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

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Pages 770 to 872

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Emily Guglielmin (by Teams)	)Manitoba Chiefs
Markus Buchart (by Teams)	) MKO

Table of Contents

List of Exhibits

--- Upon commencing at 8:58 a.m.

THE CHAIRPERSON: Good morning, everyone. We're proceeding to the closing submission by Consumers Coalition, and -- and then after that by MIPUG.

I'd indicate that we have each of them scheduled for one (1) hour. There may be questions from the panel after their submissions.

So, Ms. Dilay, are you proceeding?

MS. KATRINE DILAY: Yes.

THE CHAIRPERSON: Thank you.

CLOSING SUBMISSIONS BY MS. KATRINE DILAY:

MS. KATRINE DILAY: Thank you, Mr. Chair. Good morning. Good morning, Board members. As you know, my name is Katrine Dilay, and I'm one (1) of the lawyers for the Consumers Coalition. Along with my co-counsel Mr. Byron Williams, we'll be presenting the closing submissions of the Consumers Coalition this morning.

I would like to note that Gloria Desorcy of the Consumers Association is listening online, as well as Damon Johnston of the Aboriginal Council of Winnipeg and Meaghan Erbus of Harvest

Manitoba. And to my left is our co-counsel Mr. Chris Klassen.

As you'll see on the screen, we've titled our presentation this morning 'A Fine Balance: Protecting Ratepayers and Restoring Confidence in the Rate-Setting Process'.

In terms of brief outline, I'll be walking the Board through items 1 through 3 of this outline, starting with the issue, going into guidance from the Public Utilities Board and Manitoba Hydro as it relates to this proceeding and the issues within it, and I'll walk through the recommendations of the Consumers Coalition.

After that, Mr. Williams will take over and he will go through how the Consumers Coalition's recommendations balance fairness and efficiency. He will also talk about Hydro's proposal being inconsistent with prior regulatory guidance as well as its own words, followed by Hydro's credibility problem, and finally talking about restoring confidence in the rate-setting process.

On page 3, we've set out the issue in this proceeding from our clients' perspective, and they've characterized it as: What is a principled and fair approach to rate setting for a corporation and rate strategy that are in flux and amidst a major capital expansion, a drought, and a pandemic?

And throughout the proceeding, our clients have struggled with this question, and our goal this morning is to provide a recommended pathway for the Board to try to answer this question.

On slide 4, we begin the section on guidance: prior guidance from the Public Utilities Board ,as well as Hydro. And this is guidance that, from our clients' perspective, is relevant to this proceeding.

A key point on slide 4 is that retained earnings are a key mechanism to address drought risk. Drought is an expected and planned-for event. How do we know this? Manitoba Hydro is a hydroelectric company. Ninety-five (95) percent of its electricity comes from hydraulic resources, and water is its primary resource.

Drought is one (1) of the major risks faced by the Corporation, and we heard that on the record of this proceeding.

Importantly, retained earnings have been flagged by both Hydro and this Board as a primary means to protect the Corporation against the impacts of drought.

And we've included a couple of findings -- prior findings from this Board regarding retained earnings in -- both from Board Order 59 of '18 where the Board found that a primary purpose of having retained earnings is to withstand a drought.

And also the Board at that time accepted the evidence of Morrison Park Advisors that retained earnings should be used to manage drought risk in combination with regulatory action by the Board.

On page 5, another important finding by this Board is that Hydro must do its part on operating and administrative cost controls. In the 2019/'20 rate application, this Board will recall that it did not accept Manitoba -- Manitoba Hydro's 2019/'20 O&A target for rate-setting purposes.

In that proceeding, the Public Utilities Board found that, in developing the 2019/'20 O&A target for rate-setting purposes, an escalation of 1 percent above the prior financial outlook of 2018/'19 was to be used rather than the 2 percent used by Manitoba Hydro in that particular rate application. And that's, of course, the last rate application that was before this Board.

And we've included, from our clients'

perspective, a very important excerpt at the bottom which spoke to Hydro's O&A costs in the future, after the 2019/'20 rate application. The Board said there that, as it stated in Order 59 of '18, the Board expected Hydro to continue its efforts to reduce O&A costs, both in terms of staff reductions and supply chain management.

Importantly, the Board reiterates that cost control should be ongoing and that it should continue in the post-voluntary departure program years. And as we will see later in this presentation -- Mr. Williams will touch upon this -- the opposite seems to have happened since this particular rate application and decision by the Board.

On page 6, another important PUB finding from our clients' perspective is that Hydro must do its part to prioritize business operations capital. And of course, when we talk about business operations capital, we're talking about day-to-day management of assets mostly.

Going back to 2018 and Board Order 58/18, the Board had found that, while in a period of major capital spending on Keeyask and Bipole III, Manitoba Hydro should find savings in business operations capital.

And in that decision, the Board also reminded Hydro and parties that this was consistent with a prior Board finding going back to 2015 in Order 73/15 that Hydro had not adequately evaluated the long-term pacing and prioritization requirements for business operations capital spending. So this finding goes back to at least 2015.

And finally, we've included another point: that the Board accepted METSCO's evidence, who was a Coalition independent expert witness in that proceeding, that Hydro cannot demonstrate the proposed spending is necessary or has been optimized to any extent.

Moving to page 7 is another Board finding that is instructive, in our view, for this particular proceeding. Debt-equity targets are not determinative of rate increases during an era of major capital expansion or in an interim rate application.

And this goes back to the NFAT, the Need For an Alternatives To proceeding, where the Public Utilities Board found that, in the midst of capital expansion, Hydro should relax its 75:25 debt-to-equity ratio policy to moderate its proposed electricity rate increases.

The Board found that, having considered

the interests of the Utility -- sorry, the Utility's ratepayer and the financial health of the Corporation, a particular equity level target and pace to achieve that target should not determine the rate increases approved in that GRA.

And a more general point about debt-to-equity targets is bullet 3 on this point. The Board also accepted Morrison Park Advisors' evidence that debt to equity is a questionable metric for a vertically integrated monopoly Crown utility with a debt guarantee from the provincial government. So they're questioning even the usefulness of that particular financial metric.

And of course, as it relates to this particular interim rate application, the last point on this page is that the Board has found that long-range financial targets are out of scope for this hearing.

On page 8, we've included an excerpt from the Need For an Alternatives To proceeding which shows us that even Hydro's historic approach has favoured balance between cost controls and rate increases when faced with extenuous (sic) circumstan -- circumstances such as drought.

In that hearing, Hydro told consumers and its regulator that it would look to reduce its cash outflows when arguing for its development plan at NFAT. And we looked at this transcript with Hydro's witnesses during this hearing, and essentially Mr. Schulz here was talking about what measures would they undertake should they be faced with a drought?

The first measure is that Hydro would curtain or delay its operating and capital expenditures, as required and as appropriate. And we think it's -- it's -- from our clients' perspective, who of course represent residential consumers, seeing that Hydro compared itself to what a homeowner would do in similar circumstances was really important for them to see.

So their -- Hydro said their first approach would be to see what we can do, and, as any homeowner, any person would do when faced with a situation, we would see what we can do maybe to not have as many cash outflows.

And of course, as you see in this excerpt, the second piece talked about with bridge financing, and finally, thirdly, increase the cash inflows through rate increases.

So the last few slides that I went -- that I talked about were, from our perspective, PUB and Hydro guidance and what we've heard in the past that we think is relevant and applicable to this particular proceeding.

On this slide on page 9, we've included some criteria that the Board has indicated in the past when looking at interim rate applications. And based on these criteria, our clients would say that interim rate applications are no time to repudiate high -- prior Public Utilities Board Orders.

The Board has found that when looking at an interim rate application, we examine whether it would be just and reasonable to grant interim rates and whether Manitoba Hydro would suffer a deleterious effect in the absence of an interim rate increase.

Contentious issues are to be excluded from consideration in such an application. And based on both Public Utilities Board finding, as well as other case law, any interim rates granted should be confirmed in a subsequent comprehensive review which should take place as soon as possible.

So, on slide 9, from our clients' perspective, as well as the previous slides, are the -- the criteria and the guidance that is to be used in this particular Application.

On the next slides that I will go through before passing it over to Mr. Williams, we've listed the Consumers Coalition's recommendations. And so, I'll walk through those. And Mr. Williams's part of the presentation will, essentially, talk about the support and justification based on the evidence we've heard in this Hearing.

So, recommendation number 1 from the Consumers Coalition is a drought loss rate increase of 0.8 percent to cover the carrying costs of the additional debt that Hydro has had to incur as a result of the drought.

Our clients say that an argument could be made that this portion of the rate increase should be zero. The reason being that customers have prepaid for this drought over the last seventeen (17) years through rate increases even in good water years and retained earnings being built up.

However, they do acknowledge that 0.8 percent would cover the carrying cost of the drought in the interim in the sense that it covers that extra financing cost from having had to borrow as a direct result of the drought.

And this is important that it be in the interim until there can be an examination of Hydro's revenue requirement needs in a full hearing.

We note that, if this 0.8 percent is

ultimately confirmed, it has a present value of $320 million in perpetuity. So, this exceeds, of course, the ultimate loss projected for '21/'22, which would be around 200 -- which is around $200 million and is relatively consistent with the lost net export revenue as a direct result of the drought.

So, of course, recommendation number 1 talks about a rate increase. Recommendation 2 talks about cost control, and it's an allowance for 2 percent operating and administrative cost increase for rate-setting purposes in the fiscal year 2022/'23.

Mr. Williams will look at this in more detail, but Hydro is asking customers for a 6.8 percent increase in O&A costs in 2022/'23 as compared to the prior fiscal year, and it has indicated that it has a policy goal of returning to a staff level justified by its operations twenty (20) years ago.

