costs require
3 rate relief. Added borrowing or further internal cost
4 containment is simply not adequate to meet this
5 immediate, pressing need.

6 Now turning to the framework of my
7 submission by way of a roadmap, we'll start with the
8 legal framework for what it means for an interim
9 application. I'll go into more detail on the current
10 drought conditions.

11 We'll then address how drought risk is
12 addressed, review the financial position of the
13 Corporation including a section on cost containment,
14 and we'll then address the Keeyask in-service deferral
15 account, then turn to cost-of-service study issues for
16 this Application.

17 We will then briefly address the 2022
18 General Rate Application, and I will then conclude
19 with some closing remarks.

20 First, starting with the legal
21 framework. Now, this is a quick refresher and -- and
22 I think very well known to everyone in the room, so
23 please bear with me.

24 The PUB is certainly authorized to
25 grant interim rate increases pursuant to Section 47(2)

1 of the Public Utilities Board Act which provides:

2 "The Board may, instead of making an
3 Order final in the first instance,
4 make an interim Order and reserve
5 further directions either for an
6 adjourned hearing of the matter or
7 for further application."

8 Now, this language is repeated in Rule
9 42 of the PUB's Rules of Practice and Procedure, and
10 it is clear that the legislature has granted broad
11 discretion for this Board to consider and issue an
12 interim Order which it has done in the past.

13 Now, as we all know, interim rate
14 applications involve an abbreviated process versus
15 that which you would typically see in a final rate
16 order application. So it does not include a full
17 evidentiary record, and interim rate applications are
18 adjudicated against a less onerous legal standard than
19 final rates would be. And this is outlined in PUB
20 Order 59/18 at pages 18 to 19.

21 A prima facie case only requires the
22 PUB to find that, upon the initial examination of the
23 application, there is sufficient evidence to support
24 the relief sought. It does not require anything
25 further than an -- an initial examination of the

1 evidence provided.

2 Contentious issues are not decided upon
3 in interim rate applications, and you'll see that in
4 previous PUB Orders 80/17 at pages 21 to 23 and Order
5 40/11 at page 30.

6 Now, I note that during the last
7 drought in 2003 and '04, this Board found that,
8 despite concerns raised about Manitoba Hydro's O&A and
9 capital expenditures, it could not ignore the negative
10 financial impact of the drought, the forecasted loss -
11 - losses associated with future droughts, and the
12 risks associated with Manitoba Hydro's participation
13 in the export market. And that's at Order 143/04 at
14 page 88.

15 And, Mr. Chairman, as you acknowledged
16 in your opening comments, importantly, interim rates
17 can be varied by the PUB after an interim award. And
18 the PUB is empowered by Section 27 of the Crown
19 Corporations Governance and Accountability Act to
20 compensate for or refund any excess amounts collected
21 should the interim rates be varied at a later date.
22 Turn to slide 5, please.

23 So I submit that the Public Utilities
24 Board has held that it must answer two (2) primary
25 questions when considering an interim rate

1 application: 1) Would it be just and reasonable to
2 grant interim rates?

3 and 2) Would Manitoba Hydro in this
4 instance, as the utility, suffer a deleterious effect
5 in the absence of an interim rate increase.

6 And I'll reference Order 49/'14 at page
7 16 for those two (2) important questions.

8 Manitoba Hydro submits the answer to
9 both questions is an unequivocal yes. As we can all
10 agree, interim rates still must be just and reasonable
11 and in the overall public interest. Turn to slide 6.

12 Now, a reminder on public interest. It
13 is trite that this panel must set rates that are in
14 the public interest. Public interest is interests of
15 the Utility's ratepayers and the financial health of
16 the Utility.

17 And I will quote the often cited, I
18 would say, landmark decision for this Board from our
19 Court of Appeal, that:

20 "The PUB has two (2) concerns when
21 dealing with a rate application, the
22 interest of the Utility's ratepayers
23 and the financial health of the
24 utility.

25 Together and in the broadest

1 interpretation, these interests
2 represent the general public
3 interest."

4 And you, Panel, have the difficult task
5 once again of weighing in on what you feel is in the
6 public interest.

7 Now, just as the financial health of
8 the Utility is not limited to one (1) factor or
9 metric, Manitoba Hydro submits that interests of the
10 Utility's ratepayers is more than just the lowest
11 rates possible at any given point in time.

12 Our customers have other interests
13 which include safe and reliable provision of power.
14 In this current drought, ensuring reliable power meant
15 incurring costs to import power to meet the
16 Corporation's obligations and be prepared for
17 continued drought.

18 On a regular basis, safe and reliable
19 power means investing in assets and aging plant to
20 reduce risk, growing capacity, and responding to new
21 customers, and also having the capacity to respond to
22 outages when they occur as quickly as we possibly can.

23 We also believe that customers'
24 interests include superior customer service. Again,
25 this means having staff available to respond to

1 inquiries, assisting with paying bills, performing
2 line locates, having resources to adapt to new and
3 changing customer expectations, like paying bills
4 online and through various applications with the
5 Utility.

6 Third, we believe customers value rate
7 stability. Customers have an interest in rate
8 stability and predictability, particularly in light of
9 the revenue requirement impacts of the major capital
10 projects.

11 Now, I ask you to keep all of those
12 customer interests in mind when considering whether
13 this interim rate request is in the public interest.

14 In terms of legislative framework, in
15 considering this Application, Manitoba Hydro submits
16 this Board may also take into considerations -- into
17 consideration, pardon me, the factors set out in
18 section 25(4) of the Crown Corporation's Government --
19 Governance and Accountability Act and section 39(1) of
20 the Manitoba Hydro Act.

21 And, as -- as seen on the -- on the
22 slide, section 25(4) says that:

23 "In reaching a decision pursuant to
24 this part, the Public Utilities
25 Board may take into consideration

1 [and I'll highlight a few] (1), the
2 amount required to provide
3 sufficient funds to cover operating,
4 maintenance, and administration
5 expenses of the Corporation.
6 (2) Interest and expenses on debt
7 incurred for the purposes of the
8 Corporation by the government.
9 (3) Interest on debt incurred by the
10 Corporation.
11 (.6) The liabilities for the
12 Corporation for pension benefits and
13 other employee benefit programs.
14 (7) Any other payments that are
15 required to be made out of the
16 revenue of the Corporation.
17 (8) Any compelling policy
18 considerations that the Board
19 considers relevant to the matter
20 before it, and
21 (9) [the catchall] Any other factors
22 that the Board considers relevant to
23 the matter."

24 Now, section 25(6) of the Manitoba
25 Hydro Act also includes a section that says that:

1 "In conducting a review, the PUB
2 must also consider the cost to be
3 incurred by Manitoba Hydro in
4 respect of efficiency Manitoba as
5 required under the Efficiency
6 Manitoba Act."

7 And that's on the slide in front of
8 you.

9 Now, under the Manitoba Hydro Act,
10 section 39(1) which specifies the price of power sold
11 by the Corporation, and, again, to highlight:

12 "The prices payable for power
13 supplied by the Corporation shall be
14 such as to return to it the full --
15 in full the cost to the Corporation
16 of supplying the power, including
17 (a) the necessary operating expenses
18 of the Corporation, and (b) all
19 interest and debt service charges
20 payable by the Corporation."

21 So, that is the legislative framework
22 which -- and factors that you are permitted to
23 consider for this particular Application, in our
24 submission.

25 BOARD VICE-CHAIR KAPITANY: Mr.

1 Czarnecki, can I just ask you to -- you had mentioned
2 section 25(6) of the Manitoba Hydro Act, and I didn't
3 see it referenced in the printing here and I missed
4 what you said about it.

5 MR. BRENT CZARNECKI: Yes, Madam Vice-
6 chair, I -- I believe I misspoke. I was still within
7 the Crown Corporation's Governance and Accountability
8 Act.

9 It's section 25(6) that -- that is a
10 recent amendment that allows us -- or allows you to
11 consider the costs that we incur with respect to
12 Efficiency Manitoba.

13 BOARD VICE-CHAIR KAPITANY: Thank you
14 for the clarification.

15 MR. BRENT CZARNECKI: So, now turning
16 to the current drought conditions, the impetus of this
17 application that's before you.

18 There's no doubt the main driver of
19 this Application is the current drought conditions
20 faced by Manitoba Hydro.

21 And, as you can see on slide 10, water
22 flow conditions are a significant risk that is subject
23 to a great deal of volatility. It is the factor with
24 the greatest potential to impact earnings and inflows
25 to our system are completely beyond Manitoba Hydro's

1 control.

2 A reminder that Manitoba Hydro, unlike
3 many other Canadian utilities, has seasonal reservoirs
4 which are dependent upon precipitation each and every
5 year. This is why, despite having above average flows
6 for the past several years, the Corporation is
7 significantly impacted by the current drought
8 conditions.

9 The chart on this slide shows total
10 system inflows over a significant period of time. And
11 as was reviewed and as you can see again, inflows in
12 the current year are extremely low. Slide 11, please.

13 Looking back to fall 2020, system
14 precipitation has been the lowest on record in the
15 over forty (40) years and well below the levels
16 experienced for this same period in 2002 and '03, our
17 last major drought on the system.

18 While Manitoba Hydro has used its
19 reservoirs to the extent possible to temper the
20 affects of the drought, as we have explained, we only
21 have a limited ability to manage the year-to-year
22 variability of inflows using our reservoirs.

23 The existence of current drought
24 conditions, nor the financial strain caused thereby,
25 does not appear to be in question in this proceeding;

1 it is factual.

2 Now, on the unpredictability of the
3 drought, I just wanted to comment for a moment on an -
4 - on an analogy made by My Learned Friend on behalf of
5 MIPUG in his opening comments.

6 Mr. Hacault compared Manitoba Hydro to
7 a teacher who lamented that their work hours were
8 reduced in July and August. He suggested that, if you
9 cannot predict that, you are in the wrong business.

10 With respect to My Friend, that analogy
11 is wholly inappropriate. Manitoba Hydro simply cannot
12 predict with any accuracy when precipitation will
13 fall, in what amount and over what areas of the
14 province for the long range horizon, such as next
15 year.

16 While Manitoba Hydro operates its
17 system to ensure energy reliability in the event of a
18 drought, it cannot predict when a drought will occur
19 or how long it will last.

20 And as you heard from Mr. Gawne, while
21 he was testifying, while there is memory within the
22 water system and long-range cycles in hydrology such
23 that there is a correlation between water flow
24 conditions year to year, progression relationships are
25 not reliable more than a few months ahead. And that's

1 at transcript pages 365.

2 Long-range flow forecasting is not a
3 certain science like the summer months is for teachers
4 in our province.

5 As explained in Coalition Manitoba
6 Hydro 1(a) to (d), and I'll quote:

7 "Manitoba Hydro has been adding new
8 tools to improve in flow forecasting
9 and system modelling for operations
10 planning."

11 We expect this modelling will help
12 narrow the range of uncertainty in the near term and
13 through the winter periods. However, long-range and
14 multi-month water supply conditions will continue to
15 be an uncertainty that Manitoba Hydro will face,
16 particularly during the rain season. Slide 12,
17 please.

18 So when did Manitoba Hydro know about
19 the drought? We appreciate there appears to be some
20 question as to when Manitoba Hydro knew it was in a
21 drought.

22 Certainly, as set out in the
23 application, and you heard from Mr. Gawne, Winnipeg
24 River Basin precipitation has been well below normal
25 since the fall of 2019.

1 However, you must consider Manitoba
2 Hydro's system as a whole, which was experiencing
3 significant variation in water conditions.

4 And as set out in MIPUG Manitoba Hydro
5 1(a), inflows in the Churchill River Basin were well
6 above average throughout 2020 through 2021.

7 Now, dry conditions expanded in the
8 early summer of 2021 into the southern portions of the
9 Nelson River Basin.

10 As the drought conditions continued and
11 extended through summer of 2021, Manitoba Hydro
12 continued to closely monitor the situation. And some
13 have suggested Mr. Gawne may have lost some sleep.

14 The uncertainty and unpredictability in
15 Manitoba Hydro's hydrologic generation continues into
16 the fall. As you can see from the slide, which
17 contains figure 10 from the Application, the narrowing
18 of ranges of projected generation occurred over time
19 and did not become relatively certain until the end of
20 October. And you can see that is where the -- the
21 range narrows considerably to our disadvantage.

22 As Mr. Gawne described, at transcript
23 page 292, significant rainfall events occur in the
24 fall, which can cause a large impact on our system.
25 Mr. Gawne noted that those rainfall events occurred in

1 2018 and in 2019.

2 And parties will recall, in the most
3 recent rate application of Manitoba Hydro in 2019,
4 there was significant criticism of Manitoba Hydro for
5 bringing forward an application based on poor water
6 conditions to September of 2018, when conditions
7 improved as a result of September and October rainfall
8 events.

9 There appeared to be a suggestion in
10 that application that Manitoba Hydro erred or was
11 prematurely crying wolf to this Board. That is not
12 the case that's before you today.

13 Now, hydrologic generation is largely
14 driven by rainfall in the spring through fall period.
15 Rainfall is impossible to predict with certainty
16 beyond a few days to a week. Therefore, Manitoba
17 Hydro can not know, in mid summer, with certainty what
18 its hydrologic generation will be for the remainder of
19 the year.

20 So in terms of management of the
21 drought, during the Coalition's examination of Hydro's
22 President and CEO, Ms. Grewal, it was suggested that
23 Manitoba Hydro may have lost key institutional memory
24 which could have hampered its response to the current
25 drought. And that was at transcript page 193.

1 We hope that the evidence provided by
2 Hydro throughout this proceeding has alleviated any
3 concern the Coalition has in that regard.

4 Manitoba Hydro operates as a team,
5 which includes members who have significant experience
6 with Manitoba Hydro and other Canadian utilities.

7 As you have heard and seen from the CVs
8 filed of our witnesses, they have approximately a
9 combine seventy-five (75) years of service with
10 Manitoba Hydro. And that's within Exhibit Manitoba
11 Hydro 4.

12 And, in fact, Mr. Gawne and several of
13 his colleagues had the privilege of working directly
14 with Mr. Cormie for many years before his retirement.
15 And they reassure me that even Mr. Cormie did not have
16 a crystal ball to predict drought conditions.

17 Turning to slide 13 and 14 on how is
18 the drought risk addressed.

19 This Board has recently provided
20 important guidance that drought risk should be managed
21 by a combination of retained earnings and regulatory
22 action. And that's at Order 59/18 at page 142, and
23 69/19 at page 14 to 15, and 28, and 29.

24 And before I get to the quote that's on
25 the screen, there's the one from 59/18 that I will

1 read portions of.

2 "As the Board has demonstrated in
3 past decisions, including in years
4 of drought where the Board awarded
5 rates in excess of those sought by
6 the Utility, it will consider all of
7 the facts and circumstances which
8 confront Manitoba Hydro at that
9 point in time in determining the
10 appropriate rate relief. The Board
11 is prepared to take regulatory
12 action. And that's as required in
13 times when emergent situations face
14 Manitoba Hydro."

15 The quote that's directly in front of
16 you:

17 "Retained earnings should be used to
18 manage drought risk in combination
19 with regulatory action by the Board.
20 As discussed elsewhere in this
21 Order, the Board is prepared to
22 consider regulatory action when
23 required to address emerging risks
24 facing Manitoba Hydro."

25 Now, of course, Manitoba Hydro's

1 Application has been informed by this recent guidance
2 from this Board.

3 The Utility has considered the facts
4 and circumstances that confront it now, and proposed
5 addressing the current drought impacts through both
6 negatively impacting retained earnings and rate relief
7 or action from you.

8 So quickly to slide 15 and addressing
9 what are retained earnings.

10 Hearing how to manage drought risk
11 through a combination of retained earnings and
12 regulatory action, Hydro has considered what this
13 Board has previously indicated with respect to
14 retained earnings.

15 And I'll quote the -- the part that is
16 emphasized:

17 "Manitoba Hydro's financial reserves
18 are not cash and are not retained in
19 a bank account but, rather, have
20 been re-invested back into the
21 Utility; including through reducing
22 the amount of new borrowing
23 requirements. Put another way,
24 equity in retained earnings are debt
25 that is avoided."

1 And that's at -- from Order 59/18, at
2 pages 49 to 50.

3 So, clearly, Manitoba Hydro's retained
4 earnings -- they're not represented by cash or liquid
5 investments. And that can be also found at Order
6 143/04 at page 14.

7 And Manitoba Hydro fully concurs with
8 the Board's commentary on retained earnings. And Mr.
9 Tess, at page 460, testified to this point.

10 I just want to clarify too in terms of
11 the retained earnings, retained earnings are not a
12 reserve. They aren't liquid assets that can be drawn
13 upon to fund a drought.

14 So turning to slide -- excuse me --
15 slide 16. While the financial costs of a drought
16 affect retained earnings, which can be used as a
17 cushion or a bulwark, to use the word of Mr. Hacault,
18 the cash flow deficiency caused by the significant
19 reduction in revenue is not addressed by that
20 approach.

21 The borrowings in the amount of 348
22 million, required to fund core operations this year as
23 a result of the drought, demonstrate the simple fact
24 that retained earnings are not a cash reserve.

25 As you heard from Mr. Tess at page 362

1 of the transcript, the cash flow deficiency in the
2 current year is something keeping him up at night.

3 This is a very concerning situation.
4 We note that reductions in retained earnings will
5 negatively impact the debt-to-equity ratio. These
6 metrics are important to Manitoba Hydro's ability to
7 act -- to access -- access, pardon me, low cost debt
8 in the market.

9 When managing drought costs through
10 retained earnings, Manitoba Hydro is both taking on
11 additional borrowings and negatively impacting the
12 Corporation's financial standing, such that those
13 additional borrowings may cost the Utility more. Now
14 turn to slide 17 please.

15 Now as set out by this Board in Orders
16 58/19 and 69/19, it is appropriate that rate relief be
17 undertaken to address a portion of the drought risk
18 that has, in fact, materialized.

19 And in balancing the scales and
20 considering what portion of the current cost of
21 drought is to be absorbed through retained earnings,
22 Manitoba Hydro submits that this panel needs to
23 consider all of the circumstances, including the cash
24 deficiency to fund core business operations in a test
25 year, which is forecast at 348 million, which assumes

1 a 5 percent -- 5 percent rate increase.

2 As shown in Coalition Manitoba Hydro
3 3B, that cash deficiency to fund core operations will
4 continue into 2 -- 2022 and 2023, absent significant
5 rate relief.

6 The known and anticipated increases in
7 revenue requirement resulting from major capital
8 projects being put into service, that is, 619 million
9 in 2021 and 2022, which is net of the Bipole 3 and
10 major capital deferral amortization.

11 Third, the substantial uncertainty and
12 risks faced by the utility each and every year.

13 Four, the highly leveraged position of
14 the Utility, prior to the drought occurring.

15 Five, the risks associated with further
16 deterioration of key financial metrics.

17 And, of course, 6, the real and
18 significant impacts of rate increases on Manitoba
19 Hydro customers, particularly, in these current tough
20 economic conditions.

21 So, balancing the regulatory action and
22 retained earnings impacts. Notwithstanding all the
23 concerns expressed about deteriorating retained
24 earnings and financial metrics, Manitoba Hydro's
25 Application proposes addressing the impacts of drought

1 using a combination of regulatory action and retained
2 earnings, in accordance with the PUB direction that
3 we've reviewed.

4 Manitoba Hydro considered and balanced
5 the interests of customers, again, particularly during
6 this pandemic and period of high inflation.

7 Manitoba Hydro is certainly not
8 ignorant of the economic struggles of its customers,
9 nor is the Utility seeking to, and I'll quote
10 "compound the stress that customers are already
11 under."

12 The proposed increase will only
13 generate a modest \$27 million in additional revenue in
14 2021/2022, and \$88 million in 2022 and 2023.

15 Now, I say 'modest' because that's \$27
16 million in additional revenue relative to the \$398
17 million reduction in net extra-provincial revenue in
18 '21/'22.

19 And I urge you to consider the fact
20 that a net loss of 190 million in '21/'22 will still
21 occur. It will be a significant impact to retained
22 earnings, even with the proposed 5 percent interim
23 increase, if it is approved by this panel.

24 Retained earnings will be reduced by
25 6.1 percent in a single year. And my math on that is

1 from MFR-3, which has retained earnings at 3 -- 3
2 billion 74 million divided by the \$190 million loss.

3 So Manitoba Hydro submits its
4 Application strikes an appropriate -- appropriate
5 balance and addresses the public interest by
6 addressing the impacts of the drought, through both
7 reductions of retained earnings and regulatory action,
8 again, in accordance with your guidance from previous
9 Orders.

10 We anticipate that some of the
11 Interveners to this proceeding will argue that this
12 Board should only award an increase that is responsive
13 to the deleterious effects of the drought in
14 isolation, without any consideration of other factors
15 impacting revenues or expenses.

16 Manitoba Hydro submits that this Board
17 is not restricted to awarding interim rate relief
18 solely to address drought costs.

19 To look at the financial impacts of
20 drought in total isolation is not prudent or
21 reasonable.

22 You must also consider all of the
23 circumstances of Hydro's financial position, its
24 operations, revenue requirement, as well as the
25 interest of customers in the appropriate context.

1 Now, our position, I submit to you is
2 supported again by this Board's past Orders. And I'll
3 read from Order 69/19 at page 14 and also Order 59/18
4 at page -- pages 62 to 63.

5 As the Board has demonstrated in past
6 decisions, including in years of drought where the
7 Board awarded rates in excess of those sought by the
8 Utility, it will consider all of the facts and
9 circumstances which confront Manitoba Hydro at that
10 point in time in determining the appropriate rate
11 relief.

12 And it indicated that it was prepared
13 to take regulatory action when those circumstances had
14 the risk.

15 Perhaps more importantly, in any event,
16 the principles of rate stability do not support a rate
17 increase that is designed to address drought costs
18 alone.

19 And depending upon how you define
20 drought costs, the rate increases required to address
21 those drought costs would well exceed the reasonable
22 tolerance of Manitoba Hydro customers.

23 As was set out in Coalition Manitoba
24 Hydro 1-6, to recover the \$190 million in forecasted
25 net losses, to a break-even position, a rate increase

1 over 12 percent, over a twelve (12) month period would
2 be required.

3 And if the drought costs were defined
4 as the 348 million of additional borrowing required to
5 fund core business operations at Manitoba Hydro, a
6 rate increase of approximately 21 percent, over a
7 twelve (12) month period would be required from this
8 Board.

9 Again, I submit to you that Manitoba
10 Hydro took the more balanced approach, considering all
11 factors, in seeking the rate relief that is before you
12 today.

13 Turn to slide 20 and 21 please. Now, I
14 would like -- it's very important and I would like to
15 review the financial position of the Corporation.

16 So where is Hydro at today? Now, Hydro
17 certainly appreciates the challenges of -- of
18 reviewing this interim application without a long-term
19 forecast. I want to be clear on that.

20 We understand the instinct to compare
21 the current situation to past forecasts created years
22 ago, and view the Corporation as comparatively better
23 off.

24 We urge this panel to reject the --
25 this narrative, that this is a good news story for

1 Manitoba Hydro.

2 While we wish it was, the financial
3 reality of Manitoba Hydro exacerbated by the drought,
4 as presented to you, does not support such a tall
5 tale.

6 And I wanted to briefly address a
7 comment made by Mr. Hacault in his opening comments.
8 He indicated that MIPUG was participating in this
9 hearing on the assumption that Manitoba Hydro was not
10 relying upon untested financial targets, credit rating
11 agency reports or seeking increases associated with
12 work to prepare for the changing energy landscape.

13 To confirm for Mr. Hacault and MIPUG,
14 this Application is not premised on new financial
15 targets.

16 The rate request is not based upon a
17 goal seeking exercise to obtain a certain debt/equity
18 ratio in a specific time frame.

19 Rather, this Interim Application is
20 properly being driven by actual costs, known costs
21 necessary to safely and reliably operate the Manitoba
22 Hydro electrical system, including providing energy
23 during the current drought and costs which result from
24 the coming in service of major capital projects, as
25 has been long predicted.

1 Now, on slide 21 in front of you,
2 briefly, over the oral evidentiary portion of this
3 hearing, there was a great deal of focus on forecasts
4 from 2004 or 2014 or looking ahead to twenty (20 --
5 2022/'23.

6 There was remarkably little, if any,
7 discussion about this current year that is before you,
8 the test year of '21/'22. And so again, my submission
9 is that this Panel needs to spend the most time
10 considering where Manitoba Hydro is at today in
11 considering this Application. And you'll see a very
12 good snapshot of that from Figure 11 from the
13 Application on slide 21. Now, if we turn to slide 22.

14 There is a clear and obvious revenue
15 deficiency that will be experienced in '21/2022 --
16 again, even if you approve the rate relief requested
17 on an interim basis. The evidence in this proceeding
18 demonstrates the need for additional revenues to
19 manage operations in '21/'22.

20 Manitoba Hydro is forecasting to have
21 \$398 million less net extra-provincial revenue than
22 originally budgeted, and absent the rate relief sought
23 in this Application, Hydro will have a cash deficiency
24 of 375 million to fund core business operations in
25 '21/'22. And that reference is in Coalition Manitoba

1 Hydro 3B.

2 Now, one (1) party to this proceeding
3 suggested there is no revenue deficiency because
4 current rates generate sufficient revenues to pay for
5 the major capital projects' carrying costs.

6 With respect, that is an exceptionally
7 narrow view of Manitoba Hydro's expenses which
8 includes carrying costs on past capital investments
9 that have benefited customers for several years. The
10 carrying costs of major capital projects is only one
11 (1) portion of Hydro's overall expenses.

12 This year, Manitoba Hydro will not
13 generate enough revenue to pay its employees, fuel
14 it's slate of vehicles, or invest in renewal of its
15 assets without significant borrowing. And again, even
16 with the proposed rate increase being approved by this
17 Board, Manitoba Hydro will need to borrow 348 million
18 to fund core business operations in the current year.

19 Frankly, the borrowing of 348 million
20 to fund core business operations is equivalent to
21 using a credit card, or perhaps several credit cards,
22 to pay for groceries, fuel your car and your mortgage,
23 and only ever paying the minimum monthly payment of
24 those credit cards. It is not a sustainable way to
25 operate a business that is so vital to the Manitoba

1 economy and Manitobans. Slide 23, please.

2 Now continuing with where Manitoba
3 Hydro is today, it has a long-term debt balance of
4 \$24.428 billion, and that's from PUB-MFR-6, Figure 2.

5 And to service that debt, today 42
6 cents of every dollar of revenue generated by
7 Manitobans is going to pay interest. That's interest
8 payments on total debt of approximately 24.4 billion,
9 and none of the 42 cents is going to pay down the
10 principal of \$24.4 billion debt. And that's again at
11 Figure 2, PUB-MFR-6.

12 This is at a time when interest rates
13 have been historically low for a long period, and
14 again, to utilize my comparison to a personal budget,
15 this is equivalent to you or I using 42 percent of our
16 take-home pay to pay interest on the credit card debt.
17 Again, it is simply not a sustainable model.

18 In the '21/'22 forecast which assumes
19 the 5 percent rate increase being approved, Hydro will
20 still experience a net loss of 190 million and
21 reduction of retained earnings.

22 So now we wanted to address where the
23 Corporation will be in the future. Now, recognizing
24 that a long-term financial forecast informed by energy
25 policy and an integrated resource plan is still under

1 development, we ask this Board to focus on the knowns
2 for the coming years.

3 So here's what we do know. In the near
4 term, you have before you information in the '22/'23
5 Preliminary Plan. We expect that parties to this
6 proceeding will look to the '22/'23 Preliminary Plan
7 and its forecast of 200 million in net income to argue
8 that Manitoba Hydro will bounce back from the current
9 drought such that rate -- rate relief or action from
10 you is not needed. So it's important for us to break
11 down that 200 million in net income a little further.

12 Firstly, the 200 million assumes that
13 this Board will grant a 5 percent rate increase which
14 will generate 88 million in additional revenue.
15 That's at PUB-MFR-3 at page 2.

16 Secondly, 127 million is from the non-
17 cash amortization of the Bipole III and major capital
18 deferral accounts. And as shown in PUB-MFR-10, the
19 combined amortization of the Bipole III deferral
20 account and the major capital deferral account as
21 proposed in this Application is 127 million.

22 And you heard from Mr. Tess yesterday
23 morning expressing his concerns about Manitoba Hydro's
24 net income before net movement. He indicated, looking
25 at PUB-MFR-3, at page 2 of 5, net income prior to net

1 movement, which shows the impact of the regulatory
2 deferral accounts, was negative in 2020/2021, will be
3 negative in '21/'22, and will again be negative in the
4 '22/'23 Preliminary Plan. And that's at transcript
5 pages 422 to 423.