Our clients say, when considering the current economic circumstances for Manitoba customers, this is unacceptable to ratepayers. So, the 2 percent increase in O&A costs that our clients would recommend, they would say it's -- it's actually generous compared to prior Board Orders 59/'18 and 69/'19.

For 69/'19, the Board had found that 1

percent increase was reasonable. However, at this point in time, they say that the 2 percent increase is generally consistent with public sector budgeting practices and can be considered reasonable until we can examine O&A costs in detail at the next full rate proceeding.

In terms of numbers, this allowance would be $11 million additional versus the $38 million projected, representing a decrease of 27 million in revenue requirements. And our understanding is that this increases both cashflow and net income for the projections for the next fiscal year.

And so, our clients would say that this reflects -- better reflects the balancing of interests by telling Manitoba Hydro to sharpen its pencil and keep the O&A trajectory in check and send a message for the next rate proceeding.

(BRIEF PAUSE)

MS. KATRINE DILAY: On page 12 is recommendation 3, which is another cost control recommendation, that Consumers Coalition recommends that a business operations capital budget for rate setting purposes of 2022/'23 should be reduced by 10 percent for projects that are not in flight.

And we heard on the record of this proceeding that 90 percent of business operations capital projects are in flight, so that's where the 10 percent recommendation comes from.

In terms of numbers, the 10 percent reduction in business operations capital for projects not in flight would be a reduction of approximately 55 million in the cashflow requirement for 2022/'23. And we get that by using the projected business operations capital number for 2022/'23, which is 545 million, and 10 percent of that.

And the reason for this recommendation is that, once again, Hydro is not using its asset management tools to prioritize business operations capital in a drought situation, which is both unacceptable to ratepayers in the current circumstances, and also contrary to prior Board findings.

This recommendation would have minimal impact on net income but would improve core cashflow by 55 million.

Recommendation number 4 is on page 13, and it's an amortization period for the major capital projects deferral account of five (5) years. As we heard in this proceeding, Hydro's proposal to amortize this account over two (2) years with the rationale that this was the time frame it was collected in, so that's what we heard in the proceeding, and from our clients' perspective, for rate-setting purposes, this does not make sense.

The purpose of the deferral account was to smooth in the increased revenue requirements for the major capital projects. These assets have long lives. And regulatory precedent would suggest an amortization period of at least five (5) years. And we've included one (1) example in terms of the Bipole 3 deferral account and the -- in Order 59/'18.

So, what does this mean in terms of numbers? A five (5) year amortization period would reduce net income by 30 million in 2022/'23. But we note that this is a non-cash item. And the lower O&A costs of 27 million that we discussed in recommendation number 2 on page 11 would offset this almost from a net income perspective.

(BRIEF PAUSE)

MS. KATRINE DILAY: Recommendation 5 is the last part of sort of the revenue requirement and rate increase recommendations of our clients, and it's the second part of the rate increase, which is a 1.2 percent rate increase for rate transition purposes as major capital projects come online.

This was tough for our clients. You know, they debated. And -- and they asked the question: Is it debatable if the scope of a drought application should include a rate increase for major capital projects, the carrying costs of those projects in particular, when these projects and these costs have been understood for a decade?

When we look at the projections for next fiscal year, 2022/'23, it's evident from the $112 million profit forecast before any rate increases, that the revenue at currently approved rates is sufficient to pay for the carrying costs of these major capital projects, which is $619 million, as well as Hydro's other costs which are, of course, imbedded in the revenue requirement projections.

However, rates smoothing is a desirable goal in Hydro's present context, and our clients certainly agree with that. The problem in terms of what this number should look like is that Hydro has provided no mid to long-term forecast to judge what that smoothing or transitional rate trajectory looks like.

We've seen previous 3.5 percent rate trajectories, but those -- and those were based on prior forecasts in which there were caveats that these were indicative only and would have to be reevaluated by the Hydro Board before any rate application.

It's important to note that there was never any preapproval by this Board, the Public Utilities Board, of those indicative rate increases.

Traditional rate setting is based on overall revenue requirement, needs, using current forecasts and not one-off incremental calculations.

And so, as a result of the context we're in, we are left with judgment and traditional rate setting principles in terms of what this transition should look like.

And so, in terms of the overall rate increase that our clients are recommending, it is 2 percent. And you can see that on page 15.

Two percent can be split into the 0.8 percent directly related to the drought that I discussed in recommendation 1; and the 1.2 percent for transition purposes that I discussed in recommendation 5.

So on this slide here, we're trying to

demonstrate where that leaves Hydro's overall financial health, which is, of course, an important consideration for this Board. And is -- is very important to ratepayers in Manitoba as well.

So Manitoba Hydro provided scenarios for various rate increases as a response to a Coalition IR, specifically IR -- Coalition IR 3(b). And the 2 percent rate increase scenario indicated a net income for 2022/'23 of 147 million. And core cash flow of minus 2 million. So, essentially, they would have to borrow 2 million -- an additional 2 million.

So the net income impact of the Coalition's recommendation would be the starting point of 147 million, plus 27 million for lower O&A costs, minus the 30 million for the longer amortization period of the major capital projects deferral account. So that would equal 144 million.

Relatively similar to Hydro's projection of the -- with the 2 percent rate increase. And, from our clients' perspective, this represents a profit for Hydro that is consistent with regulatory precedent.

In terms of core cash flow impacts of the recommendation, we start with the minus 2 million, and we add 27 million for lower O&A costs, and we also add 55 million for lower business operations capitals costs, which gives us 80 million.

And our understanding is that this is a $29 million improvement over Hydro's proposal, which, of course, is based on a 5 percent rate increase.

And the last point on this slide is that the other financial metrics, based on a 2 percent rate increase, appear to be reasonable when considered against traditional rate setting metrics that the -- this Board has used to set rates for the last thirty (30) years.

And we've just included the footnote there to the Coalition IR where the major -- or the key financial metrics were listed for the various rate increase scenarios. So we would direct your attention to the 2 percent.

An important part of our clients' recommendation is that a conditional interim rate increase is required to begin to restore ratepayer trust and confidence in rate setting.

And so, our clients' would recommend a number of conditions be attached to any interim rate increase granted.

First of all, that it be temporary to recognize the temporary nature of drought. And this could be in the form of a rate rider to be confirmed as soon as possible in 2022. And we just noted in the footnote that the -- this Board raised the possibility of a rate rider, as a response to emergent situations facing Hydro. That was back in Public Utilities Board Order 59 of '18.

The rate rider, from our clients' recommendation, would expire on January 1st of 2023, one (1) year after implementation, if there is no further Order from this Board either confirming it or not.

And if Hydro has not provided the Board with a firm timetable for filing a rate application by June 1st of 2022, then our clients would recommend that the status update process would be re-activated to confirm or vary the interim rate change by the end of 2022.

And the last two (2) bullets really talk about restoring trust and confidence in rate setting for Hydro. They would suggest that any further rate relief for 2022/'23 and thereafter should be based on a comprehensive status update proceeding or a general rate application with a proper evidentiary foundation for a monopoly with long-lived capital assets.

And, finally, Hydro should be directed to engage with stakeholders, including the Interveners in this proceeding, about rate-setting strategy prior to filing its next rate application. And our clients say this is crucial to begin to restore ratepayer confidence in the rate-setting process.

And the last slide that I will talk to is slide 17, which provides our clients' recommendation with respect to cost of service.

So our clients note that, in PUB Order 59/18, the Board directed differentiated rate increases over ten (10) years based on the zone of reasonableness.

In the next proceeding leading to Order 69/19, Hydro paused rate differentiation pending the review of a prospective cost of service study, which it was ordered to prepare and file with the next GRA.

We would note that the current process we are in is not a General Rate Application. In terms of process, it was more limited than a GRA. We had one (1) limited round of Information Requests, as compared to two (2) in a typical process. There was limited cross-examinations. And no specific witness panel on rate design or cost of service. And no expert evidence to test the complex policy and technical aspects of cost of service.

We also note that Keeyask, which is the largest asset in Hydro's history, is only partially in service. And in terms of the prospective cost of service study period, at the beginning, there was one (1) unit, and then, five (5) units at the start. So an average of three (3) units during the study period, out of seven (7) units total.

And so, our clients say that Keeyask will impact the prospective cost of service study results when it's completely in service.

So given all this, our clients' recommendation is to suspend the transition into the zone of reasonableness for this current emergency Interim Rate Application, in the context of an untested cost of service study, as well as the largest asset in Hydro's history only partially in service.

That's the recommendation. However, if the Board decides to approve differentiated rates, as has been proposed by Hydro in its application, our clients would recommend that it should do so based on bringing classes into the zone of reasonableness and not based on unity, which would be in accordance with Order 59 of '18.

And that concludes the part of the

presentation that I will speak to. And I'll pass the mic over to Mr. Williams. Thank you.

DR. BYRON WILLIAMS: Thank you and good morning, members of the panel.

In the thirty-one (31) minutes remaining, I am tasked in terms of taking you home and to a recommendation that we think, being the Consumer Coalition's approach, that best accords with the objectives of fairness and efficiency that underlie our statutory regime, and the conventional rate setting principles of the Public Utilities Board.

And certainly, at a high level, our clients believe that their recommendation honours and recognizes the significant contribution of today's ratepayers, who have built up retained earnings over the last seventeen (17) years.

It also serves to protect ratepayers from Hydro's failure to act prudently on their behalf, in terms of controlling its costs and in terms of conducting an orderly regulatory process.

Our clients' recommendation recognizes and acknowledges important developments in terms of Hydro's financial circumstances in recent years, including some of the good news stories that Mr. Peters talked about last Friday.

It also recognizes that there are major projects online or coming online fully, and that there are costs associated with that.

But that, in the absence of long-term financial information, we can have very limited confidence with the old rate trajectory of 3.5 percent. And there is significant evidence before you to suggest that that may be too high.