6 So without the proposed rate increase
7 and the non-cash amortization of the two (2) deferral
8 accounts, Manitoba Hydro would be projecting a net
9 loss in 2022/2023.

10 Finally, and perhaps most importantly,
11 the 2022/2023 Preliminary Plan assumes average
12 waterflow and normal weather conditions. And as we
13 know today, the -- those are two (2) enormous
14 variables in Manitoba Hydro's system.

15 And while we cannot predict with any
16 certainty the waterflows for the coming year this far
17 in advance, there is an elevated likelihood of below-
18 average inflows in 2022/2023 which is not reflected in
19 the 2022/2023 Preliminary Plan as it is not possible
20 to predict at this moment with any certainty for water
21 conditions for '22/'23.

22 There is simply no certainty today that
23 this current drought will be temporary. And again, at
24 this time, we cannot know that the current conditions
25 are limited to just one (1) year. We hope so, of

1 course, but cannot be sure what the weather will
2 actually bring.

3 Now, given that uncertainty, Manitoba
4 Hydro reasonably assumes in its financial planning an
5 equal probability of returning to any of the forty
6 (40) year flow conditions that were discussed by Mr.
7 Gawne. This assumption for financial planning
8 purposes is consistent with past practice of Manitoba
9 Hydro. Now we'll turn to slide 25, please.

10 Now, another known factor before you
11 that will be impacting Manitoba Hydro in the near term
12 is the financial impact of major capital projects
13 coming into service. These impacts are substantial.

14 In 2022/'23, the gross impact is 912
15 million. By '23/'24, that gross impact is forecasted
16 to be 938 million. These amounts are only minorly
17 offset by the amortization by the two (2) deferral
18 accounts established by this Board.

19 We know that the amortization of these
20 deferral accounts is expected to cease in '23/'24 and,
21 as such, will no longer provide an offset to the
22 significant increases in revenue requirement resulting
23 from bring the major capital projects into service.

24 Rate relief is needed to ensure that
25 these costs in the revenue requirement are recovered.

1 The Board has been anticipating the need for annual
2 rate increases to address these rising costs for
3 nearly a decade.

4 We know that Manitoba Hydro is
5 forecasting a significant change to its firm export
6 contract portfolio in the coming years.

7 As demonstrated in Manitoba Hydro's
8 firm export contract portfolio chart, Mr. Peters
9 referred to, there is a significant drop in firm
10 export contracts in '24/'25. And that's at our
11 Application PUB MFR-15, attachment 1, page 12, PDF
12 page 314 of 700.

13 And, as you can see in the chart before
14 you, there is a decline occurring in '24/'25 when
15 three (3) Northern States Power contracts conclude,
16 which will be replaced with opportunity sales.

17 As indicated by this chart, in '25,
18 '26, and beyond, firm revenues will make up a smaller
19 percentage of extra-provincial revenues. A smaller
20 volume of energy will be sold under firm contract.

21 This means more energy sales will be
22 made in the -- into the opportunity market.
23 Opportunity sales are subject to spot market export
24 prices, which are inherently volatile, uncertain, and
25 outside of Manitoba Hydro's control.

1 This means less revenue certainty for
2 Manitoba Hydro while the majority of Manitoba Hydro's
3 costs and revenue requirements are fixed in nature,
4 namely, being finance expense and depreciation
5 expense. Turn to slide 27, please.

6 Turning to rate stability, the issue of
7 rate stability. Now, rate stability and
8 predictability has been a key concern of Manitoba
9 Hydro and this Board for many years. No doubt, they
10 are very important regulatory principles.

11 And most recently, in Order 59/'18 at
12 page 163, this Board reaffirmed that the principles of
13 rate stability and predictability are important for
14 residential ratepayers, industry, business, and
15 community organizations.

16 Now, despite significant changes in net
17 income and assumptions, all previous IFFs have
18 recognized the need for steady rate increases of 3.5
19 percent or more to address the impacts of the major
20 capital expansion of Manitoba Hydro.

21 This Board has recognized and
22 anticipated that rate increases would be required when
23 new major capital projects are in service. To
24 mitigate some of those increases, this Board awarded
25 rate increases to be placed into deferral accounts to

1 mitigate some of those required increases.

2 And at page 19 of Order 69/'19, this
3 Board found that prior rate trajectories based upon
4 historical financial plans provided directional
5 guidance in determining the appropriate level of rate
6 increase required to smooth consumer rates when major
7 new capital projects enter service. And I quote:

8 "As the known costs of these major
9 new generation and transmission
10 capital projects will form a
11 significant part of Manitoba Hydro's
12 revenue requirement beyond the test
13 year, it is appropriate to take
14 steps today in -- to assist in
15 mitigating future rate increases."

16 However, despite that recognition a few
17 years ago, the time to smooth out higher customer
18 rates associated with major capital projects is coming
19 to an end as all these projects will be fully in
20 service in the coming fiscal year.

21 So, if this interim rate increase is
22 not approved by this Board, future rate increases will
23 need to be higher to recover from the additional
24 decline of the Corporation's financial position.

25 And, again, I reiterate that rate

1 smoothing through predictable regular increases is in
2 the best interests of both customers and Manitoba
3 Hydro.

4 Now, I also wanted to make -- just take
5 a moment to discuss some of the concerns that were
6 raised by parties to this proceeding about the
7 instability of rates over the past twelve (12) to
8 eighteen (18) months.

9 Manitoba Hydro acknowledges there has
10 been government action and announcements that have
11 impacted rate stability and caused concern for
12 customers and this regulator. However and ultimately,
13 the actions of the government and the legislature are
14 beyond Manitoba Hydro's control.

15 There is no evidence in this proceeding
16 to support a rate increase of 2 1/2 percent in 2122,
17 or in any of the following two (2) years, nor is there
18 any evidence as to the assumptions or policy concerns
19 that influence that announcement by the government.

20 The evidence of Manitoba Hydro is that
21 from the budgeting and planning for the '21/'22 year
22 through to the present and following a disciplined and
23 rigorous review, Manitoba Hydro believes, absent a
24 drought, a rate increase of 3 1/2 percent was
25 required.

1 You heard directly from Mr. Tess that
2 Manitoba Hydro conveyed that position to government,
3 and that's at transcript page 607.

4 You are also aware from Ms. Grewal's
5 testimony before Standing Committee on June 29th of
6 2021 that Manitoba Hydro required a 3.5 percent rate
7 increase.

8 Now, if I can turn to slide 28 and
9 address cost containment. It's suggested, and I
10 suspect you're going to hear more, that Manitoba Hydro
11 is not doing its part by reducing costs. And I wanted
12 to start this discussion with some key principles.

13 And on slide 29 you will see, and this
14 was reviewed, that the majority of Manitoba Hydro's
15 costs are fixed and largely beyond the control of the
16 Corporation.

17 Net finance expense and depreciation
18 and amortization together total approximately 59
19 percent of Manitoba Hydro's expenses in the test year.
20 These fixed costs will continue to increase as
21 construction of major capital projects come to an end.

22 And, as seen in the '21/'22 forecast,
23 net finance expense is forecasted to increase by 212
24 million to 994 million from 2020/2021. Similarly,
25 depreciation and amortization will increase by 49

1 million in '21/'22 to 579 million over 2021.

2 Second and critically, all of Manitoba
3 Hydro's costs are designed to meet the mandate of
4 providing safe and reliable power to Manitobans.
5 Business operating capital and O&A costs together are
6 required to address aging infrastructure, meet the
7 growing load in customer requirements, and provide the
8 level of service Manitobans have come to expect. If
9 we'd turn to slide 30, please.

10 Now, Manitoba Hydro always operates our
11 business as efficiently as possible to keep costs and,
12 therefore, rates as low as possible. We continually
13 looked at options to minimize costs while ensuring we
14 continue to provide efficient, reliable, and safe
15 service.

16 And, as seen in the Application and
17 referred to by Mr. Tess yesterday at page 620, keeping
18 costs as low as possible for Manitobans is a key
19 pillar in Strategy 2040.

20 However, in assessing possible cost
21 containment, we must recognize where we are. You'll
22 recall Mr. Tess's commitment in response to a question
23 from Board Member McCutcheon yesterday, and I'll
24 quote:

25 "So, I can commit to we're moving

1 into our next phase of enterprise
2 planning. We just completed this
3 budget year. We're moving into the
4 next year almost immediately,
5 commencing in the new calendar year.
6 So, of course, considerations like
7 the impact of the drought will be
8 taken into account, any mitigation
9 that we can do.

10 I think when you do see our
11 strategy, you'll be pleased to see
12 that one (1) of our pillars is to
13 keep costs as low as possible for
14 Manitobans."

15 So that's something that we will be
16 following in the enterprise -- enterprise plan for the
17 next budget year and beyond. So, yes, that is the
18 answer, that we would be pursuing those impacts.

19 Having said that, we are going through
20 the period, as you saw, with the lowest FTE, or full-
21 time equivalent, level in the history in the last
22 twenty (20) years, and have a number of uncontrollable
23 costs as well.

24 So we will be, of course, looking at
25 anything that can be done and impacted without

1 impairing or -- our liability or system asset aging.
2 And we are really hesitant to take on additional risk
3 in terms of reducing costs that will simply cost us
4 more in the long run. And he was speaking at pages
5 620 to -21 of the transcript.

6 Reliability of Manitoba Hydro's
7 infrastructure is paramount. All customers have an
8 interest in receiving safe and reliable power in a
9 near continuous manner.

10 The aging nature of Hydro's plant has
11 been long discussed before this Board. Continual
12 renewal investment are needed for the benefit of all
13 customers. Investment requires purchasing of
14 material, services, and ensuring there's adequate
15 staff to perform the required work.

16 Routine deferral of needed investment
17 increases risk and potential costs.

18 And while new technology and new
19 processes can yield efficiencies, to come before the
20 PUB in every rate application with reduced expenses in
21 absolute terms is unrealistic.

22 Manitoba Hydro submits that when you
23 consider expenses in absolute numbers, that year-over-
24 year costs will increase due to the increase in the
25 amount of assets Manitoba Hydro is operating and

1 maintaining, the number of customers we serve is
2 increasing every year, the inflation impacts, costs of
3 materials and services, and wage and other
4 compensation increases. If we can turn to slide 31.

5 Now, when we put costs into
6 perspective, when you look at Manitoba Hydro's O&A
7 costs from 2016/'17 actual to the '22/'23 preliminary
8 plan, increase by a compounded annual growth of 1.75
9 percent, which is very closely aligned with CPI over
10 the same duration. And that's at Coalition MFR 22(b).

11 It's also important to note that from
12 2016/'17 to the '21/'22 forecast, the number of
13 electric customers has increased by approximately 4.8
14 percent. And that was from roughly six-hundred
15 thousand (600,000) in '21/'22, from the five-hundred-
16 and-seventy-three (573) number in 2016/'17.

17 And also, the value of the assets have
18 increased by approximately 9 billion during that same
19 period of time. We can turn to slide 32.

20 Now, looking at the full-time
21 equivalents. As you're aware, they are at the lowest
22 level in twenty (20) years at Manitoba Hydro, since
23 the purchase of Winnipeg Hydro.

24 Now, this has been achieved despite
25 additional operational requirements for major

1 infrastructure at Wuskawatim, Riel, Keewatinoow
2 converter stations, MMTP, and the Keeyask generating
3 station.

4 Total assets in 2002 were one-third
5 (1/3) the current value of where they're at now. All
6 of the aging infrastructure demands and increased
7 regulation, including environmental, NERC, NEBCR, and
8 other safety concerns.

9 And, again, in 2002, Hydro had assets
10 totalling 10.4 billion. And that's about one-third
11 (1/3) of the current assets. And that's found in
12 Appendix 3 of our Application. If we can turn to 33.
13 Thank you.

14 Now, continuing with FTEs, since
15 '16/'17, the overall level of FTEs at Manitoba Hydro
16 has decreased by 15 percent, which includes a 23
17 percent decrease in all management levels.

18 Hydro exceeded the requirements outlaid
19 -- outlined in the mandate letter in advance of that
20 letter being issued. And due to the external hiring
21 freeze and vacancy management undertaken in 2020,
22 Manitoba Hydro's total FTEs dropped well below the
23 post-VDP figure.

24 The level of staffing post-VDP is the
25 minimum staffing levels that will allow Hydro to

1 continue to provide safe and reliable service to its
2 customers and minimize the life cycle costs of its
3 assets.

4 Manitoba Hydro is committed to
5 maintaining staff levels at the post-VDP FTE level,
6 despite the increase in the assets we are maintaining.

7 And what you see in the '21/'22
8 forecast and the '22/'23 preliminary plan is a gradual
9 return to that post-VDP level of FTEs.

10 Recognizing that it will take time to
11 build up to the five-thousand four-hundred-and-twenty
12 (5,420) FTEs, the '22/'23 preliminary plan only
13 budgets for five-thousand one-hundred-and-seventy-five
14 (5,175) FTEs.

15 And importantly, as Mr. Tess testified
16 at transcript page 135, if we want to approach this
17 return to post-VDP staffing levels deliberately and
18 purposely, recognizing that it will take time to build
19 it back to five-thousand four-hundred-and-twenty
20 (5,420) FTEs, therefore, budget dollars have only been
21 included for five-thousand one-hundred-and-seventy-
22 five (5,175) FTEs in '22/'23. So a very gradual
23 approach.

24 And what you see in the '21/'22
25 forecast is modest growth in FTEs. Sixty-eight (68)

1 additional FTEs in '21/'22. And that's in Coalition
2 MFR 22(b) revised.

3 And it's important to note that the
4 cost savings associated with VDP have been realized
5 and will continue to have lasting benefits for the
6 years to come for Manitoba Hydro. Now, slide 34.

7 A significant driver of increase in O&A
8 is the shift of resources away from construction
9 activities. As the period of major capital project
10 construction ends, increased staff and resources are
11 being dedicated to operating and maintenance
12 activities.

13 At its peak, approximately 43 percent
14 of Manitoba Hydro's total work force was deployed to
15 construction activities in '16/'17 and '17/'18. That
16 is forecasted to decline to 33 percent in 2022/2023.
17 And that's at PUB IR-5(c).

18 This shift to operating and maintenance
19 activities will result in an increase of 27 million in
20 the 2022/'23 Preliminary Plan compared to 2019/'20.
21 And that was information as contained at Coalition IR
22 2(a).