So our clients' proposal seeks to set out a pathway to provide some interim relief for Manitoba Hydro, but making it conditional on a proper regulatory process in '22/'23.

And it also, if we have a proper regulatory process in '22/'23, recognizes that if Hydro continues to have water pressures, it will have an opportunity to request timely relief for the '22/'23 year in that year.

Slide 19 captures the history of the last seventeen (17) years in one (1) graph. And it makes the point, that Manitoba Hydro customers have pre-paid for this drought through regular rate increases above the rate of inflation, since that '03/'04 drought.

And when our client wishes to distinguish where we are today from where we were in

'03/'04, at in '03/'04 Manitoba Hydro was about to embark on a $20 billion major capital expenditure program.

We're coming to the end of that. Manitoba Hydro in '03/'04 was coming off of years without any rate increase, and, in fact, if you look at the material on the -- on the record of this proceeding, you'll see that the year previously there had actually been a rate decrease.

Manitoba Hydro in -- in the '04/'05 year was looking at -- at estimated cost of a drought, without financing expense, of $1.1 billion with only 734 million in retained earnings.

So, what this graph depicts is the concerted effort of the PUB with the cooperation of Hydro and stakeholders to make our -- this Corporation, our Crown Corporation, more resilient to build up retained earnings.

And you see the steady growth up to -- to -- in the range of $3 billion on the right side of that, fueled to a -- a significant degree, by the cumulative rate increases, which are captured in blue.

So, that was a core part of the resiliency strategy, knowing that drought is a regular path -- occurrence for Manitoba Hydro, so that we didn't have to have an -- a 5 percent rate increase in the face of the next drought.

If we turn to slide 20 and 21, another core component of the Public Utility (sic) Board and, frankly, Hydro's efforts in that post drought period was to -- to recognize that we have to address operating and administrative costs for the overall well-being of the Corporation, but in particular, as Mr. Schulz back in 2014, in the face of a drought.

And on slide 20 we capture the -- the concerning details of what Manitoba Hydro has been doing on the expenditure side since the last general rate application, but it's captured more vividly on the next slide, being page 21.

But one (1) key thing that our clients' recommendation does is reject Hydro's failure to address O&A costs.

And here you see on slide 21, the growth and total O&A expenses, since the last general rate application, some $83 million.

And at the bottom you see the growth in corporate FTE's, especially since 2021, out to five one seventy-five in the forecast year, but remember Hydro has told us that there's hundreds more still coming, to play -- to pay for Strategy 2040.

Of concern to our clients is the cumulative increase in O&A of 4.3 percent from -- since the last GRA to 2021, of 8.8 percent to '21/'22 and then astonishingly of 16.2 percent to next year.

And from our clients' perspective, a line has to be drawn in the sand that -- especially in the midst of a drought, but this level of failure to control costs is not acceptable from a rate setting perspective.

Similarly on slide 22, a strength of the Consumer Coalition's recommendation is it also addresses Hydro's failure to implement business operation capital cost controls, which is a major driver of cost -- of cash flow pressures in the '22/'23 fiscal year.

And, obviously, what the Board has heard in this hearing is Hydro's ignoring the Board's advice, dating back to 2015 and continuing with business as usual.

What the Board heard in this hearing about business operation capital was platitudes. That's what this Board has been hearing from Manitoba Hydro dating back to 2008.

Capital asset management, this Board is aware from the great evidence of the 2017/'18 General

Rate Application, from METSCO we learned about what Epcor does, what Toronto Hydro does. We know what good capital asset management looks like and what we heard in this hearing was nothing more than platitudes. No evidence that Hydro has learned from the -- the Board's advice to it and from the great advice of METSCO.

So, focusing on the bottom bullet on page 22, with significant concern about the future growth in O&A and business operational capital, and no certainty about when the -- or what the next rate proceeding will look like, our clients' proposal sends a strong message through a lower rate increase before the situation gets worse. A line in the sand needs to be drawn.

Slide 23 tries to correct some of the, no doubt, inadvertent misinformation about cash flow that this Board has been hearing in this rate application.

It reminds the Public Utilities Board, that Manitoba Hydro has multiple liquidity tools paid for by a $240 million contribution from ratepayers through the debt guarantee fee. That contribution pays for long-term borrowing. It also is there guaranteeing that $500 million line of credit.

This -- this slide reminds us that despite Manitoba Hydro's cash flow protestations, if his access to that $500 million notes payable facility that Mr. Schulz talked about, back in 2014, but it's not using it.

In the legislation, that legi -- that cap has actually been increased to 1.5 billion, but it's mired in whatever's happening at the Manitoba Legislature in terms of some procedural delays.

Our recommendation also acknowledges, that since the NFAT, we've understood that there's going to be some cash flow pressures when you're finishing up a over budget Keeyask hydroelectric project.

Those kind of cash flow pressures were recognized and understood. That's why we had rate increases to address retained earnings. That's why our client has been focused on business operational capital since 2008. We knew this was coming. We said Manitoba Hydro had to get it's house in order. It's still declining to do so.

Slide 24 says that our -- our proposal in terms of the -- the rate recommendation is consistent with what Manitoba Hydro, what Mr. Schulz, what Mr. Rainkie were telling us back in 2014. We are asking Hydro to honour its commitment from the NFAT.

This delay in terms of slide 24 has talked about -- we can -- slide -- slide 25, my apology, Ms. Schubert, you're doing better than I am.

Slide 25, I won't spend much time here because Ms. Dilay has spoken about this already. We know that Hydro's assuming average normal water is looking to be back on track in '22/'23 and we also know that we're in -- as compared to the NFAT, or even just a couple years ago, Hydro was in relatively good condition.

And so the Consumer Coalition proposal recognizes that built into current rates, there's enough net income to pay for the carrying costs of the major capital projects, as well as the other costs of Manitoba Hydro. That's why that moderate rate increase of 1.2 percent for smoothing is where it is.

Slide 26 tries to highlight some of the good news and some of -- recognizing that we're in a drought, and that is not good news, but it also tries to highlight some of the long-term good news stories that this Corporation has before it.

The -- Hydro's Chief Financial Officer talked a lot about debt, on Friday. He didn't acknowledge that Hydro's net debt is over a billion dollars lower than where we thought we would be at the last general rate application. He didn't acknowledge the phenomenal growth in our net export revenues, think of where -- where we were in the actuals of 2020/'21 around 600 million.

They're projected to be in excess of 900 million in the next fiscal year, fueled in significant part by that new Saskatchewan power sale.

Hydro did acknowledge another good news story is the lower interest rate environment, and it also did acknowledge in cross-examination the significant favourable developments in those transmission projects: cumulatively, 80 million less in annual revenue requirement related to the Great Northern and to Bipole III compared to where we thought we would be a few short years ago.

Slide 27 is very pretty, and what we're -- we would encourage you, recognizing that time is tight, to read this slide with slides 14 and slides 35 because what our client has done on this slide -- so that's slides 14 and 35 portray the whole narrative.

What our -- our client has done on this slide is look at: What are the criteria that the Board traditionally looks at; net income, retained earnings, net debt, debt ratio, EBITDA, interest coverage ratio, the capital coverage -- coverage ratio -- and looks are they in control? That's the green colour. Are they looking improved compared to where we were a few years ago?

And in five (5) of the six (6) cases, we can point to significant improvement or a steady as you go.

We do note in yellow that there is a slight decline in the debt -- debt ratio. You'd expect that in a drought, but we remind the Board that for it -- it's thinking in terms of the debt ratio for -- for rate-setting purposes.

So from our clients' perspective, their proposal appropriately responds to Hydro's sound fiscal health using a 2 percent rate increase scenario.

Again, slide 28 speaks to Ms. Dilay's point about a measured path forward. We appropriately -- our clients feel we would suggest responds to the drought through the 0.8 percent electric rate increase related to drought carrying costs, but the 1.2 is related to the return to that relatively sound financial state in '22/'23.

And we just want to make sure that there's no misunderstanding because there was again some inadvertent misstatements in terms of what the waterflow situation is by Manitoba Hydro on -- on Friday.

And so we note that '22/'23 where Hydro's projecting a return to being in line with prior projections even without a rate increase, assuming an average of forty (40) year waterflows as those are rolled up into the financial statements.

Those forty (40) year waterflows, contrary to what the CEO said on Friday, include droughts and low-water years. And as Mr. Gawne -- Gawne helpfully pointed out on Monday, this projection already assumes that there's 20 percent lower in the reservoir going into '22/'23.

We don't talk enough about our clients in this proceeding, but slide 29 tries to speak to our clients. And it's no -- it is no coincidence that our client is a coalition of a broader consumers group, CAC, along with a coalition of food banks and a group representing urban Indigenous people.

And those groups collectively are under extraordinary pressure. Manitoba consumers are facing very tight times, and what we -- our client says on slide 29 is that their recommendation better responds to where Manitoba consumers are because it asks

Manitoba Hydro to bear some of the pain of this, especially in O&A and -- and business operational capitals.

Again, Ms. Dilay did a fabulous job of this on slide 30. Key to our clients' recommendation is the conditional rate increases, conditional on Manitoba Hydro getting its house back in -- its regulatory house in order.

Who knows what happened over the summer, as we clearly came to understand that there were tremendous water pressures, but the peculiar response of Manitoba Hydro in June, August, and then November is not what good regulatory processes are -- are about.

What our clients' proposal does is set a time limit on Manitoba Hydro's processes. It responds to Hydro's immediate issues while beginning to restore ratepayer trust and confidence in rate setting by -- by saying, if you want to keep that money, get back in here and do a proper regulatory process.

We're moving to the -- the next issue in our Part 5 in our list of issues, which was on slide 2. It's just a short discussion of how, in our clients' view, Manitoba Hydro's approach in this hearing does not accord with regulatory precedent and its own words.

And there were some truly extraordinary moments in this hearing on Friday afternoon where we heard very unexpected characterization by the Chief Financial Officer of Manitoba Hydro in terms of the purpose of retained earnings, in terms of their approach to cashflows.

On Monday morning, we took Manitoba Hydro to their own annual financial statement, the consolidated notes, current as of August or September of 2021, and impeached them with their own words from their own financial statement.

And on this slide, we just point you to those references and -- and suggest that, in -- in looking at issues like retained earnings and in terms of cashflow, greater credence can be given to Manitoba Hydro's financial statements than to the evidence you heard in this proceeding.

Slide 32, we remind this Board that with the stunning reversal of Manitoba Hydro's position in terms of day-to-day expenditures, that -- and as well as its ongoing failure to show control and to demonstrate control on business operational capital, it is in effect implicitly asking this Board in an interim application to overturn the findings of this Board in 59/18 and 69/19 that Ms. Dilay so aptly canvassed near the start of this presentation.

And we want to remind the Board that buried -- buried in -- in the financial projections for 2022/'23 are a lot of costs related to Strategy 2040. And Coalition min -- minimum filing requirement 22 shows that vividly, as did Mr. Peters' cross on Friday.

And so in essence, this Board is being implicitly asked to endorse the prudence and reasonableness of Strategy 2040 cause even though we've never seen the plan, even though it's clearly out of scope of this proceeding, and even though there's been no opportunity to test the prudence and reasonableness of those expenditures.

So when you see the growth of equivalent full times, four hundred (400) projected in the next couple of years, driving that -- driving that bus is Strategy 2040, but we can't talk about it, we can't test it, we can't see it.

This is not a -- Manitoba Hydro's proposal is not a balanced proposal. In our clients' perspective on slide 34, we highlight the serious mismatch between the deleterious impacts of the drought and the relief sought.

Manitoba Hydro is seeking a $2 billion solution -- that is, the net present value of 5 percent rate increases into perpetuity -- to a $348 million cash shortfall. From our clients' perspective, that is disproportionate, inappropriate for an interim application, and -- and should be clearly rejected.

Slide 35 is one (1) of those cumbersome but very important tables that we would urge you to read with slide 14 and slide 27.

This is slide 35, and it contrasts what is Manitoba's (sic) unconventional approach to rate-setting metrics in this hearing which are on the right side of this table, test -- versus what is the Public Utilities Board traditional rate-setting metrics.

And much of this we've talked about already, but yesterday in closing submissions, we heard a late-breaking change in Manitoba Hydro's case theory focussing on net income before movement and regulatory deferral accounts.

That's not what this Board has done in past decisions, and in essence, Manitoba Hydro was cherry -- cherry picking some of that accounting treatment.

They didn't talk about DSM costs which will continue well beyond '22/'23. They didn't talk about changes in depreciation methodology which will continue well beyond '22/'23. They didn't talk about ineligible overhead, an accounting term that makes me sick to my stomach even to say it, but will continue well beyond '22/'23.

So our conclusions buried in small font at the bottom of this slide are that the PUB should continue to apply traditional rate-setting metrics in this interim application, especially given the reality that Manitoba Hydro's financial forecasting and rate -- rate-setting strategy are in flux. Who knows what's going on.

And the risk is, from our clients' perspective, that if the PUB applies Hydro's flawed and unconventional, to be charitable, rate-setting metrics, there will be a lack of continuity in rate setting and a potential to -- for a disconnect to good rate-setting principles when the next hearing approve -- occurs.

At slide 36, we offer a reminder in terms of onus. And we suggest that, given that Hydro's long-term financial forecasting, financial metrics, and targets are in a state of flux, we have to go back to the sound regulatory principles and practices of the last thirty (30) years, not the hyperbole, not the platitudes, and not the unconventional rate-setting metrics used by Hydro.

Slide 37 -- and I will move through these slides quickly, but we do want to go to Hydro's credibility. And this is a low point in the regulatory rate-setting process from our clients, and we offer that with regret, not because of the PUB, but because of Hydro's behaviour.

We have the broken promise to file a GRA and the IFF in 2019. The absence of long-term financial information from this Corporation and the audacity -- the audacity to oppose a status update hearing in June and July of 2021 on the alleged grounds that there was no material change in circumstances when they were already constraining water flows at Grand Rapids, when they were already constraining water flows at Lake Winnipeg, and when they were already hedging as they admitted in cross-examination on Monday morning.

From our clients' perspective that is so inconsistent with a respectful approach to stakeholders and to the regulatory practices.

Manitoba Hydro's analysis paralysis is

no excuse, as we say on slide 38, not to provide this Public Utilities Board with the long-term forecast it requires for orderly rate setting.

Hydro's clearly in a state of flux in terms of forecasting, metrics, and targets. It appears to have no rate strategy, established financial metrics, or financial targets that are useful for rate setting. That's a problem for all of us but it is not an excuse, from our clients' perspective, and it goes heavily to the credibility of Hydro's submissions in this proceeding.

Perhaps that state of flux is because of the unprecedented levels of turnover in the Corporation. And we acknowledge that there's been a significant loss of key staff and institutional knowledge, and that has been reflected, as we turn to slide 40, in what our clients can only describe is an incoherent approach to rate setting in 2021/'22.

And our clients went over that with the Chief Executive Officer on Friday morning, and -- and we won't repeat it here, but there are client impacts of that.

There's no certainly or ability for consumers to plan and prepare, which just highlights, from our clients' perspective, the need to get back on an orderly path for '22/'23.

Whether through lack of institutional knowledge or uncertainty about the process, our clients say with confidence that this is a poor quality application even compared with prior interim rate applications.

We've highlighted some of the notable absences, but it does go to the credibility of Manitoba Hydro. They can provide some sort of rate trend for the debt rating agencies, but they can't for its independent regulator.

From our clients' perspective, they can't to its large industrial customers or to its residential customers. From our clients' perspective, that goes heavily to the credibility of the Corporation's submissions.

And Hydro's failure to manage prudently hurts us all. It claims it has absolutely no control over its costs despite past PUB findings, or even statements by the Corporation. They were committed to 1 percent OM&A dating back to 2013.

Rather than making difficult management decisions to reduce its own cost or coming to the PUB earlier, as they should have been in the summer of 2021, this is an opportunistic rate application by

Manitoba Hydro, using the nomenclature of a drought to try and drive an opportunistically 5 percent after Manitobans had spent seventeen (17) years preparing for this date.

And who suffers the most? Our clients, especially people with low incomes, already -- who will be disproportionately affected by this rate increase.

Slide 43, going to the last bullet, we set out our clients' expectation of regular robust and transparent reviews of Manitoba Hydro's finances with meaningful access to necessary information.

On slide 44, we remind the Board that we look to it as a protector for ratepayers. The Board has already found the substantial lack of confidence of industrial and residential customers in Hydro's rates.

And in the face of already undermined confidence and rates and a Crown monopoly hiding behind broken promises, an incoherent approach to rate requests, unconventional financial metrics justifying its rate application, and vague plans to open its books in the future, our clients can only rely on the Public Utilities Board to uphold its longstanding role as an independent regulator and to protect their interests.

It's painful to talk about the regulatory process in the state it is today and in the state it has been in since 2019 but, on the positive side, there's goodwill in this room.

Certainly, you'll hear it from our friends from the large industrials, and you'll hear it -- and we tried to share that in cross-examination on Monday.

Our clients, the Aboriginal Council of Winnipeg, Harvest Manitoba, the Consumers' Association, they represent the interests of residential customers. They're so used to developing sound policy decisions through direct engagement with consumers and expert advise.

They're a tremendous resource that is available to Manitoba Hydro and to others to try and get this independent rate-setting process back on track.

And they look forward to meeting with Hydro and the PUB outside the context of an immediate rate application to talk about a collective effort to get this rate-setting process back on track and to restore confidence for all Manitobans in what has been a central and treasured aspect of public accountability in Manitoba for over thirty (30) years.

We do want to thank, of course, our clients for their -- their attention to this Hearing, our -- our advisors, our team of advisors known as Mr. Rainkie, obviously my -- my legal counsel and the Board for its attention to our submissions.

And with two (2) minutes to spare, Mr. Chairman, we conclude our submissions.

THE CHAIRPERSON: Thank you, Mr. Williams. I actually had it at four (4) minutes, but I'll -- I'll split down the middle with you. Thank you very much.

I'll ask the panel if they have any questions of you or Ms. Dilay. Mr. McCutcheon...?

BOARD MEMBER MCCUTCHEON: I have no questions, Mr. Chairman.

THE CHAIRPERSON: Ms. Kapitany...?

BOARD VICE-CHAIR KAPITANY: Thank you, Mr. Chair.

BOARD VICE-CHAIR KAPITANY: Looking at slide 10 where you've recommended the .8 percent in terms of the drought and say ultimately confirmed, so I think by that you mean that it's confirmed in a GRA and giving a net present value of 320 million, but then on slide 16, that you recommend that this may be a rate rider.

So, I was a bit unsure of the difference between those two (2) because, if it is a rate rider, and then when the drought ends the rider expires, then there wouldn't be the net present value?

MS. KATRINE DILAY: Thank you, Board member Kapitany. I'll just confer with Mr. Williams for thirty (30) seconds.

BOARD VICE-CHAIR KAPITANY: Thank you.

DR. BYRON WILLIAMS: I -- I think we would -- we -- we failed to take off the words 'rate rider' in a previous draft. So, we -- you know, it would be confirmed at the next General Rate Application, or not confirmed, in the -- in the wisdom of the Board.

As Ms. -- so, I don't think we would have used the -- the nomenclature 'rate rider'. So, if it's approved at the next hearing, it goes on in perpetuity, if it's rejected, it's rejected.