23 And, again, it's important to note that
24 we are now operating and maintaining assets valued at
25 approximately \$9 billion more than we were in 2017.

1 And within O&A, there are several non-
2 controllable costs. Salary increases ordered by the
3 Manitoba Labour Board, an independent tribunal, who
4 set the general wage increases and ordered other
5 compensation for the IBEW represented employees.
6 Those employees represent approximately 45 percent of
7 the total workforce. The awarded increases of 3.5
8 percent over a three (3) year period, from 2019 being
9 1 1/2 percent, 2020 being 1/2 percent, 2021 being 1
10 1/2 percent, will have a lasting impact on
11 compensation into the future.

12 Now, last on O&A -- and we're nearing
13 the end -- there are also several non-salary costs,
14 including inflationary pressures, environmental
15 monitoring upon in-service of Keeyask, zebra mussel
16 treatment at our generating stations, and increased
17 motor vehicle costs. All of these contribute to --
18 they're non-salary related, but we are facing these
19 pressures.

20 Return to capital expenses. Now, with
21 respect to business operating capital, we know that
22 aging assets is a top organizational risk for the
23 Corporation. And there's some information that PUB-
24 MFR 5, at page 48, which is our annual report, that
25 speaks to that.

1 Now I -- I do appreciate that this
2 Board has heard evidence about the age of Manitoba
3 Hydro's assets for some time.

4 The Corporation has continued to mature
5 its approach to asset management. There is some
6 evidence on the record of this proceeding about the
7 work currently being done by the new asset planning
8 and delivery business unit, which I encourage the
9 Board to consider.

10 It is found that PUB-MFR, at our annual
11 report page 9. Capital investment is broken out into
12 projects and programs and there's information at PUB-
13 MFR 19 has a detailed listing of the investment
14 categories that we use.

15 Deferring required capital investment,
16 increases risks of asset failure, which if occurred,
17 could impact reliability, compliance, the environment
18 and the safety of the public and our employees.

19 Additionally, deferring capital
20 investment can increase maintenance -- maintenance
21 costs over the life of an asset.

22 And as set out in Manitoba Hydro's
23 filed materials and discussed yesterday, approximately
24 90 percent of Manitoba Hydro's business operations
25 projects and programs are in flight or on-going.

1 A significant portion of the projects
2 are multi-year. It is inefficient, costly, and in
3 some cases, just not possible, due to safety concerns
4 to cancel or defer projects that have already
5 commenced and are in flight. And that if -- there's
6 some -- some good information on that at PUB-Manitoba
7 Hydro IR Number 7.

8 To address the Keeyask In-Service
9 Deferral account, I'll -- I'll try my best at the --
10 at the accounting under this.

11 Under CGAAP when bringing generation --
12 generating stations into service, Manitoba Hydro
13 recognized the costs, finance and depreciation on a
14 pro-rata basis as each generating unit was placed in-
15 service.

16 This means that the finance and
17 depreciation costs of all components, including the
18 dam and the spillway, are recognized on a pro-rata
19 basis as each generating unit goes into service.

20 Using Limestone as an example, which
21 has ten (10) units, one-tenth of the finance and
22 depreciation costs associated with all components of
23 the project, were added to Manitoba Hydro's books as
24 each unit entered service.

25 No deferral account was required, as

1 this treatment was permitted under CGAAP.

2 Under IFRS, the Corporation must
3 recognize the full finance and depreciation costs of
4 the components when they are ready for use, rather
5 than on a pro-rata basis.

6 This treatment results in earlier
7 recognition of finance and depreciation costs and
8 would have resulted in Manitoba Hydro's revenue
9 requirement being higher in '21/'22 by \$74 million.

10 The Keeyask In-Service Deferral was
11 established to ensure that the same accounting
12 treatment, on a pro-rata basis, recognizing the
13 finance and depreciation costs for rate setting
14 purposes.

15 Manitoba Hydro was in no way attempting
16 to limit the PUB's rate setting authority, rather it
17 was ensuring the accounting treatment previously
18 accepted by the PUB for rate setting purposes was
19 maintained by creating this deferral account.

20 And as outlined in our response to PUB-
21 Manitoba Hydro 1-6, Manitoba Hydro is of the opinion
22 that there are no advantages to offsetting the Keeyask
23 In-Service Deferral account, with the Major Capital
24 Project Deferral account, due to the reduction to net
25 income -- pardon me -- due to the net income of twelve

1 (12) million in '21/'22. The reduction of 53 million
2 in '22/'23 and 36 million in '23/'24, and cumulative
3 reduction to retained earnings of 101 million by March
4 31, 2024.

5 Should the PUB not accept this
6 regulatory deferral for rate-setting purposes, the
7 balances will be reversed, which will result in a
8 decrease to net income of 89.5 million in '21/'22 and
9 a reduction of 13 million in 2022/'23, further
10 negatively impacting Manitoba Hydro's financial
11 position.

12 Up to -- quickly to cost of service
13 study. So, Manitoba Hydro's proposed approach to rate
14 differentiation across the customer classes in this
15 Interim Application, is consistent with the PUB's
16 findings in Order 59/18, which is to gradually move
17 those customer classes that are currently outside the
18 zone of reasonableness, into the zone, and share the
19 impact of doing so across the -- all the remaining
20 classes that are with -- within the zone of
21 reasonableness.

22 The PUB's original directive was this
23 migration was to be done over ten (10) years, starting
24 in 2018/'19.

25 Manitoba Hydro's proposed customer

1 class rate differentials reflects that there are seven
2 (7) years remaining, in that time frame, which results
3 in very modest differentiated rate adjustments of .15
4 percent.

5 Manitoba Hydro's approach also
6 considers that its cost of service study uses a zone
7 of reasonableness of 95 percent to 105 percent, that
8 was established by this Board in 1996, which says,
9 that to the extent a customer class revenue cost
10 coverage ratio falls within this range, it is accepted
11 that its revenues are recovering its allocated costs.

12 The -- this Board's finding in Order
13 69/19 that revenues within this range, the zone of
14 reasonableness, are deemed to represent full cost
15 recovery and that was at page 31. Now to the next
16 slide please.

17 As you heard from both Ms. Grewal and
18 Mr. Tess, Manitoba Hydro remains committed to filing a
19 multi-year General Rate Application in 2022. The
20 Corporation looks forward to the opportunity to engage
21 with the PUB and other stakeholders on that filing
22 process, outside of this hearing process.

23 To enable that dialogue and engagement
24 to occur, Manitoba Hydro respectfully requests this
25 Board to decline making any specific Orders with

1 respect to the timing and/or parameters of that
2 General Rate Application, until the Utility has had
3 the opportunity to fully engage with the PUB, as
4 contemplated by the September direct -- directive
5 issued by the Crown Services Minister.

6 Now moving on to our conclusion. I
7 wanted to bring you back to the -- again, this Board's
8 guidance in Orders 59/18 and 69/19, where the Board
9 clearly indicated it would consider all the facts and
10 circumstances which confront the Utility at the point
11 in time in which it filed an Interim Rate Application.

12 Hydro submits that this Board must
13 consider all the facts and circumstances which
14 confront Manitoba Hydro, at this point in time; not
15 which was forecast by the Utility fifteen (15), seven
16 (7) or even two (2) years ago and not what was
17 proposed as a government policy before drought impacts
18 were fully known. Slide 44.

19 Now returning to the two (2) questions
20 before you in this application. Would it be just and
21 reasonable to grant interim rates? And would Manitoba
22 Hydro suffer a deleterious effect in the absence of an
23 interim rate increase of 5 percent?

24 Manitoba Hydro submits, that it is
25 just, reasonable and in the general public interest to

1 grant the relief sought in this Application.

2 If an interim rate increase is not
3 granted, then Manitoba Hydro will forego a rate
4 increase for the '21/'22 fiscal year at a time when
5 its revenues have sharply declined due to drought and
6 its expenses are increasing as major capital projects
7 come into service.

8 These facts can't be ignored. Without
9 a rate increase, Manitoba Hydro is forecasted to
10 experience a net loss of 217 million and borrow 375
11 million to fund core operations and will experience a
12 cash deficiency in 2022/'23. And that's at Coalition
13 1-3B.

14 This clearly meets the threshold of a
15 deleterious effect to Manitoba Hydro. Approving this
16 Interim Application as filed for rates effective
17 January 1st, 2022, will promote rate stability and
18 predictability in the long-term for ratepayers and is
19 in the public interest.

20 That concludes my submission, subject
21 to any questions, Mr. Chair or Panel members, that you
22 may have.

23 THE CHAIRPERSON: Thank you, Mr.
24 Czarnecki. I'll ask the Panel if they have any
25 questions, and I'll start with Member McCutcheon. Do

1 you have any questions, Mr. McCutcheon?

2 BOARD MEMBER MCCUTCHEON (by Teams):

3 No questions, Mr. Chair.

4 THE CHAIRPERSON: Thank you. Any
5 questions? Dr. Grant...?

6 BOARD MEMBER GRANT: Thanks for this.
7 I -- I just want to go back to page 18 'cause I -- I
8 thought it captured some of what we're discussing.

9 My sense was that any realistic rate
10 increase cannot possibly address the cashflow
11 deficiency for this year or the net income loss, and
12 you're going to have to borrow in any event.

13 So would it be fair to say that the
14 impact of interim relief, if it were a final Order or,
15 you know, approved later on, it's really about, as --
16 as Board counsel would have expressed it, the present
17 value of that increase over time, or may we say the
18 rate trajectory or whatever term?

19 Is that sort of more that's at stake as
20 opposed to -- you know, the drought's the drought, and
21 there's no way that any realistic number is ever going
22 to...

23 Is it more than longer-term trajectory?

24 MR. BRENT CZARNECKI: Thank you for
25 the question. I would answer it's both. It's -- you

1 have to first stop the bleeding, so to speak, as to
2 the immediate financial impact.

3 But of course, in doing so -- and
4 again, with our capital coming online now has been
5 predicted, it is that compounding effect that will
6 promote rate stability and predictability going
7 forward. So I think you can't differentiate one from
8 the other. They -- they come as a package.

9 My second point on that is, this isn't
10 new to the Board. In 2003, they recognized that by
11 giving a 5 percent rate increase on an interim -- or
12 on a basis, and then they also I think were cognizant
13 of the impacts down the road and the compounding
14 effect of that by then providing conditional rate
15 increases of 2 1/2 percent, two (2) of them, to
16 recognize that it's both.

17 And I -- and I think that we're in a
18 very similar situation here, that you -- and we were
19 alive to that precedent of the Board in I think
20 striking the balance of 5 percent of what we're asking
21 for.

22 I think we've characterized that as
23 being modest to achieve both the objectives you're
24 talking about, Dr. Grant, if not on the minimum side,
25 recognizing the other impacts the customers have.

1 And your answer -- in answering your
2 question?

3 BOARD MEMBER HAMILTON: Thank you, Mr.
4 Czarnecki. Just a question with regard to your
5 comment which I believe was that the firm contracts
6 for the export market will be replaced with
7 opportunity market or spot market purchases, and
8 that's outside Manitoba -- Manitoba Hydro's control.

9 But will there not be work continuing
10 to try and negotiate for fixed-price contracts?

11 MR. BRENT CZARNECKI: Indeed, yes. I
12 -- I think that was the testimony of Mr. Tess and Mr.
13 Gawne that we -- we won't be sitting back idle, that
14 our energy market folks are -- are going to try and
15 uncover every stone they can in -- in firming sales
16 up.

17 But as of right now, that is what the
18 projection looks like, and I -- I think that's --

19 MR. AUREL TESS: Yeah, that's --
20 that's what we're projecting, Ms. Hamilton, in terms
21 of the risk there of -- of potentially replacing
22 dependable revenue with opportunity revenue that's
23 subject to that volatility.

24 You know, as Mr. Czarnecki stated,
25 we'll -- we'll do everything to optimize energy market

1 sales. We also have to consider domestic requirements
2 in the long run. So many of those contracts, as you
3 saw in that table, run for a long period of time.

4 And going back to some of our
5 assumptions we need to -- to work on in the IRP and
6 domestic needs and going forward, those are some of
7 the factors that will be considered by energy markets
8 as we go forward.

9 BOARD MEMBER HAMILTON: Thank you.

10 THE CHAIRPERSON: Can you pull -- this
11 is from Mr. Peters' book of documents, page 26. It's
12 MFR-15, attachment 3, page 3 of 14. Sorry. That's
13 not -- correct.

14 Yeah. As I understand it, Mr.
15 Czarnecki, your comment was we shouldn't look at past
16 forecasts like this to do comparisons?

17 MR. BRENT CZARNECKI: That's correct.

18 THE CHAIRPERSON: Okay. But you want
19 us to look at past forecasts for the directional plans
20 for rate increases. So is -- isn't that
21 contradictory?

22 You want us to look at it for things
23 that help you but not for things where we compare what
24 you said before to what you're saying now.

25 MR. BRENT CZARNECKI: Maybe I'll try

1 it this way, Mr. Chairman. As the -- as I alluded to,
2 there -- there's no question that over the last decade
3 the parties to these proceedings have been alive to
4 the fact that 3.5 percent increases were contemplated.

5 Today, as we're here on an interim
6 basis, I'm -- I'm saying it's more important to focus
7 on the immediate need of the drought and the financial
8 circumstances that are before us. So you have -- but
9 it's an impossible exercise to sever that from the 3
10 1/2 percent that we needed.

11 THE CHAIRPERSON: But that's exactly
12 it. This is -- this is -- this was done on the basis
13 of three point five seven (3.57). It's in a Manitoba
14 Hydro document in response to a MIPUG request for an
15 undertaking where Manitoba Hydro did projections
16 interestingly where it projected for '20/'21, the year
17 end, 13 percent equity, which is what you're slipping
18 to now.

19 But you're saying we -- we shouldn't
20 compare this to where we are now, but in terms of the
21 3.5 percent, it's okay to look at that as a
22 directional focus for a rate. That's -- that's my
23 problem.

24 I'm having trouble comparing it,
25 especially in relation to -- we don't have an IFF for

1 six (6) years, and based on what I'm hearing in terms
2 of when we'll get financial information, we may not
3 have long-term planning for eight (8) years, nine (9)
4 years, but we're not supposed to look back to this.

5 How -- how do we -- how do we evaluate
6 anything if we don't have numbers to look at?

7 MR. BRENT CZARNECKI: If I could just
8 have a moment.

9

10 (BRIEF PAUSE)

11

12 MR. BRENT CZARNECKI: Mr. Chairman,
13 for your question, could Mr. Tess answer your
14 question?

15 THE CHAIRPERSON: Oh, absolutely. I'd
16 love to hear from Mr. Tess.

17 MR. AUREL TESS: Thank you, Mr. Chair.
18 So I think, for one thing, we -- I think we -- we did
19 put on the record that we are very committed to
20 developing a long-term view. Ms. Grewal did speak I
21 believe Friday the 10th about developing two (2) to
22 three (3) years potentially for our next GRA, so that
23 is something we're committed to. So that -- that
24 would be the first thing.

25 I think the two (2) main drivers

1 between this exhibit that we talked about in the
2 hearing where -- the SaskPower deal and the lower
3 interest rates that our customers have definitely had
4 an advantage to.

5 But there's other assumptions that we
6 simply did not have time to unwind given the timing of
7 this and going back to those assumptions.

8 But that is why we focussed on what we
9 know today in terms of the additional cost structure
10 that we've been talking about.

11 THE CHAIRPERSON: The problem I have,
12 Mr. Tess, I just speak for myself, is that we make
13 decisions based on facts and evidence and that. And I
14 understand the situation of Manitoba in light of
15 you've got an Interim Rate Application.

16 But, as I understand it -- and I may
17 not be correct -- but as I understand the evidence,
18 you're not going to have long-range forecasts to
19 present to the Board until Strategy 2040, as I
20 understand, is baked out of the oven and ready to be
21 presented, so that's done, an energy policy, which the
22 evidence is there will be a first draft this spring --
23 next spring.

24 I'm not sure if you have any idea what
25 the -- what the process is after that or if it goes to

1 the public or if it ends up in legislation or long
2 that's going to take to -- to finalize the energy
3 policy.

4 And then the -- the third piece is the
5 IRP which, quite frankly, this Board recommended an
6 NFAT in 2014, so it's seven (7) years. There still is
7 no IRP. In the Board Order since then, it recommended
8 it. My memory is that you're probably looking at a
9 couple years for that.

10 So, if I'm going on the basis of what I
11 understand, we're probably looking at another three
12 (3) years before we get a document that looked like a
13 former IFF.

14 Now, quite frankly, this Board waited
15 ten (10) years to get an asset condition assessment
16 report; it's not waiting ten (10) years to get an IFF.
17 That's the problem we face.

18 You're basically saying we'll give you
19 a year or two (2) years of numbers, don't compare to
20 the previous IFFs because circumstances change. I
21 don't know how -- you know -- sorry.

22 The -- the comment, and I'm -- I -- I
23 don't -- I suspect this will come out, you're giving
24 long-range forecasts to bond rating agencies, but
25 we're hearing that those forecasts are not acceptable

1 for a rate hearing.

2 I don't know -- I don't know how a \$25
3 billion company operates without long-range forecasts.
4 I appreciate we're in an interim rate where you're
5 looking at the immediate period, but long term, I
6 don't know where -- where you're going to go without
7 long-range forecasts. And -- and I don't know where
8 this Board's going to go without long-range forecasts.

9 MR. AUREL TESS: Yeah, I appreciate
10 the -- the position you're in, the Board is in, in
11 terms of us not coming in with a longer -- longer-term
12 view. We certainly understand it. We're going to --
13 we're going to work towards it.

14 And -- and you'll certainly see a
15 longer-term view in our next GRA. And we're going to
16 go back and strategize as to how we can get better
17 information to you in terms of your decision making.

18 THE CHAIRPERSON: Okay.

19 MR. AUREL TESS: I would submit
20 thought that, in terms of, you know, the famous
21 Exhibit 93, as it's been called, right, a lot of those
22 assumptions, as I've stated earlier, still hold true;
23 timing is one (1) of them, interest rates are -- you
24 know, create a significant difference that make the
25 bottom line look improved from where we are today, and

1 one (1) big export contract, that we didn't know about
2 back then, the SaskPower deal.

3 So, I wouldn't suggest that the entire
4 thing cannot be compared. I'm just suggesting that
5 there's differences in what was prepared back then.
6 And you always make assumptions when you're -- when
7 you're modelling, financial modelling, that don't
8 always come true, right, and -- and we -- we see that
9 all the time in financial modelling.

10 THE CHAIRPERSON: And would I be
11 correct, Mr. Tess, that these are living, breathing
12 documents where your assumptions are changing and your
13 forecasts are changing all the time, other changes,
14 interest rates change?

15 MR. AUREL TESS: Absolutely. There's
16 changes on a daily basis. And you -- you referred to
17 the modelling that was done for the credit rating
18 agencies. Again, that was an assumption based on
19 incorrect timing of -- of rate increases and so on.

20 So, we're certainly going to work
21 towards getting a better long-term view for the Board.
22 And, you know, I can commit to that. We're going to
23 do that, so.

24 THE CHAIRPERSON: Okay. Well, it may
25 be something to discuss after this hearing.

1 Mr. Czarnecki, on page 23 of your
2 materials you refer to the 42 percent revenue going to
3 pay interest.

4 I -- I guess the problem I have is I'm
5 sort of feeling a tone of this is something that
6 wasn't expected. I don't know if it's 42 percent, but
7 Manitoba Hydro doubled its asset size in a very short
8 period of time.

9 As I look at utilities across the
10 country, I don't think anybody's done anything as --
11 as -- to that extent in that short period of time.
12 Manitoba Hydro is clearly anticipating that it was
13 going to carry heavy debt for a period, the famous
14 chart that goes up and down with Limestone and -- and
15 all that.

16 This isn't surprising. I mean, you're
17 -- Manitoba Hydro's in the financial position that it
18 expected to be in, as I understand it, except that it
19 got hit by the double whammy of a drought.

20 Is that correct?

21 MR. BRENT CZARNECKI: That's correct.
22 And -- and I would add, Mr. Chairman, respectfully
23 that it's not just Manitoba Hydro that was aware of
24 that, it was Interveners and the Board in this
25 proceeding.

1 And I guess maybe your point is -- is
2 one of projects coming into service. There's no more
3 road to -- to delay predictable and stable rates. And
4 -- and I think that's the -- that's the important
5 point here, is that we -- we need to start
6 implementing in a half -- or whatever the number may
7 be going forward.

8 The time has come, and it should come
9 at no surprise. And I don't mean that to -- to blame
10 anyone. That's the reality now, and it's time to act.
11 And you're absolutely correct that is just so happens
12 that it aligned with one (1) of our worst drought in -
13 - in our history.

14 And that -- that's back to why we think
15 5 -- 5 percent at this time is a modest increase and
16 balances the current financial circumstances.

17 THE CHAIRPERSON: Okay. Now, if
18 exports were higher, your financial -- your financial
19 position would be better, correct?

20 MR. BRENT CZARNECKI: Right.

21 THE CHAIRPERSON: So, I've been
22 reviewing the Brad Wall report which reviewed the NFAT
23 report. And I wasn't on the NFAT panel, unlike two
24 (2) of my colleagues. But I note the reference, that
25 there was concern by the NFAT panel that Keeyask was

1 proceeding at a time when long-term export contracts
2 weren't in place for that period of time and expressed
3 it at that time.

4 We're now chickens have come to roost,
5 so to speak. Is that correct?

6 MR. BRENT CZARNECKI: I think that's a
7 very fair characterization, Mr. Chairman. And -- and
8 I, too, wasn't part of the NFAT. But what I -- what I
9 recall and from the Brad Wall report, that is a fair
10 characterization, yes.

11 THE CHAIRPERSON: Okay, those are my
12 questions. I appreciate, Mr. Czarnecki, Mr. Tess,
13 we're running late. What I would propose -- I
14 apologize to counsel for AMC and MKO.

15 What I will propose is that we take a
16 fifteen (15) minute break now. And then we will move
17 to the closing submission of AMC, followed by the
18 closing submission of MKO. Thank you very much.

19 MR. BRENT CZARNECKI: Thank you, Mr.
20 Chair.

21 THE CHAIRPERSON: Mr. Czarnecki, thank
22 you.

23

24 --- Upon recessing at 2:44 p.m.

25 --- Upon resuming at 3:01 p.m.

1 THE CHAIRPERSON: Good afternoon, to
2 Alberta. We're ready to proceed with AMC. I don't
3 know who is going to put the submission in.

4

5 CLOSING SUBMISSIONS BY ASSEMBLY OF MANITOBA CHIEFS:

6 MS. CARLY FOX (by Teams): Okay.
7 Thank you, Mr. Chair. This is Carly Fox and I'll
8 begin.

9 I am here today with my colleague,
10 Emily Guglielmin, and we represent the Assembly of
11 Manitoba Chiefs in this Hearing.

12 As I noted during my opening
13 submissions, the Assembly of Manitoba Chiefs, or the
14 AMC's, mandate is to advocate for the collective
15 interests of First Nations in Manitoba, while
16 respecting the inherent self-determination and self-
17 government of each First Nation.

18 All of the First Nations that are
19 members of the AMC, as well as their citizens and
20 institutions associated with and operated by each
21 First Nation, such as schools, health centres, and
22 business entities, and the AMC Secretariat, are
23 Manitoba Hydro customers and rely on Manitoba Hydro
24 for their electrical power.

25 First Nations on reserve customers,

1 residential or otherwise, are particularly impacted by
2 rate increases because of their increased electricity
3 usage.

4 This is, in part, because First Nations
5 on reserve customers do not have access to natural gas
6 for heating.

7 First Nations customers also have
8 significantly higher levels of energy poverty,
9 compared with other Manitoba Hydro customers.

10 In our closing submissions, the AMC
11 will submit that Manitoba Hydro has not met its onus
12 of proving a prima facie case that a 5 percent interim
13 rate must be awarded.

14 The AMC makes three (3) submissions in
15 this regard. First, residential diesel customers
16 should receive no increase to their rates.

17 Second, the requested 5 percent rate
18 increase will have a significant negative impact on
19 First Nations customers, particularly those in the
20 former First Nations on reserve residential customer
21 class. And Manitoba Hydro has sufficiently not
22 balanced the interests of these customers with its
23 financial health.

24 Our third submission is that the
25 requested 5 percent rate increase through the interim

1 application process is not just unreasonable because
2 it is not exclusively related to the costs of the
3 drought and the costs that are directly related to the
4 drought should be addressed through mechanisms other
5 than a rate increase.

6 I'm going to start by briefly
7 addressing diesel rates before addressing the other
8 more complex issues.

9 Manitoba Hydro seeks to apply the same
10 increases awarded to grid connected residential and
11 general service customers to the equivalent diesel
12 rate components.

13 Manitoba Hydro's proposal is meant to
14 limit further divergence between the diesel
15 residential and the grid residential rates. However,
16 Manitoba did not file a diesel zone cost of service
17 study with its Interim Rate Application.

18 As the Board's Order 100-20 directed
19 that the diesel zone residential rate should be
20 maintained at the rate approved on August 1st, 2017,
21 pending a diesel zone specific rate application and
22 diesel zone cost of service study.

23 And given the minimal impact to
24 Manitoba's Hydro -- Manitoba Hydro's finances, which
25 we heard was \$42,000, the AMC submits that a diesel

1 zone residential rate should not be changed, as there
2 is no evidence to support a deviation from current
3 rates.

4 The second issue is that there is a
5 significant impact for First Nations customers. As
6 you have heard, the AMC advocates on behalf of First
7 Nations customers. And while the First Nations on
8 reserve residential rate class no longer exists, First
9 Nations customers still do. They make up a large
10 portion of the residential rate class, as well as
11 other rate classes.

12 They are among the most vulnerable
13 Manitoba Hydro customers in the province. As a
14 result, significant rate increases, such as the 5
15 percent increase applied for today, negatively affect
16 First Nations customers more strongly than most
17 others.

18 The requested 5 percent rate increase
19 is also being made through an interim process. This
20 means that we have minimal evidence or understanding
21 of the specific impacts on First Nations customers.
22 Nor the impacts that Manitoba Hydro may have taken to
23 mitigate this impact.

24 Although interim rates are not subject
25 to the same rigour and standards of a final rate

1 application, and are set without the benefit of a full
2 evidentiary record, and on a less onerous legal
3 standard, the overarching principle of awarding rates
4 in the general public interest still applies.

5 This means the interest of the
6 customers must be balanced with the financial health
7 of the Utility.

8 Where rate increases are necessary, the
9 AMC advocates for lower rate increases over a longer
10 period of time because it provides predictability and
11 stability for customers.

12 As stated by the Public Utilities Board
13 in Board Order 59/18, at page 63, funds taken out of
14 the pockets of ratepayers through higher rate
15 increases have a cost. This cost is particularly high
16 in the context of customers suffering from high levels
17 of energy poverty. That are already struggling to pay
18 the high costs of electricity.

19 As set out in Board Order 59/18, higher
20 rate increases have a disproportionate affect on First
21 Nations hydro customers. This Order states:

22 Specifically, low income households
23 and remote and First Nations
24 communities will be more strongly
25 affected, as well as others who do

1 not have access to alternative
2 sources of energy. In particular,
3 natural gas. In addition, lower
4 incomes were -- will hamper
5 substitution of capital goods such
6 as improved insulation and efficient
7 windows and doors. Rate increases
8 affect lower income households in
9 remote and First Nations communities
10 more significantly than any other
11 electricity customers."

12 In determining whether Manitoba Hydro
13 has balanced the needs of its customers with the
14 financial health of the Utility, consideration must be
15 given to the needs of First Nations customers.

16 The principle of reconciliation should
17 be reflected when this balance is considered.

18 To be clear, in this Application, the
19 AMC is not advocating for rates to be set artificially
20 low, which was cautioned by Manitoba Hydro in its
21 direct evidence given on December 10th.

22 Instead, the crux of the AMC
23 submissions are that Manitoba Hydro should not be
24 allowed to take advantage of an interim and rushed
25 process with a limited scope and no long-term

1 financial forecast to receive a rate increase that is
2 not directly attributable to drought conditions and
3 may not be supported in the long term.

4 Balancing the needs of customers with
5 the requirements of the Utility support the assertion
6 that, first, any interim rate increase ordered should
7 reflect only the financial impact of the drought; and
8 second, other means of addressing the financial impact
9 of the drought should be considered in lieu of a rate
10 increase.

11 The principle of reconciliation and
12 valid consideration of social policy and other factors
13 supports this position. Particularly in light of the
14 current tough economic conditions for consumers.