BOARD VICE-CHAIR KAPITANY: So, then you're not suggesting a rate rider to deal with the drought?

DR. BYRON WILLIAMS: We're suggesting that the Board look at -- at the costs of Manitoba Hydro as a whole at the next General Rate Application.

We're not suggesting it automatically drop -- drop off.

BOARD VICE-CHAIR KAPITANY: Thank you.

(BRIEF PAUSE)

BOARD VICE-CHAIR KAPITANY: And then, on slide 14, the 1.2 percent increase -- so similarly then, that would not be seen as a rate rider. Although, I think you said that if Manitoba Hydro doesn't come in for a General Rate Application, then the rate would lapse.

So, again, that sounds a bit to me like a rate rider. But I'm not sure exactly what you were intending there.

MS. KATRINE DILAY: Thank you, Board Member Kapitany. So to clarify, both aspects -- the 0.8 percent and the 1.2 percent -- so the totality of the 2 percent -- from our clients' perspective, if there's no further Board Order by January 1st of 2023, then it would expire.

If there is a Board Order, which means that Hydro would have come before this Board, showed some evidence, then the Board would be able to either confirm or not confirm it, or vary it.

So the -- the rate rider approach, or the conditional rate increase, would only expire if there's no further Board Order that would either confirm it or vary it.

BOARD VICE-CHAIR KAPITANY: Okay. Thank you for that clarification.

MS. KATRINE DILAY: Does that help?

BOARD VICE-CHAIR KAPITANY: Yes, that helps. Thank you.

And then, just one more small question. On slide 33, where you referenced Strategy 2040 in '22/'23 rates, but there are no rates for '22/'23 being requested in this Application.

DR. BYRON WILLIAMS: Practically speaking, if we look at the relief that's -- it -- although this is for '21/'22, the real value of the relief for Manitoba Hydro is in '22/'23. And that's what we're -- so the -- and we're saying that, in effect, you're -- built in are the -- are the -- we looked at a two (2) year window, the '21/'22 and '22/'23.

So we acknowledge that there's no application for '22/'23 before the Board, but, really, if we're looking at the financial health of the Corporation, with just a couple months left in

'21/'22, and practically speaking, this is -- we're looking at where it's going to be in '22/'23.

The fact that there are all those costs built in for Strategy 2040 is -- is what we were speaking to.

BOARD VICE-CHAIR KAPITANY: So then, that would be built into the 5 percent that Manitoba Hydro had been requesting this application as opposed to the 1.2 percent that you are recommending.

DR. BYRON WILLIAMS: Yes.

BOARD VICE-CHAIR KAPITANY: Okay. Thank you. Those are my questions.

THE CHAIRPERSON: I've just got one (1) question and I don't know who's going to answer it.

When I go through your submission, it's very thorough, it hits a number of different points. It's -- it's, sort of, the submission I would expect at a GRA.

So the question I have is -- especially in the opening pages -- I'd like you to address the -- the issue of the standards for an interim in light of the Supreme Court versus the standards for a GRA as -- as -- especially in your part, Ms. Dilay.

When I was going through, you know --

you were -- you were addressing operating expenses and all the other things, I mean, there's certain facts and case. We're bound by case law and case law seems to indicate there's a different standard for an interim versus a -- a General Rate Application.

MS. KATRINE DILAY: Thank you, Mr. Chair. I guess, what we would say is that, on slide 9, we've tried to list some of the criteria from this Board about Interim Rate Applications. And it talks about whether it is just and reasonable to grant interim rates.

And, of course, this Board did find a number of issues out of scope in this proceeding, but the financial situation of Hydro is in scope.

From our clients' perspective, it's very difficult to look at the financial situation without also looking at the underlying costs that are then impacting cash flow, which we heard a lot about, as well as net income and other financial metrics.

So what we've tried to do in our presentation is provide a pathway for what our clients see as a just and reasonable rate in the context of an Interim Rate Application. Of course, we did not present independent expert evidence. We did not talk about long range forecasts or targets or anything like that.

We looked at the two (2) years of information that Hydro provided. That's all the information we have.

And then, within the recommendations, we've tried to break it down into regulatory action, in the sense of the 2 percent rate increase. Then broken down in two (2) components, which are essential, from our clients' perspective.

As well as cost control, which this Board has found is important. And Hydro has also found in the past was important.

So while, of course, it is an Interim Rate Application, from our clients' perspective, if -- if we don't break it down in that way, there was no meaningful way to provide a pathway. I hope that helps.

THE CHAIRPERSON: No, that does help, thank you. Thank you. Okay that concludes the submission of the Consumers Coalition.

Mr. Hacault, did you want to do your submission from there or did you want to move to there? It's up to you.

MR. ANTOINE HACAULT: I can move -- well, I really don't care because I -- but what I would appreciate is a two-minute health break.

THE CHAIRPERSON: We'll break for five (5) minutes.

--- Upon recessing at 10:06 a.m.
--- Upon resuming at 10:15 a.m.

THE CHAIRPERSON: Mr. Hacault...?

CLOSING SUBMISSIONS BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Thank you, Mr. Chair. Bonjour members of the panel. Our clients would like to thank the Board for the opportunity to participate in this process. Thank you to our advisors in the group. Also thank to -- you to all the parties, lawyers and all the witnesses for all their collaborative approach for this limited scope process.

We've put a written submission together, paper copies for the Board and distributed this morning, it'll be MIPUG Exhibit 9, as I understand.

--- EXHIBIT NO. MIPUG-3: MIPUG final submissions, December 15, 2021.

MR. ANTOINE HACAULT: The structure of my submission this morning will be to go through the introduction of recommendations, address the legal tests, Chairperson Gabor asked a question of CAC and then there's, at page 10 of this submission, there's a list of key topics which we think are relevant to this analysis.

A lot of what I heard at this hearing is about what isn't in the record. Usually interim applications, in any sense that I've known it in court, we have a court proceeding, we have an application, and we need an interim help.

We have no application. We haven't had one in an IFF since 2016. And we're told we're not going to get one for several years.

That's a problem. It's a problem for us, it's a problem for our clients, certainty of regulation, stability of rates, as we look at the long-term to decide what an appropriate rate path might be to inform us.

Now that having been said, the evidence in front of this Board is in 2003. Manitoba Hydro started with retained earnings of about a billion dollars and the cost of a five (5) year drought was about a billion dollars.

Customers were told and the report said actually, this had been happening for ten (10) years. Let's build up retained earnings for rate stability and the primary purpose of doing that is to address a drought.

So, we're lucky, cause the report says we're expecting about every ten (10) years, and we go seventeen (17) or eighteen (18) years, depending on how you calculate that time.

And every Manitoban, the poor little lady on Agnes Street, that's Gerry Forest's reference, the companies, everybody puts $2 billion of their money into retained earnings.

Good years of flow result in profits that go into retained earnings.

Now, what are we being told? Well, that's not good enough. You for -- you didn't get reduced rates when there was net income and there were good years, now in the year of a drought, let's hit you with a 5 percent rate increase. And MPV's and the value that CAC was talking about, that you have on the record.

Now, all of that, and as Mr. Williams explained, we're paying nearly a quarter billion dollars to have access to debt to deal with issues like this. Huge amount.

All of this went in the report of 2003 and 4 -- ending 2004, Manitoba Hydro says these are not unforseen events. They are predictable.

All of this, when -- and maybe we can just go to slide 20 of the presentations to DBRS. It's page 133 of our document book.

When contrary to all the projections we were making, and -- and acknowledge this is just a scenario, but I was confirmed it was not a misrepresentation.

By 2030 we only need .55 percent rate increases. And the total rate increases are in the range of about 44 percent, that would be 2.2 percent in each year.

I'd like to have been a fly on the wall for the discussions on the 2.5 percent between Manitoba Hydro and the government. Looking at this slide, well, it's not really a problem. 2.2 percent over twenty (20) years gets us to, like -- what is it -- about 33 percent to 67 percent, accumulative rate increases. 2.5 percent's not a real problem.

I don't know what was discussed. I don't know why Manitoba Hydro said -- didn't say anything at one point in time to the government, listen, we can't live with 2.5 percent, especially cause we're getting hit with a drought. But we know Manitoba Hydro did not protest.

Now, let me get into MIPUG Exhibit 9 being the introduction summary of recommendations.

We are much of the same view as CAC, that on the face of it, especially with the evidence and the tests that I'll refer to, just on the evidence of the current years, there is no compelling case, at least on an interim rate application basis, to give an increase or the long rate path.

The evidence is just not there. There should be an adverse inference against Manitoba Hydro for failing to provide any meaningful information. The only information we have is the scenario that's put to rating agencies.

Now then, what about the drought itself, we are of the same view that the carrying costs, being about 13 million, results in about a .8 percent carrying cost of interest, but let's look at it this way.

If we do get that $200 million next year and we get average rain flow, starting from a low water level, cause they've said their starting low water level, we wipe out the $190 million of deficit. We're kif -- kif (phonetic). You're kind of not in a position where you really are in a negative deleterious situation.

Now, what do we do with this application? We have a lot of problems coming to grips with what was happening.

On one hand, Hydro asserts when it's making the application, it's a simple application, focused on such a narrow reign of -- range of facts, that it ought to be adjudicated without the PUB or Interveners even asking one (1) single question. That's in its cover letter of November 15.

On the other hand, oh, Manitoba Hydro is pleased to be before the Board and could be -- transparently present its case and to cooperate, but without fixed dates and being very vague in what it does.

On one hand, we have a utility that's veraciously objecting any regulation by this Board, saying there is no unexpected significant events in -- that's happening in this Corporation and that's said in the June letter and it's repeated again in the July letter.

By July we know that they were taking

measures to deal with the drought. And that letter specifically says, on July 9, don't tell us that we aren't being transparent and that we are hiding something from you, we aren't.