15 When we refer to reconciliation, in
16 Manitoba, we should refer particularly to the Path to
17 Reconciliation Act, which defines reconciliation as
18 the ongoing process of establishing and maintaining
19 mutually respectful relationships between Indigenous
20 and non-Indigenous peoples in order to build trust,
21 affirm historical agreements, address healing, and
22 create a more equitable and inclusive society.

23 Under that legislation, there are four
24 (4) principles in relation to reconciliation that the
25 Government, including Manitoba Hydro as a Crown

1 corporation, must have regard for in Manitoba, that
2 is, respect, engagement, understanding, and action.

3 The Path to Reconciliation Act
4 establishes that reconciliation is founded on
5 engagement with First Nations and First Peoples and is
6 fostered by striving for a deeper understanding of the
7 historical and current relationships between
8 Indigenous and non-Indigenous peoples. It is
9 furthered through concrete and constructive action.

10 The AMC believes that none of these
11 factors are reflected in the current Interim Rate
12 Application.

13 As an agent of the Crown, it is part of
14 Manitoba Hydro's mandate to advance reconciliation,
15 and this is reflected in Manitoba Hydro's mandate
16 letter. There is also a general and overarching
17 public interest in promoting reconciliation.

18 In addition, considerations regarding
19 vulnerable customers who suffer from energy poverty
20 are within the scope of the Public Utility (sic)
21 Board's mandate to determine what rates are just and
22 reasonable.

23 This is supported by the Court of
24 Appeal of Manitoba's decision in 2020 where the Court
25 agreed that the Public Utilities Board is entitled to

1 consider social policy and other factors it considers
2 relevant when fulfilling its mandate. This
3 specifically included issues of bill affordability.

4 Manitoba Hydro has stated that the
5 legacy of the past remains a strong influence on
6 Manitoba Hydro's relationships with Indigenous
7 communities and remains committed to establishing and
8 maintaining strong, mutually beneficial relationships
9 with Indigenous communities.

10 When asked whether Manitoba Hydro
11 considered the impacts of the requested rate increase
12 on First Nation customers, Manitoba Hydro stated that,
13 in developing the Application, they considered the
14 impacts on all customers, including Indigenous
15 communities. And that was on the December 13th, 2021,
16 transcript at page 428.

17 With regard to rate shock, Manitoba
18 Hydro stated that it considered the intergenerational
19 impact of the cost of the drought on its customers.
20 Regarding to the principle of reconciliation and
21 Manitoba Hydro's consideration of that principle in
22 this Application, we heard that Manitoba Hydro
23 considers reconciliation in the context of all of our
24 customers. And that is on the same transcript at page
25 433.

1 Of course, we note that when we speak
2 of the principle of reconciliation, it is specific to
3 First Nations and other Indigenous customers due to
4 the fact that Manitoba is situated on the lands and
5 territories of Indigenous Peoples.

6 Aside from some of these general
7 statements made by Manitoba Hydro, no evidence has
8 been submitted in this hearing regarding the impact of
9 a 5 percent rate increase on former First Nations on-
10 reserve residential customers in light of the 11.9
11 percent increase they faced from the fall of 2020 to
12 today.

13 No details about how First Nations
14 customers were considered in coming up with the 5
15 percent interim rate increase was provided. While
16 that may not have been specifically in scope for this
17 hearing, that is precisely the problem with an interim
18 rate application.

19 An interim rate application explicitly
20 narrows the scope of what is considered just and
21 reasonable. The needs of Manitoba Hydro's customers,
22 particularly the needs of Manitoba Hydro's most
23 vulnerable customers, are not being met through this
24 type of process. If those needs cannot be formally
25 understood and evaluated, how can they be balanced

1 with Manitoba Hydro's financial health?

2 It appears that the concerns of First
3 Nations customers have dropped or have been given a
4 lower preference while the impact on future customers
5 has been explicitly recognized and has been a key
6 focus of Hydro throughout its comments and evidence.

7 Manitoba Hydro confirmed in this
8 hearing that there is a considerable amount of
9 uncertainty in customer needs. This was why a long-
10 term forecast was not provided.

11 But if a long-term forecast was not
12 provided, how can Manitoba Hydro prove an interim rate
13 increase of 5 percent, and that it is just and
14 reasonable?

15 This is a significant request in the
16 context of the current economic circumstances in
17 Manitoba. While this Application may be interim, the
18 rate increase is not. It will carry through multiple
19 applications in the future.

20 While there is little evidence
21 available in this Application regarding the true
22 impact of this request on First Nations customers,
23 Manitoba Hydro was able to confirm that the impacts of
24 its operations on downstream users, particularly those
25 on the lower Nelson River, have been a significant

1 concern.

2 This is related to the well-below-
3 average water levels in those communities. This is a
4 detrimental impact for many First Nation customers,
5 particularly in terms of food security which is
6 already an issue for many.

7 Aside from the aforementioned rate
8 increase of approximately 11.9 percent for First
9 Nations on-reserve residential customers in the fall
10 of 2020, multiple additional factors amplify the
11 impacts of a rate increase for First Nations customers
12 at this time.

13 And that includes things like the
14 economic impacts of COVID-19 on First Nations and
15 First Nations citizens, high inflation rates and
16 supply chain issues, increasing cost of customer
17 goods, particularly food, impacts of drought on access
18 of First Nations to their traditional territories and
19 to their traditional resources such as hunting and
20 trapping grounds and fishing access, not to mention
21 the deleterious impacts of the drought on the health
22 and vitality of traditional resources, the full impact
23 of which is yet to be known.

24 These impacts are, of course, in
25 addition to the many factors contributing to the high

1 energy poverty experienced by First Nations customers
2 and explored more in depth in recent Public Utility
3 (sic) Board rate hearings.

4 In response to some of these concerns,
5 Manitoba Hydro has stated that they are aware of the
6 situation of energy poverty experienced by First
7 Nations customers, particularly in terms of the high
8 price of energy to heat the home, as well as impacts
9 to the -- of the pandemic.

10 Manitoba Hydro has also recognized that
11 certain people have challenges with paying bills, and
12 that Manitoba Hydro makes plans and concessions to
13 assist them. Unfortunately, given the limited scope
14 of this hearing, we have no understanding of the
15 extent of bill assistance being offered by Manitoba
16 Hydro, including the extent offered to First Nations
17 customers.

18 We also have little understanding of
19 the extent to which a 5 percent rate increase will
20 result in additional customers requiring bill
21 assistance. Hydro was clear, though, about laying out
22 the impacts on future customers rather than the
23 current plight of First Nation customers.

24 The AMC is deeply concerned that this
25 proposed rate increase for residential customers will

1 amount to rate shock for many First Nation customers.

2 Overall, the AMC submits that these
3 factors suggest that a 5 percent rate increase does
4 not balance the financial health of Manitoba Hydro
5 with the needs of its First Nations customers and
6 supports the AMC's argument which will be addressed by
7 my colleague Ms. Guglielmin, that steps should be
8 taken to ensure that the increase, if any, is awarded
9 is as minimal as possible.

10 And I'll turn it to Ms. Guglielmin now
11 to speak on this third issue.

12 MS. EMILY GUGLIELMIN (by Teams): Good
13 afternoon. I'm going to continue on from Carly Fox.
14 This is Emily Guglielmin speaking.

15 The AMC submits that general rate
16 increases outside of the specific circumstances of the
17 financial impact of the drought are matters that are
18 more appropriately addressed at a General Rate
19 Application.

20 The requested 5 percent increase does
21 not exclusively arise from emergency circumstances.
22 Given the energy poverty faced by First Nations
23 customers and the high impact the requested rate will
24 have on them, as well as the limited scope of this
25 hearing, any interim rate increase awarded should be

1 as minimal as possible.

2 Aspects of this Application related to
3 major capital projects coming into service, the costs
4 of which have been anticipated for many years, should
5 be addressed at a general rate application where a
6 more in-depth consideration of Manitoba Hydro's
7 evidence and a longer-term outlook can be considered.

8 To that end, we want to emphasize the
9 Public Utility (sic) Board's previous findings that an
10 Interim Rate Application is not the appropriate forum
11 to consider and rule upon contentious issues such as
12 financial performance targets to be utilized by the
13 Public Utilities Board in rate setting, debt
14 management strategy, forecasting, and rate design.

15 In Board Order 59/16, the Public
16 Utilities Board made it clear that it will only
17 consider interim rate applications in limited
18 circumstances. In that Order, the Board stated:

19 "It is not prepared to consider
20 future interim rate applications
21 from Manitoba Hydro unless warranted
22 by unforeseen or emergency
23 situations. It is the Board's
24 desire that Manitoba Hydro file
25 General Rate Applications on a

1 regular basis, and no more than two
2 (2) years apart. The Board shared
3 the Interveners' concerns that the
4 interim rate applications ought not
5 to be the norm for Manitoba Hydro."

6 In other words, the key issue in this
7 hearing should be what, if any, increase is required
8 to address the financial impact of current drought
9 conditions in order to ensure that Manitoba Hydro can
10 continue to operate safely and provide services to its
11 customer in what should be a small gap between this
12 and a general rate application.

13 Manitoba Hydro should not be allowed to
14 take advantage of a more summary process to push
15 through a significant rate increase to the detriment
16 of its customers.

17 In relation to the part of this
18 Application dealing with Manitoba Hydro's general
19 revenue requirement, it has been confirmed through
20 this Hearing that 3.5 percent of the requested 5
21 percent rate increase is meant to address the
22 substantial increase in Manitoba Hydro's 2021/'22
23 revenue requirement from placing major capital
24 projects in service.

25 These capital projects have been known

1 and accounted for by Manitoba Hydro for years, and yet
2 Manitoba Hydro has chosen to address this issue now
3 through an interim process.

4 As stated in the Application, Manitoba
5 Hydro has been projecting rate increases of at least
6 3.5 percent per year since 2009, primarily as a result
7 of the increase in costs associated with the major
8 capital projects that are now coming into service.

9 So, it appears that Manitoba Hydro is
10 using this projection to justify a 3 1/2 percent
11 increase related to capital costs while simultaneously
12 rejecting the use of a long-term financial forecast
13 and other data compiled for previous rate hearings
14 that supported this projection.

15 Given the Public Utilities Board's
16 previous directions regarding the appropriateness of
17 interim rate applications, the issue of required
18 revenue related to capital projects in service since
19 the 2019/'20 rate application should be deferred to a
20 General Rate Application where a longer term outlook
21 can be taken.

22 If we look only at the direct impact of
23 the drought, the AMC further submits that the
24 financial impact is lower than suggested in Manitoba
25 Hydro's Application.

1 Manitoba Hydro's Application sets out
2 the loss of net export revenue which is expressed as
3 the dollar difference between the 2021/'22 forecast
4 and 2021/'22 budget. This results in a deficit of
5 \$398 million.

6 The \$398 million deficit is reflective
7 of both the difference in hydroelectric generation
8 volume, which is a direct result of the drought, and
9 the difference in the price of exports and imports,
10 which is not a direct result of the drought. And this
11 can be seen in the December 13th transcript at page
12 407.

13 The AMC submits that the impact of the
14 drought is more appropriately considered as the \$250
15 million budget deficit as that is what is directly
16 attributable to lower hydraulic generation.

17 The remaining forecasted \$148 million
18 deficit not directly to the drought but is instead
19 related to pricing risk. Due to the limited scope of
20 this Application, it is not clear what part of this
21 \$148 million forecast deficit is reasonable.

22 When Manitoba Hydro hedges its import
23 purchases, there is a cost to customers, although
24 through this Hearing, we do not exactly know what that
25 cost is.

1 Manitoba Hydro stated in AMC Exhibit 2-
2 3 that it substantially hedged its projected imports
3 for November 2021 through the March 2022 time frame,
4 thereby mitigating a large portion of the price risk
5 associated with import requirements.

6 However, this indicates that Manitoba
7 Hydro may have substantially hedged its potential
8 imports when future prices were high which could have
9 exposed Manitoba Hydro's customers to unnecessary risk
10 when the prices later dropped in October and November.

11 The AMC submits that the purposes of
12 this interim application is not to collect variates to
13 budget amounts due to incorrect import or export
14 forecasts.

15 Essentially, if macroeconomic factors
16 are negatively impacting Manitoba Hydro, these should
17 be addressed through a detailed review with -- of its
18 operations through a General Rate Application rather
19 than rushing to a rate hike that may paper over more
20 systemic issues.

21 In summary, if 1.5 percent of the
22 requested rate increase is specifically related to the
23 cost of the drought, the AMC submits that this could
24 be reduced given that the more appropriate estimate
25 for the cost of the drought is \$250 million deficit

1 rather than the proposed \$398 million deficit.

2 Further, in this Application, Manitoba
3 Hydro is also seeking to amortize the major capital
4 project's deferral account. Starting January 1st,
5 2022, Manitoba Hydro proposes to recognize the 2 1/2
6 percent rate increase previously recognized in the
7 deferral account in its general revenues.

8 The AMC's concern is that Manitoba
9 Hydro's proposed use of the deferral account and
10 recognition of the 2 1/2 percent increase in its
11 general revenues on an ongoing basis does not meet the
12 purpose for which it was ordered to smooth out rate
13 increases and guard against rate shock when new
14 capital assets come into service.

15 From the AMC's perspective, it seems
16 like Manitoba Hydro simply wants to take advantage of
17 using the account to lower its revenue requirement
18 without providing a corresponding benefit to its
19 ratepayers.

20 The major capital project's deferral
21 account was ordered in Board Order 69/'19 on June --
22 effective June 1st, 2019. At that time, the Public
23 Utilities Board found that Manitoba Hydro did not
24 require an increase to its revenues in that fiscal
25 year. Instead, the revenues from the increase would

1 be placed in a deferral account for major capital
2 projects currently under construction.

3 The underlying reason behind this was
4 to allow the deferral account to mitigate future rate
5 increases required when new major capital projects are
6 in service.

7 In that Order, the Public Utilities
8 Board noted that, in determining the appropriate level
9 of the rate increase effective June 1st, 2019, it
10 relied on integrated financial forecasts that included
11 projected equal annual rate increases in the range of
12 3.5 percent -- 3.57 percent to 3.95 percent for
13 directional guidance.

14 This rate was supposed to assist in
15 smoothing customer -- consumer rates when major new
16 capital projects entered service. Despite the fact
17 that amortizing the major capital project deferral
18 account does help Manitoba Hydro's revenue
19 requirement, Manitoba Hydro's evidence is that it will
20 not help with Manitoba Hydro's cash situation.