And if we need an -- a -- a rate increase because of low waters, we'll tell you. Nothing gets done till September when they are directed -- that's what they said -- they were directed to do it. They took no measures to file an application until they were directed. Doesn't sound like an urgent circumstance to me.

If you need to be directed by the government to do something and you're not recommending to your own board that something needs to be done, what's so urgent about all of this?

So I go to page 1 of my submission, number 1. What is Hydro really asking us to deal with? It's unclear from the exchange between Chairperson Gabor and Mr. Czarnecki.

Is it that we're trying to get the 3.5 percent rate increase -- 'cause that's how they categorize it now -- without a GRA? It's baked into the 5 percent. Is that urgent? Could it -- was it not foreseen from NFAT and all the IFFs that some kind of a rate increase might be required? But we don't

have the information as to what that might be. No
IFF, no nothing.

Or instead, are we just dealing with a drought which was not unforeseen? Everybody knew it was going to come, and we built retained earnings for that purpose. And is it to deal with the .8 percent to ensure Hydro can pay interest on funds it intends to borrow to finance the projected water conditions?

And on page 2, we highlight, as CAC did, the flip-flop: 3.5 percent in June in front of the standing committee by Ms. Grewal; merely only ten (10) year -- ten (10) days later, a July announcement of 2.5 percent for three (3) years which customers rely on -- you've heard that from the industrials and then, only after directed on September 22, there's a filing for 5 percent.

Now, as indicated in the middle of the screen, for these reasons and those which follow, MIPUG recommends that the Board find Hydro has not met any reasonable standard for an interim rate increase at this time.

At most, an increase of point zero -- 0.8 percent could be considered as a reasonable bridge to a general rate application to ensure financing costs for the 2021/'22 low water are not compounding into new debt.

At the same time, it's balancing the customer and the Utility's interests, and we have also tried in our recommendations through our clients to address and balance what's going to happen. And you'll see we're recommending a total of 2.5 percent. That's on the next page.

The -- and we're doing that to maintain a schedule of increases, but recognizing this is an interim rate increase with a lot of missing information. It's very dangerous to start assuming that the previous rate path is still a valid one without any substantial information to justify that.

The other huge concern that our clients have is the lack of adherence to a regulatory schedule. That's been a concern of this Board. We've -- I've -- in this submission, you'll see that I've actually got quotes on that.

This Board was concerned about the lack of information. It's obvious it was concerned about it and the consumers were concerned about it when they made this special application on whether special circumstances existed.

And we're really concerned that if there's an amount that's too high that's given, there will be no incentive for this Utility to come to this Board, and there will be no opportunity for this Board to act as the protector for consumers who are slaves to the monopoly here.

They don't have a choice. They rely on this Public Utility (sic) Board to protect them and to balance the interests of the Utility and the consumers.

So to ensure adherence to this schedule -- and I'm still on -- we say at most .8 percent of the proposed 2 percent be permitted to be credited to Hydro's revenues. That's at the bottom of page 2, number 1.

All other amounts should be deferred until the imminent GRA. Despite this deferral, we note that the full 2.5 percent will still provide Hydro with the cash it indicates is a key priority.

But to ensure that the GRA is pursued and that there's filings and we don't have another broken representation that one will be filed, we'd say that there has to be an end date to this interim rate. And we set out the sections as to why we believe the PUB has that power.

Unfortunately, there are limited tools in the PUB's bag to be able to encourage this Utility to do what it should be doing on a regular basis.

Now, we say that this could continue to the end of 2022. That gives them a year to prepare their material and get this process underway. That's at the top of page 3.

But we can't get this -- oh, we can't do an IFF for you, PUB. We can only do it for credit rating agencies. That's not credible. For decades, we don't have an IRP. Did it prevent anybody from doing an IFF? Absolutely not.

I go to CAMP IT (phonetic) conference on a regular basis, and the subject is all, oh, we're in an era of uncertainty. Every year, we're in an era of uncertainty because of the changing landscape of the electricity market, all the solar, the EV, et cetera.

We present a case based on what we know and it gets changed. It's a fluid document.

Now, the last point, and we address it in our submission just as a separate page, there's two (2) options here, I guess.

The PUB doesn't need to deal with how people get differentiated rates to bring them within -- or the zone of reasonableness and whether you're trying to keep people around the 100 percent unity or not, but we've made a recommendation on that, too.

Now, what about the standard for interim rates? I apologize in advance for the non-lawyers. It's a fairly extensive quote of Bell Canada and discussion of Bell Canada, and also considers the relevant sections.

So I start with the Crown Corporations Government (sic) Accountability Act which does not set out specific authority on interim rates. It does talk about interim rates in the sense of the PUB at Section 27 of that piece of legislation can require refunds if its interim rate was too -- too high.

If we flip to the next page, page 4, at Section 47(1), you'll see that the Board has the power specifically to order that certain portions have -- are in force for a limited time or until the happening of a specific event. We say this provides the Board the ability to do this sunset on interim rate increases.

And also on interim Orders -- and that's at 47(2) -- it also has the ability to do further directions and also deal with a further application.

Now -- and this is a concept of fairness. I say it's imbedded in the legislation;

it's section 48. The normal practice of this Board is to only make orders that involve expenses -- so we have to pay an increased rate -- after the parties have had the chance to produce evidence and be heard at a public hearing of the Board. That makes sense; otherwise, you're just getting one (1) side of the story.

But here, the difference is it's not only by case law and the principles of fairness that the courts have decided. We have a statutory protection, except in cases of urgency, to have a right to adduce evidence, and we didn't have that right, not in this expedited hearing.

And, therefore, we say -- and it is -- that word 'urgency' is also found in Bell Canada -- that that is a threshold that the Utility should meet when it is the only one telling the story. And when it chooses to not file a significant portion of the record which is usually in front of this Board by way of application in seeking the interim relief -- I go then to page 5, and in the middle of the page, I'm quoting from page 1,754 of the Bell Canada case...

I'm trying to grasp my mind. Okay, usually we've got an application, we've got an interim process. What's the direction of the Supreme Court on how we're supposed to do this work? Well, there's a discussion here, and it says:

"If interim rate increases are awarded on the basis of the same criteria of those applied in the final decision, the interim decision would serve as a preliminary decision on the merits, as far as the rate increase is concerned."

This, however, is not the purpose of interim rate orders. This Board is not tasked to do a preliminary decision on what a final rate would be.

And then what about the deleterious effect? That word is found in a couple board orders.

But we say that that's an incomplete discussion of what actually happens in the Bell Canada case and what actually happened in the Bell Canada case. If we go to page 6 of our submission.

In that case, we were dealing with a lengthy delay in dealing with an application, and that was going to cause serious financial harm, serious deterioration to Bell Canada.

And the further quotes and the highlights a little bit further down, you'll see that, consistent with our legislation, it was only once an emergency situation was found to exist that we -- did we resort to the interim process, the serious financial difficulties.

We say the record does not show an emergency situation; it was one that was foreseen. And, certainly, the record does not show serious financial difficulties. We have one (1) year where we might have to borrow extra money, but we're -- we seem to be back on track the next year.

And the purpose -- at the bottom of page 6:

"The very purpose of interim rates is to allay the process -- pros -- prospect of financial instability which can be caused by the duration of proceedings before the regulatory board."

Well, why are we in this pickle, so to speak? Nobody applies. Hydro chooses not to apply. It actually aggressively resists a review. And now they're saying, Oh, help me, help me.

Now, going to page 7, we also say that it's prudent, and I'm not going to go through all the other quotes, to award an amount below what might be thought to be just and reasonable. You don't want to be in a situation where you say, Well, if I had a full -- you know, based on the evidence, this is what I think. The problem is you don't have a complete record and you don't have the other side's version to balance everything.

So, as a starting point, we submit that the number has to be lower than what the record might suggest because it's only a one (1) sided version. And if you think about what the -- the cost of a refund, you have the power to do that. Now, we've just been through a MPI hearing; it's like a million bucks to issue refunds.

Do you really want to get into a situation where we put a rate, now, oh -- we get to a final -- oh, now we have the IFF, it should just be 2.2 percent like the slides that we have for the debt rating agencies? Now we have to issue refunds at a million bucks.

Now, this test of unforeseen or emergent -- emergency situations is found in Board orders, and it was found in Board Order 59/'16, which is in the middle of this page. And the Board indicated, because of a frustration of a number of interim rate applications, one (1) after the other, that was the context of this, where the then chair said, No, no, no, I'm not prepared to consider further ones unless warranted by unforeseen or emergency situations. And you have Hydro saying in July, Well, everything's foreseen, we're not concerned about the drought, if we are, we'll apply.

Sure, they get the final and more concrete evidence by September and October, but even by September 22 they're not recommending to the Board to make an application.

So, we say that there is no emergency situation. We address that at the bottom of page 7 and to the top of page 8. On the top of page 8, we actually quote some extracts of the letters that were provided to you.

And these contents, I specifically asked the CFO, Are you adopting the contents? Because those are written by their lawyer. I wanted to make sure it was Hydro evidence. Yeah.

As always, for Manitoba Hydro, if there is a material change in its financial circumstances due actual water flows throughout the year as a result of other evidence, at the direction of the Manitoba Hydro Electric Board, Manitoba Hydro will avail itself of the provisions of the legislation to make an application, and that's a full application. They didn't do it.

July, the same thing; has no direction or intention to do it. And they specifically tell us, just because there's -- there may be a 3.5 percent -- at that time, they were thinking 3.5 percent, in fairness, because that's what Ms. Grewal said on June 29, and it was on July 8th that they were told 2.5 -- forget about that 3.5; we don't need it. Nothing suggests that the rates currently, as of July 6th are unjust or unreasonable; that was their position.

Now, the next part I don't intend to go through a lot. It'll be there for reading, but it relates to Site C. And there were a number of statements that were made in this proceeding with us being able to challenge them or provide further detail, and Site C was one (1) -- one (1) of those statements by Mr. Tess.

And we pre -- not to present evidence in our argument; it's just to highlight the point. There's a number of things in this Hearing that we would have loved to present evidence on and loved to have more time to ask questions, but being the way it was, we were limited in time and limited in scope, and no evidence.

The -- I move to the discussion of

topics at page 10.

The first heading was Manitoba Hydro's Management of Water and Hedging. So, we saw that that -- and CAC went through some of those facts of how they started to see net export revenue volumes go down, as of April. I'm in the middle of the page.

And some pretty heavy reductions and outflow were implemented in July. And hedging activities were begun in that July time frame, while balancing that potential range could turn hydrology around. That seems to be appropriate.

Now, there's been a lot of chatter about the role of retained earnings, and I address that at the bottom of page 10. Hydro has come up with a totally new view in this Hearing of the retained earnings, that it really doesn't mean anything; it's only cash, they say.

But that's not news to this Board. That's not news to anybody here. We all knew that when Manitobans were putting aside in retained earnings, that it wasn't cash. It made the most sense to -- to reduce the debt. And in Board Order 59/'18 at pages 49 to 50, the Board specifically recognized that. Manitoba Hydro's financial reserves are not cash and are not retained in a bank account, that are re-invested back into the Utility.

We have to remind ourselves that Manitoba customers take that from their bank accounts and it goes into the Utility's bank accounts.

The MIPUG Group generates about 20 percent plus of the domestic revenue. And if you look at the amount of $2 billion of retained earnings, where does that money come from? It didn't come from the sky. They couldn't spend it in capital improvements in their plants. What about the poor people in poverty? They're taking that from their hard earned money and savings and is being put into rates.

And this is not a new approach. I took the witness to the March 3, 20 -- 2004 report. And the quote that I put to the witness was:

> "The -- the risk of drought was one of the primary drivers behind the significant buildup of retained earnings over the past decade."

So listen to that. Starting in 1994, not in 2004, we built up to the one-point-one (1.1). And that continued that policy so that we built up from the one-point-one (1.1) to about $3 billion now.

So this has been happening for decades.

And it's informative that this quote says while the net loss of 2003/2004 was significant, it was not unexpected. Going to the urgency and whether we have unforeseen or unexpected events.

This type of planning has been happening for decades. It is expected. It is foreseen. The extent, maybe not.

In 2003/2004, it was a loss of $355 million as of 2003/2004; that's a big number in the context. And I've set out all the context later on in this document.

And then the context that the retained earnings were basically at the same level as the cost of a five (5) year drought. Now we're in a good position. It's actually two-and-a-half (2 1/2) times higher, the retained earnings, compared to -- to the five (5) year cost of a drought.

Now, page 12, I say it's entirely reasonable to take that approach, and expect that a party designing a financial system against the above profile -- and that's on page 12; you see the profile; you see all that variation -- would seek to balance good years with bad.

You don't ask people to put 5 percent or more in retained earnings in the good years and say: Oh, but wait, wait, now there's a drought. Not only can you not take advantage of all this money that you put in, we want some more money during the drought. It doesn't matter that you saved for it the last seventeen (17) years.

While MIPUG does not reject the concept of regulatory action in the face of a drought, for the people who have heavily invested in retained earnings over the last -- the past, it should be not 'pasty'; eighteen (18) years, that's what happens when you type too late in the night -- you -- you should get rate stability out of that and predictability. That should be well justified expectation. And the appropriate concept for addressing drought should be dealing with the short-term impacts into the projection of the long-term targets. And that's why we have focused on the .8 percent.

Now, I'm not going to get into all the details that I've set out at pages 13 and 14 of the contrast between the 2003 drought and the drought that was experienced so far in this year. But, please, read it. I've mentioned some of them.

Some other notable factors is that the five (5) years following the drought -- if you look at the material that I've put in front of this Board --

they were only going to net $200 million in the next five (5) years. It's not like here, in one (1) year, we're projecting 200 million. And there were actually true cash deficits. I took the witness through that.

From a cash perspective, we had -- I believe the number is -- two-hundred-and-seventy (270) -- that's on the next page -- in the current situation. But the true cash deficit then was a hundred million dollars plus.

We are also getting into Wuskwatim and that construction.

And the context that Mr. Williams -- Dr. Williams, sorry, Doctor -- was also set out in front of this Board.

So, unfortunately, the only forecasts we have today are these presentations to the debt rating agencies. It really doesn't tell us much about where we are and how this drought might affect us in the long term and our ability to reach certain financial metrics. But we do want to ensure that at least the cost -- the $13 million per year -- is covered. That's a reasonable expectation.

Moving on to page 15. Again, I'm skipping over a lot of the text because it is there for the Board.

The projected financial performance of Hydro in 2022/'23; we have a couple comments on that.

Firstly, this is way better than anybody anticipated at MFAT. Let's face it; you look at all the base case, you look at all the IFFs after. My own view isn't the evidence will eventually show whether they're right. As to why that happened, we were so fortunate, during these high periods of new finances, to benefit from long-term -- not short-term -- long-term really low interest rates. And on that kind of huge capital investment, that was one (1) of the biggest risks we talked about at MFAT.

Another thing that seems to have turned around is opportunity market sales. Thank God. We've been talking about that for a long time that, you know, maybe we can get some nice contracts under our belt; maybe we'll get some nice opportunity market numbers. It seems to be happening, but we don't know 'cause we don't have the information.

That having been said, the projection for this following year, we start from low -- a low water level, so we're building -- building conservatism into this. And then we consider possible inflow conditions to come up with that number.

There are some discretionary items

which are occurring, though. There's a quarter million dollars being put in a sinking fund. That's discretionary. You don't need to do that if you're worried about cash. All the other years it was in and out. I went through that with the witness.

If we do give the 2 or 5 percent which equival -- it's equivalent to 5.2 percent to the industrials because of this cost of service thing, what incentive will Hydro ever have to come back until maybe 2024? None. You won't see an IFF. You won't be able to protect us as customers.

Now, as I said at the top of page 16, and that references the 250 million, that's a planning assumption to put that 250 million in the sinking fund. It certainly wasn't done in previous years. We say it's discretionary.

So really, that 200 million that we're talking about which would have been generated by the 5 percent, but if you -- I've got to be careful with my math here -- you don't get the 5 percent, you only 2 1/2 percent, so it brings you down from the two hundred (200) next year, not at -- at that level.

But you've got $250 million there that would -- if you didn't spend that, you'd get more cash available to deal with any drought next year.

Now, unfortunately, as we said, some of the items and expenses, including increased operating costs -- and that's in the third paragraph on this page -- we aren't able to test with a full hearing. They're going to increase staffing numbers.

The good news was, when they were directed by the province to say, let's cut some costs 'cause it's COVID, right away they found $88 million. No problem. All of a sudden, it's a problem.

And I can tell you, for over a decade of being at these hearings, that the constant story I hear from this Utility, which is kind of a blanket one, well, we have to -- safety and reliability.

But, lo and behold, when they get a directive to reduce staff by 15 percent from the province, it happens, and all these excuses of, sorry, we can't do it, we can't do it, all of a sudden it happens. They don't seem to pay much attention unfortunately to a directive by this Board. It just -- when they get a directive from the province, yeah, we're going to do it.

Now, there's some things -- and Dr. Williams and -- and CAC also dealt with this -- 2040 seems to be baked into some of these numbers. But that's out of scope. We can't talk about it. We can't introduce evidence.

Although it's stated the customer experience and -- and -- is a priority and needs to be dealt with, if we're going to page 17, we'd ask the PUB to consider the evidence of ratepayers' perspective. Please balance that.

You know the competitiveness -- and there is an answer to undertaking that we provided showing how Manitoba compares in rates. They used to be able to brag that they were the lowest rate jurisdiction. Not any more. Berdal (phonetic) is worldwide, and now we're in the middle of the pack. Quebec, you're not seeing any rate -- great rate increases, et cetera.

So we can't -- we still don't have those bragging rights. We can't continue to say we have those bragging rights. They're being eroded and attacked.

Short blurb on cost of service study implementation at page 18. The point that we make can be illustrated by the second line -- third line, just like the second customer, GSSD.

So Hydro's methodology, they're saying, well, listen, if you are currently at less than one-o-five (105), we're going to add a 1.07 percent. Well, that puts us outside the range -- not by much, but it does and it creates a fairly wide spread between customers that were below a hundred (100) and go up a little bit. It kind of keeps that discrepancy going across.

So you start at one-o-four (104), you add the 1.07 percent, and you get to one-o-five point one (105.1). We say that's not directionally right.

If we're going to try and keep people within that range, that's okay, but bring people closer to unity and -- you know, you're never going to get perfect, but at least try to keep it in that range towards unity within those parameters. Don't always keep one (1) group higher. What's good for the goose is good for the gander.

If it was the residential group that was at one-o-four (104) and went up to one-o-five (105), but all the industrials were at ninety-seven (97), you'd hear a lot of complaining. Why are the industrials being favoured? Why are they at ninety-seven point three (97.3) and we're being pushed up to one-o-five point one (105.1) with this method? That doesn't sound fair.

So if we're going to balance it, we -- you should be able to take out the nomenclature here in the groups and look at this -- this graph and say, well, does it make sense, irrespective of what the names are on the left-hand side?

Moving on to page 19, I'm not going to repeat the discussion of net income before net movement. Dr. Williams addressed that and we address it again here, and we say, it shouldn't be used as a financial metric. It's starting to get back into re-litigating settled issues, and doing that in the middle of an interim rate application is entirely inappropriate.