21 Similarly, recognizing the 2.5 percent
22 increase from 2019 into Manitoba Hydro's general
23 revenue does not help Manitoba Hydro's cash situation.

24 Despite Manitoba Hydro's answer to this
25 on cross-examination, it is not clear to the AMC why

1 amortization of the deferral account, including the
2 possibility of shortening the amortization period,
3 should not be considered as a measure to provide some
4 rate relief for Manitoba Hydro customers now,
5 particularly, in relation to the 3.5 percent proposed
6 increase that is related to capital costs if the
7 Public Utilities Board considers that such an increase
8 is appropriately before the Board in these
9 circumstances.

10 In addition to the foregoing, we know
11 that Manitoba Hydro has been instructed to work with
12 the Public Utilities Board to file a multi-rate
13 application in 2022/'23, yet it has budgeted a zero
14 percent rate increase for that fiscal because, in its
15 words, it has a substantial amount of work ahead to
16 put together the next General Rate Application.

17 Initially, from the AMC's perspective,
18 the issue was that the zero percent rate increase as
19 an assumption seemed unreasonable if Manitoba Hydro
20 knew it would be asking for a rate increase in the
21 next fiscal year.

22 Now, the AMC is more concerned with why
23 are we getting such big answers from Manitoba Hydro on
24 when we can expect another rate increase.

25 Essentially, Manitoba Hydro is asking

1 customers to trust that a 5 percent rate increase is
2 just and reasonable with no long-term financial
3 forecast and varying answers about when we can expect
4 to have a more fulsome review of its operations.

5 At the same time, from prior financial
6 forecasting by many measures, Manitoba Hydro appears
7 to be in a better position than what has previously
8 been predicted.

9 Regarding the timing of another rate
10 application, in the transcript at page 283, in
11 response to questions from Mr. Tess -- or from Mr.
12 Peters, sorry, Mr. Tess agreed that Manitoba Hydro
13 would be wanting another rate increase next year,
14 presumably meaning the 2022 to '23 fiscal year. And
15 it was also agreed that the rate increase would be
16 more than zero percent.

17 Just prior to that, it was confirmed
18 that Manitoba Hydro would do everything they could to
19 work with the Public Utilities Board to get a rate
20 increase on a more timely basis.

21 Then yesterday, Mr. Tess stated the
22 reasoning for assuming a zero percent rate increase in
23 the 2022/'23 fiscal year is not, as originally
24 suggested in the Application a simplifying assumption,
25 but about timing of a rate application.

1 Manitoba Hydro would potentially be
2 looking at fall for completing a multi-year rate
3 application. And given the timing of that, he stated
4 Manitoba Hydro could not forecast a January rate
5 increase.

6 He also stated that Manitoba Hydro
7 would be looking for a rate increase effective April
8 1, 2023. So, we are now led to believe, that Manitoba
9 Hydro is not seeking further rate relief until the
10 fiscal year at 2023/'24. And, so presumably, this is
11 why we have this big rate request now of 5 percent, 3
12 1/2 percent of which is related to capital costs.

13 As stated, previously, the AMC
14 advocates for an approach that where rate increases
15 are necessary, it is preferable to have smaller
16 increases spread out over a longer period of time.

17 If we wait for an application that
18 won't go into effect until April 1st, 2023, our
19 customers are in for another shocking rate request.

20 The AMC does not believe it is
21 appropriate to allow Manitoba Hydro to wait this long
22 to file a general rate application. At the very
23 least, some form of status update and reporting should
24 be considered, as the current plan does not leave very
25 much confidence or transparency for Manitoba Hydro's

1 customers.

2 The AMC also questions whether granting
3 Manitoba Hydro a 5 percent rate increase now would be
4 rewarding the Corporation for failure to file a
5 general rate application on a more timely basis, and
6 would simply give Manitoba Hydro more leeway to
7 operate longer with appro -- without appropriate
8 regulatory oversight.

9 Lastly, one (1) of the main underlying
10 factors for Manitoba Hydro's requested rate increase
11 is addressing the inter-generational equity issues
12 related to recovering the annual interest costs on
13 borrowings, to avoid an unfair burden being shifted to
14 future customers.

15 However, this factor should not weigh
16 too heavily in the current application, because even
17 with a 5 percent rate increase, Manitoba Hydro states
18 that it will be required to borrow approximately 90
19 percent of its projected \$398 million loss.

20 The only long-term financial forecast
21 that the Public Utilities Board and its customers have
22 access to show the Corporation in a better financial
23 situation, even with the drought, than it ever thought
24 it would be at this point before.

25 Without any other evidence, aside from

1 general and vague statements that we should disregard
2 those old forecasts, we are being told that 5 percent
3 is just, reasonable and necessary.

4 Requesting a 5 percent increase through
5 a limited Interim Rate Application process is asking
6 customers to unduly bear costs that may not be
7 reasonable, because there has not been a full and in-
8 depth view of Manitoba Hydro's operations, and no
9 long-term financial forecast has been provided.

10 It is weighing the supposed, but
11 unknown needs, of future customers at the expense of
12 current customers, particularly First Nations
13 customers who are more vulnerable than most to
14 increased rates.

15 In closing, the AMC would like to echo
16 the concerns of the other Interveners, as well, some
17 of the concerns that have arisen through the status
18 update proceeding, that Manitoba Hydro has been
19 operating with limited oversight by the Public
20 Utilities Board and is leaving its customers in the
21 dark.

22 This apparently urgent proceeding has
23 made that abundantly clear, when it was immediately
24 determined that 3 1/2 percent of the requested rate is
25 attributed to high cost capital projects coming on-

1 line, an event that has been on the horizon for many
2 years.

3 The AMC questions whether Manitoba
4 Hydro's customers, especially First Nations customers,
5 should be on the hook for Manitoba's failure to file a
6 general rate application, or failure to have a so-
7 called, plan b, when legislated rates did not
8 materialize.

9 The AMC has offered an analysis that
10 indicates that the proposed 5 percent rate increase is
11 not just and reasonable and does not appropriately
12 balance the financial health of Manitoba Hydro with
13 the needs of its customers.

14 And those are our submissions.

15 THE CHAIRPERSON: Thank you. I'll ask
16 the Panel if they have any questions, starting with
17 Mr. McCutcheon.

18 BOARD MEMBER MCCUTCHEON (by Teams): I
19 have no questions, Mr. Chairman.

20 THE CHAIRPERSON: Thank you. Ms.
21 Kapitany...?

22 BOARD VICE-CHAIR KAPITANY: Thank you.
23 Ms. Fox, you mentioned in your presentation that you
24 see other means to address the shortfall in the test
25 year, other than rates.

1 Were you thinking of things beyond the
2 decrease in retained earnings and the cost containment
3 measures that we've spoken about in this hearing?

4 MS. CARLY FOX (by Teams): No, I
5 think, excuse me, I think that those were the -- the
6 two (2) main ones that we were thinking about.

7 Ms. Guglielmin, I think, you talked a
8 little bit about, like the potential amortization of
9 rates that -- longer than the year, two (2) years that
10 Manitoba Hydro considered that it would be
11 inappropriate to use.

12 BOARD VICE-CHAIR KAPITANY (by Teams):
13 Okay. Thank you.

14 THE CHAIRPERSON: Mr. Ring...?

15 BOARD MEMBER RING: My question is
16 for Cathy Fox. Pardon -- pardon me, Carly Fox.

17 Did I hear you say that you acknowledge
18 there's no such thing as a First Nation on reserve
19 class?

20 MS. CARLY FOX (by Teams): I do
21 acknowledge that there's no First Nations on reserve
22 class any longer, pursuant to the Court of Appeal --
23 Manitoba Court of Appeal's decision in 2020.

24 BOARD MEMBER RING: Thank you.

25 THE CHAIRPERSON: Mr. Grant...?

1 BOARD MEMBER GRANT: Sorry, just a
2 real quicky here for clarification.

3 When you were calculating the cost of
4 the drought, do I understand you correctly by saying
5 if -- if prices had not changed, exports and import
6 prices had not changed, and we simply look at the
7 reduced water flows, is that where your backing of the
8 \$200 million and -- maybe you could just repeat that
9 part for me, if you could.

10 MS. EMILY GUGLIELMIN (by Teams):
11 Sure, this is Emily Guglielmin. I would direct you to
12 the transcript page 407, to about 410, so that sets
13 that out a little bit further.

14 Essentially, what we're saying is that
15 the loss of net export revenue was expressed as the
16 dollar difference between the 2021/'22 forecast and
17 the 2021/'22 budget and so that's what resulted in the
18 \$398 million deficit.

19 And so, in response to an Information
20 Request, it was determined that only part of that
21 deficit reflected the difference in hydroelectric
22 generation volume, so that's a result of the drought.

23 And the rest was the difference in the
24 price of exports and imports, which was confirmed by
25 Manitoba Hydro that is not a direct result of the

1 drought, it's more -- I -- I believe its more of macro
2 economic circumstances.

3 BOARD MEMBER GRANT: Thank you.

4 THE CHAIRPERSON: I have a question
5 either -- either of you can answer it. Ms. Fox raised
6 it.

7 Ms. Fox, you -- you raised the issue
8 about a particular concern about rate shock. And the
9 -- and the question I have for you is: What do you
10 consider rate shock to be? Is this -- is it a
11 specific number? Or how -- how do you define it for
12 the purposes of -- of what the Board should consider?

13 MS. CARLY FOX (by Teams): I think for
14 the purposes of what the Board could -- should
15 consider, I think one (1) of the issues that we are
16 having right now, with having this interim process, is
17 that we cannot provide you evidence from actual First
18 Nations customers about what rate shock would be, so
19 we can't provide you with a number.

20 We would need the actual First Nations
21 citizens or First Nations businesses, or First Nations
22 governments to be able to tell you what they can and
23 cannot afford; what that number would be, which would
24 make it completely unmanageable and because this is an
25 interim application, we haven't been able to bring

1 that evidence before the Board.

2 THE CHAIRPERSON: And you would
3 consider the evidence similar to the evidence that we
4 had in the 18/19 hearing then?

5 MS. CARLY FOX (by Teams): That's
6 true, yes.

7 THE CHAIRPERSON: Those are my
8 questions. Thank you -- thank you both for
9 participating today. We appreciate it.

10 Ms. Schubert, if we could have Mr.
11 Buchart. Thank you.

12 MR. MARKUS BUCHART (by Teams): Yes.
13 Good afternoon.

14 MR. CHAIRPERSON: Thank you.

15 MR. MARKUS BUCHART (by Teams): I
16 know that whenever I log on to these sessions, I get
17 the message "You've been muted. Someone in the
18 meeting muted you". Hard not -- hard not to take that
19 personally.

20 MR. CHAIRPERSON: Well, no. It's just
21 that the only person who is not muted is the person
22 who is speaking. So, we have one, two, three, four,
23 five, six, seven people right now who are watching and
24 they're all muted, except for you.

25 MR. MARKUS BUCHART (by Teams): It is

1 -- was basically a joke, Mr. Chairman.

2 THE CHAIRPERSON: Okay.

3 MR. MARKUS BUCHART (by Teams): So, I
4 just note that --

5 MR. CHAIRPERSON: I'm -- I'm not going
6 very humorous.

7 MR. MARKUS BUCHART (by Teams): Sorry?

8 MR. CHAIRPERSON: I said I'm not known
9 for my humour.

10 MR. MARKUS BUCHART (by Teams): Oh,
11 all right. I'm known for my --

12 MR. CHAIRPERSON: It was one (1) of
13 the conditions for me to take this position.

14

15 CLOSING SUBMISSIONS BY MR. MARKUS BUCHART:

16 MR. MARKUS BUCHART (by Teams): So,
17 I've provided Ms. Schubert with a written copy of our
18 final submission and I understand it should be
19 numbered as Exhibit MK0-2.

20 THE CHAIRPERSON: We have it. Thank
21 you.

22

23 --- EXHIBIT NO. MK0-2: MKO's written closing
24 submissions.

25

1 MR. MARKUS BUCHART (by Teams): So,
2 good afternoon, Mr. Chair Gabor, Vice-Chair Kapitany,
3 and fellow panel members, Ring, Hamilton, Grant, and
4 McCutcheon. Just, for the transcript, my name is
5 Markus Buchart.

6 I'm pleased to have this opportunity to
7 make this submission to the Board and I'm honoured to
8 have been asked to do so for the Intervener Manitoba
9 Keewatinowi Okimakanak Inc. or MKO for short.

10 MKO is the organization of Chiefs that
11 represents the citizens of 26 First Nations in
12 Northern Manitoba who are signatories to Treaties 4,
13 5, 6, and 10. MKO, therefore, provides the collective
14 voice for about 65,000 treaty First Nations citizens
15 in Northern Manitoba.

16 MKO became a party to this Interim Rate
17 Application proceeding almost by accident. This is
18 the long and winding road how MKO got here.

19 This Board created a new First Nation
20 on reserve residential customer class in Board
21 Order 59/18, which MKO supported.

22 In Order 59/18, at pages 27 to 28, the
23 Board found that, and noted Manitoba's -- Manitoba
24 Hydro's agreement, quote:

25 "That electricity rates and the

1 resulting bills place a particularly
2 heavy burden on First Nations
3 communities due to inadequate
4 housing infrastructure and the
5 absolute levels of poverty".

6 Close quotes. MKO agreed with this
7 rationale for creating the First Nation on reserve
8 residential class.

9 In Order 59/18, the Board maintained
10 electricity rates for the new class, including the
11 diesel communities, at the August 1st, 2017 rates.

12 MKO participated in the 2017/'18 and
13 2018/2019 General Rate Application proceeding. In
14 Board Order 29/19, the Board, once again, ordered that
15 there shall be no increase in electricity rates for
16 the First Nation on reserve residential class.

17 Unfortunately for MKO citizens,
18 Manitoba Hydro appealed the creation of the new First
19 Nation on reserve residential class to the Court of
20 Appeal.

21 On June 9, 2020, the Court of Appeal
22 ruled that the Board exceeded its jurisdiction under
23 the Manitoba Hydro Act when it created the First
24 Nation on res -- on reserve residential customer
25 class. The citation for that decision is Manitoba

1 (Hydroelectric Board) v. Manitoba (Public Utilities
2 Board) and the rest et al., 2020 MBCA 60.

3 The Supreme Court of Canada declined to
4 grant leave to appeal that decision on March 18th,
5 2021, in an assembly of Manitoba Chiefs v. Manitoba
6 Hydroelectric Board, which is reported 2021 CanLii
7 20317.

8 So, in Board Order 120, made on August
9 12th, 2020, the Board revisi -- revised rates applicable
10 to the now abolished First Nation on reserve
11 residential rate class to follow the Court of Appeal's
12 decision to be effective on September 1st, 2020. The
13 result was an effective rate increase on a First
14 Nation on reserve customers -- or former First Nation
15 on reserve customers, of 6.5 percent.

16 Meanwhile, back in government, the
17 Government of Manitoba decided to bypass the
18 statutory, regulatory scheme that it itself had
19 enacted and bypass this Board. Instead, the
20 government enacted an ordinary government budget bill
21 to apply a further across-the-board electricity rate
22 increase of 2.9 percent, effective on December 1st,
23 2020.

24 The citation for the budget statute is
25 the Budget Implementation and Tax Statutes Amendment

1 Act, 2020, Statutes of Manitoba, 2020, Chapter 21.

2 The 2.9 percent budget rate increase
3 applied equally to the former First Nation on reserve
4 residential customers, who had, only two (2) months
5 earlier, experienced the 2.5 percent rate increase.
6 The two rates -- the rate hikes together represented
7 an increase of -- of 9.6 percent.

8 So, MKO was encouraged when the
9 Consumers' Coalition began the ball rolling to compel
10 a new General Rate Application or rates review by its
11 motion -- motion to this Board on March 26th, 2021.

12 MKO saw such a hearing as an
13 opportunity to resurrect the former First Nation on
14 reserve residential rate class, not directly, of
15 course, because the Court of Appeal says that this
16 Board lacks -- that this Board lacks jurisdiction, but
17 indirectly.

18 The Manitoba Hydro Act, sub-sections
19 39(11) and (12) permit this Board to make
20 recommendations to the Lieutenant-Governor In Council.
21 MKO thought that this Board might recommend the
22 recreation of a First Nation on reserve residential
23 class and the government might adopt that
24 recommendation and amend the relevant statute or
25 statutes.

1 After much sound and fury and apparent
2 resistance by Manitoba Hydro, this Board granted the
3 Consumer Coalition's motion for an electricity rates
4 hearing in Board Order 89/21 on August 17th, 2021.

5 On Aug -- on September 16th, 2021, MKO
6 submitted an application for Intervener status in that
7 prospective hearing.

8 Then the earth, apparently, moved. The
9 application in this proceeding discloses that the
10 Minister of Crown Services issued a Ministerial
11 Directive to Manitoba Hydro, on September 22nd, 2021,
12 to proceed with this -- this Interim Rate Application.

13 Manitoba Hydro then filed this
14 Application a week later, on September 29th, 2020.
15 The Crown Corporation that resisted fiercely the
16 Consumer Coalition's motion for a rates review
17 suddenly needed a 5 percent increase in revenue and
18 needed it fast.

19 MKO had applied on September 16th, 2020
20 to be an Intervener in the Consumer Coalition's
21 proposed rate review proceeding. Instead, that
22 application made MKO an Intervener in this Interim
23 Rate Application, which none of the Interveners even
24 imagined at the time they -- they applied, which is
25 how MKO accidentally became an Intervener in the

1 present Interim Rate Application.

2 So, MKO applied in September to begin
3 the process of restoring the First Nation on reserve
4 residential rate class properly, starting with a Board
5 recommendation to the government under the Manitoba
6 Hydro Act, as I have described earlier.

7 MKO knows that this is beyond the scope
8 of the proceeding that we are now and that it has
9 found itself in.

10 Then, what does MKO say that this Board
11 should do that is within scope? MKO says that the
12 Board should start as Manitoba's first witness did.
13 The first -- the President and Chief Executive Officer
14 of Manitoba Hydro, Jay Grewal, was Manitoba Hydro's
15 first witness.

16 In the tran -- transcript, at page 120,
17 among the very first things that Ms. Grewal said was,
18 and I have the quote in the exhibit, quote:

19 "Before I move forward, as is
20 practice for us as Manitoba Hydro,
21 I'd like to do a land and
22 territorial acknowledgment. We are
23 joining you today from Treaty 1
24 Territory and the homeland of the
25 Metis Nation, where, of course,

1 Manitoba Hydro has a presence across
2 this province, on Treaty 1,
3 Treaty 2, Treaty 3, Treaty 4, and
4 Treaty 5 lands. The original
5 territories of the Anishinaabe,
6 Cree, Oji-Cree, Dakota, and Dene
7 peoples and the homeland of the --
8 of the Metis Nation."
9 We acknowledge these lands and pay
10 our respects to the ancestors of
11 these territories. The legacy of
12 the past remains a strong influence
13 on Manitoba Hydro's relationship
14 with Indigenous communities today,
15 and we remain committed to
16 establishing and maintaining strong,
17 mutually beneficial relationships
18 with Indigenous communities."

19 Closes quote. What does this evidence,
20 the affirmed evidence of the President and Chief
21 Executive Officer of Manitoba Hydro, that Ms. Grewal
22 chose to lead off her direct testimony, mean in the
23 context of Manitoba Hydro's present Interim Rate
24 Application?

25 A land and territorial acknowledgement

1 has to have some meaning. It has -- if it has no
2 meaning, then it's just empty words.

3 The Path to Reconciliation Act,
4 referred to also by AMC's counsel, reinforces land and
5 territorial acknowledgements. Subsection (1) (I)
6 defines reconciliation:

7 "Reconciliation refers to the
8 originating process of establishing
9 and maintaining mutually respectful
10 relationships between Indigenous and
11 non-Indigenous peoples in order to
12 build trust, affirm historical
13 agreements, address healing, and
14 create a more equitable and
15 inclusive society."

16 Subsection (2) (I) includes four (4)
17 principles to advance reconciliation, and we quote
18 essentially the fourth principle. So the section --
19 subsection (2) begins:

20 "To advance reconciliation, the
21 government must have regard to the
22 following principles."

23 The fourth principle is action.

24 "Reconciliation is furthered by
25 concrete and constructive action

1 that improves the present and future
2 relationships between Indigenous and
3 non-Indigenous peoples."

4 So the principles of statutory
5 interpretation require that statutory enactment --
6 enactments must have meaning. Therefore, just like a
7 land and territorial acknowledgement, the Path to
8 Reconciliation Act should not be read as empty words.

9 On the first day of this proceeding,
10 the -- the Board heard from Amanda Leighton, a
11 spokesperson for the Interchurch Council of (sic)
12 Hydropower. Her presentation, which MKO highly
13 commends for the Board's consideration, is recorded in
14 the transcript at pages 70 to 76.

15 Although not affirmed or sworn
16 evidence, Ms. Leighton's comments are, in general
17 terms, uncontentious and would not likely be
18 substantially disputed by Manitoba Hydro.

19 Northern hydro-electric development,
20 mostly on MKO First Nations land and territory, has
21 been highly disruptive to First Nation economy and --
22 society and economy. Northern First Nations people's
23 electricity consumption is significantly higher than
24 it is, say, in Winnipeg, and electricity rates are a
25 special hardship to First Nation people, many of whom

1 live in poverty. None of these observations of Ms.
2 Leighton are especially controversial.

3 MKO is sceptical whether Manitoba Hydro
4 really needs to increase its revenue by 5 percent now.
5 The thorough cross-examination by the other
6 Interveners has raised doubts about that alleged
7 urgent revenue requirement.

8 For MKO's part, President Grewal
9 testified that Manitoba Hydro began to be concerned
10 about a bel -- developing drought, quote, "in late --
11 late in June in 2021." That's in the transcript, page
12 218. She testified that the Corporation's concern
13 became greater in late September and became serious by
14 mid-October. The transcript contains those comments
15 that I've paraphrased in page 219.

16 She testified that Manitoba Hydro was
17 preparing for compliance with Bill 35 -- in -- an
18 application -- and she said in 2023 or 2024. She
19 testified that Manitoba Hydro had no plan B in case
20 Bill 35 was not passed, and did not make any
21 preparations for applying for a rate increase until
22 forced to do so by the ministerial order of September
23 22nd. That's contained in the transcript at pages 219
24 to 221.

25 That does not sound like the actions of

1 a utility panicking about an impending dire revenue
2 shortfall. But if this Board finds that Manitoba
3 Hydro, indeed, does require an interim rate increase,
4 either a uniform across-the-board increase of 5
5 percent or less or as varying increases between
6 different rate classes, what guidance can MKO give?

7 The First Nation on-reserve residential
8 rate class is gone. If the Board -- Board grants a
9 rate increase that applies to the residential rate
10 class, that rate increase would apply equally to all
11 First Nation citizen customers, whether they reside on
12 reserve or not. There's no avoiding it. The Court of
13 Appeal has spoken.

14 So the only way to provide relief to
15 First Nation citizen customers is to provide the same
16 relief to all residential customers, and that would be
17 MKO's recommendation.

18 If, say, the Board were to increase the
19 residential rate class by 5.0 percent, that would mean
20 that the former First Nation on-reserve residential
21 customers would have experienced an increase of just
22 about 15.1 percent since September 1st, 2020 -- only
23 sixteen (16) months ago. And they will have
24 experienced that increase during a period of economic
25 dislocation caused by the present pandemic.

1 And to answer the Chairman's question
2 about what is rate shock, well, you know it when you
3 see it. A 15.1 percent increase in sixteen (16)
4 months would be rate shock.

5 One can hear Manitoba Hydro objecting.
6 In MKO's cross-examination of Manitoba Hydro's
7 technical panel, the witnesses said that Manitoba
8 Hydro is somewhat neutral as to how rate increases are
9 distributed between rate classes except that the
10 Corporation would prefer to maintain rates within the
11 zone of reasonableness. And that discussion is at the
12 transcript at pages 391 to 394.

13 Fair enough, but MKO would answer that
14 objection by saying that the affirmed land and
15 territorial acknowledgement and the enactment of the
16 Path to Reconciliation Act trump a merely technical
17 concept like a desire zone of reasonable --
18 reasonableness.

19 Technical concepts are supposed to
20 serve society. An effective 15.1 percent rate
21 increase within sixteen (16) months on the province's
22 northern Indigenous citizens cannot be considered
23 reasonable, even if it is inside the technical zone of
24 reasonableness.

25 So to summarize, in conclusion, MKO

1 submits that the Board should not increase the
2 residential rate class in this interim rate
3 application because to do so would raise the rates
4 15.1 percent in sixteen (16) months for northern on-
5 reserve residents, First Nation residents.

6 That is our submission, subject to any
7 questions.

8 THE CHAIRPERSON: Thank you, Mr.
9 Buchart.

10 Mr. McCutcheon, do you have a question?

11 BOARD MEMBER MCCUTCHEON (by Teams): I
12 have no questions, Mr. Chairman.

13 THE CHAIRPERSON: Thank you very much,
14 Mr. Buchart, for your participation.

15 MR. MARKUS BUCHART (by Teams): Thank
16 you.

17 BOARD MEMBER GRANT: Could I --

18 THE CHAIRPERSON: Sorry. Sorry.
19 Sorry. I spoke too quickly. I -- I did look at Dr.
20 Grant and --

21 BOARD MEMBER GRANT: Sorry. I was
22 just, you know --

23 THE CHAIRPERSON: Dr. Grant is --
24 yeah. Dr. Grant has a question.

25 BOARD MEMBER GRANT: And I should have

1 asked this when AMC was here, but just going back to
2 the First Nations rate class, I mean, one (1) of the
3 arguments was -- I think there was a form of rough
4 justice, that the rationale was one of bill
5 affordability.

6 And so knowing that so many members on
7 reserve were suffering from poverty, it was one (1)
8 way of very, very rough justice of trying to address
9 bill affordability.

10 I'd have to suggest the idea of putting
11 the entire -- restricting any increase to the entire
12 residential rate class would be a very, very, very
13 form of rough justice when trying to address the issue
14 about on First Nation reserves.

15 So my question, Mr. Buchart: I'm
16 wondering, what -- what struck me in the AMC
17 presentation and I -- and I feel naive for not even
18 recognizing this -- was the potential double whammy
19 that some First (sic) and say northern residents face
20 where you're hit with a drought, and not only do your
21 hydro rates potentially go up, but also your
22 livelihood from things like hunting and fishing and
23 trapping may go down at the same time.

24 So I guess I'm just trying to drill
25 down in a more specific way, which I think would be an

1 important contribution as an Intervener. Is there any
2 evidence to provide, and -- and maybe go back to the
3 2003/2004 drought.

4 Is there any evidence to support the
5 idea that when during a drought some of your clients
6 would face particular hardship in terms of their form
7 of livelihood?

8 Do you know if it's -- if that
9 information exists or if it's possible to gather it?

10 MR. MARKUS BUCHART (by Teams): I --
11 I'm not aware of any, and perhaps -- perhaps AMC's
12 counsel could -- could answer the question.

13 But a general economic downturn affects
14 -- affects everybody, and it's commonly acknowledged
15 that the northern Aboriginal people have a -- have a
16 depressed economy in part because of hydroelectric
17 development.

18 It's -- it's common knowledge that the
19 pandemic has affected everyone. I think you can take
20 notice of the fact that some of the reserves were shut
21 down completely for some periods of time.

22 So -- but as far as specific evidence
23 and -- not in this proceeding or earlier, I -- I'm not
24 aware of any. I'd have to go back and look for that,
25 but perhaps counsel for AMC --

1 BOARD MEMBER GRANT: Yeah. I'd be
2 looking specifically for drought related, loss of
3 livelihood that some of the farmers might have.

4 And I -- and I realize that waterflows
5 may differ all along the watershed, but I'm just
6 curious to know if there's any evidence at all
7 gathered in terms of economic hardship in a drought
8 that some groups of individuals may face in addition
9 to potential increases in their hydro rates.

10 MR. MARKUS BUCHART (by Teams): I
11 suspect for fishing, for example, there -- there must
12 be data out there, but we don't have it in this
13 proceeding, and I don't have it at my fingertips. I'm
14 sorry.

15 BOARD MEMBER GRANT: Okay. Thank you.

16 THE CHAIRPERSON: Thank you, Mr.
17 Buchart.

18 This concludes the submissions for this
19 afternoon. We're going to adjourn now and we will
20 resume at 9:00 a.m. tomorrow morning. Thank you.

21

22 --- Upon adjourning at 4:02 p.m.

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2 Certified correct,
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6 Wendy Woodworth, Ms.
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