What about unsustainable debt levels? That we say is unfounded. All interest is being paid every year. There's no new addition to debt. In fact, if we look at the situation -- and this is in MIPUG-3 at page 130 -- we're representing to the debt rating agencies, hey, we've finally reached the point where we don't need new debt. Woo-hoo. Good news story.

All interest is paid from cash receipts. There remains a positive cash from operating activities of some 778 million in 2022/'23 approved budget. To the extent that there's a draw-down from cash from the previous year of 530 million, 250 million of this is being put into a sinking fund for repayment of debt, and the remaining 280 million is only required for new investment and capital.

In short, current debt levels are more than sustainable at current receipts from customers. However, you can't fully fund interest and a sinking fund and the 886 million in new capital. That's a long-term process.

The question is whether it's indeed reasonable that Hydro would be in such an extreme cash generation ope -- operation that it should never been able to -- it should ever be able to fund all of those components simply from current year cash generation. It just doesn't make sense from a regularity -- a regulatory perspective.

This is a contentious issue. We said at the beginning -- and my quotes are in my material to contentious issues shouldn't result in increases on an interim basis.

Now, is that 5 percent needed to avoid violation of intergenerational equity? Well, right now, if we go back to page 133 of the debt-rating agency's presentation, it appears that we've got -- and I know this is assumed 3.5 percent rate increases, and that was the previous path, but as of 2030, which is five (5) years ahead of what anybody was predicting, we've got that sawtooth (phonetic) happening, the exact thing we were trying to avoid when we were setting a path for NFAT.

All of the sudden in 2030, so nine (9) years from now, not even, my kids will be sitting there and say: Huh, thanks, dad, you swallowed all those 2 -- 3.5 percent rate increases, and now I'm sitting pretty. I've got new assets with a lot of equity, and I only have to pay .5 percent -- or 55 percent.

Talk about intergeneral -- intergenerational inequity; that's an illustration of it. I guess I shouldn't mind that I'm financing my kids' future, but why shouldn't they pay their way?

Now, we say that these best long-term forecasts available indicate that ratepayers may be -- I say "may" because it's not tested, it's not full -- in a very favourable condition, as rate increases can be moderated in the future as an alternative to aggressive and untested concept of a large retirement of debt presumed by Hydro.

Drought is a cost of operating the hydraulic system shared by ratepayers of every year, every generation. Ratepayers of 2021 and '22, in particular, are not the cause of the drought and are not passing off costs -- they've been around seventeen (17) years building up that equity -- any more than the long-term financial stability where insurance type measures simply falls to be recovered only from the system participants who happened to be present at the event of the loss.

Now, I'm going to skip because of the time some of the subjects discussed under the interest costs as a percentage of revenue being a useful metric; you'll see our position on that; it isn't.

Now, we talk about uncertainty. And on page 21, paragraph 3, somehow this fixed cost component of interest, which is long-term weighted average; I calculated it on -- if you're doing the costs at 348 million, 13 million interest, it's about 3.74 percent interest; lawyer math, may be wrong. But we don't face the uncertainty, and we're really lucky about that. If we've designed our system correctly, we don't have to worry about gas prices, right?

We've now built a huge generating station at a fixed cost, and that will last presumably for about a hundred years. We don't have to worry about replacing turbines -- we don't have -- gas generated turbines. We don't have to worry about gas prices spiking up and doubling. We have built into our system some stability because of what we're doing and the plan that we've put into place, and it is not unfavourable compared to the peers, and we discuss that in that paragraph.

What about the next GRA? In its final submission, Hydro has indicated its view that the PUB should remain silent on the date for the filing of Hydro's next GRA. I sighed in despair when I heard that. We'll talk to you about it. We'll talk to you about the content. We say, No, please -- please don't do that. And they promised to do something in the fall of 2019; they didn't.

They haven't committed to filing an IFF. They said, Well, no, we can't do it 'cause we don't have an IRP. But let's face it, everybody knows that, you know, we've got enough capacity and energy until the 2030s; that's not news to anybody.

What substantial things are we going to have to build in the next ten (10) years? I don't see it. There's never a problem in giving an IFF in the past. And sure, there's the energy policy. That's going to change. That's always going to evolve. And that may change several times over the next decades.

We don't know whether the Federal Government's going to give major grant subsidies for electric vehicles or not and -- and to transform the market into that. We don't know a whole bunch of things related to that energy policy. That's affected both at the provincial level and the Federal level. But we need to get something in place, at least based on what we know.

And I've put on the -- the next -- on this page 22, at the top, conveniently, I say, Manitoba Hydro forgot an important part of the directive it got on September 22. It talks about the first part. It says, the Government directed us, and I'm quoting:

> "Manitoba Hydro is directed to take all steps necessary to proceed with submission of an interim rate application to the PUB Board."

Well, yeah, they complied with that direction. Now, what about the next part? Nobody has talked about it anywhere:

> "or other application as determined by the Public Utilities Board."

Did it even ask the PUB what other application it wanted? Was it only the CAC process? Was it a more fulsome process that the PUB determined would be applicable?

There is a directive there that they should be taking all steps necessary to proceed with the submission because it says, "or other application as determined by the PUB."

We say for the reasons that we set out in the beginning of the submission, that the statutory provisions give this Board the authority to do the directives on what should be done to protect the ratepayers. It is empowered with that for a reason.

If we had competition, things that are happening today wouldn't be happening. If it was a private company, they'd be coming here and they'd have to disclose everything.

A 2.5 percent rate increase, that's the number we settled on. Customers planned on that. We say it balances everything. We've heard the evidence that Manitoba Hydro was not screaming after that was announced on July 8 up to September 22 that this wasn't possible: Sorry, we can't live with that; we're in a drought.

And we've put the table -- this was in Board book of documents. This is on page 23. Page 12, it's Coalition/Manitoba Hydro 13-B, which sets out conveniently for this Board, based on the assumptions that were made by Hydro, what the affect of the different scenarios of rate increases would lead to.

As previously reviewed, core business operations would be fully covered by surplus cash in '22/'23 without requiring borrow -- borrowing to cover business operations with that kind of a rate increase, the two-point-five (2.5).

If we look at the schedule between 2 percent and 3 percent, and you look for the year -- the columns '22/'23, under both the 3 percent and the 2 percent, the 3 percent gives you 16 million extra and the 2 percent would lead to a minus $2 million number. So between that would give you a positive number; a small one, granted, but a positive number.

Cost containment. We've made some comments on that. We also note the comments of CAC. There certainly isn't a robust record here on what's going to be done for cost containment.

And if you look carefully at Mr. Tess's response to Mr. McCutcheon in the transcript, there was no commitment to change the approved budget for expenses and to look at cost containment.

In fact, Mr. Tess, when I tested him on that, he said: Well, the Government approved it, you know, us going up four-hundred (400) and some positions, so we're going ahead with it. The Board approved it, we're going ahead with it.

What about the increased capital costs going up from the five-hundred (500) and some to the six-hundred (600) and some? Well, that's approved; it's baked. With due respect, it shouldn't be if you're in a drought.

Thank you very much for allowing me the opportunity to make these submissions. I'm open to any questions.

THE CHAIRPERSON: Thank you, Mr. Hacault.

We'll ask the panel if they have any questions, Mr. McCutcheon...?

BOARD MEMBER MCCUTCHEON: No questions, Mr. Chairman.

THE CHAIRPERSON: Ms. Kapitany...?

BOARD VICE-CHAIR KAPITANY: Thank you. On page 2 of your submission, I just wanted to clarify, you're speaking of a 0.8 percent increase that would go into, basically, the operations of the Corporation now, and then 1.7 percent would be deferred --

MR. ANTOINE HACAULT: Correct.

BOARD VICE-CHAIR KAPITANY: -- into -- into a deferral account until 2022?

MR. ANTOINE HACAULT: Correct. But both rates would have a sunset of December 31, 2022.

BOARD VICE-CHAIR KAPITANY: So the point-eight (.8) as well, even though it goes into operations in your --

MR. ANTOINE HACAULT: Correct.

BOARD VICE-CHAIR KAPITANY: -- scenario immediately?

MR. ANTOINE HACAULT: Correct.

BOARD VICE-CHAIR KAPITANY: Okay. Just wanted to clarify that.

And then, on page 18, where you speak of the cost of service implications of this application, I wasn't clear what MIPUG was recommending. Are you recommending that we do deal with cost of service implications in the interim or, similar to the Coalition, that we wait until a general -- general rate application?

MR. ANTOINE HACAULT: Well, I'll say it's not a true interim rate issue, so we don't have any objection to deferring that amount -- or that issue going forward and just giving a straight across the board increase for now. Except area and roadway lighting and the GSS, they're clearly out of the range. It wouldn't be equitable for them to continue to bear an equal -- unequal load of -- of the rates.

But the other ones where it's -- the whole discussion of if you're in or close what should be done, that certainly can be dealt with in a full GRA.

BOARD VICE-CHAIR KAPITANY: Okay. So I'm not clear on your answer.

Either we deal with cost of service in this application or we don't in my view. And I'm just wondering what MIPUG's view on that is?

MR. ANTOINE HACAULT: Well, my suggestion is if you're going to deal with it, deal with the clear items. Because the Board has the jurisdiction to deal with part or all, it doesn't have to deal with everything at once.

And the contentious issue right now is more what happens with the people that are within the range, right, between one-o-five (105) and ninety-five (95). That's the contentious issue, and it makes sense for the contentious issue -- to deal with it in the GRA.

BOARD VICE-CHAIR KAPITANY: Okay. Thank you.

MR. ANTOINE HACAULT: The uncontentious issue, I don't see why it needs to be deferred.

BOARD VICE-CHAIR KAPITANY: Thank you.

THE CHAIRPERSON: Thank you, Mr. Hacault.

MS. KATRINE DILAY: Mr. Chair, I apologize for this. It's Ms. Dilay. If I could, we just forgot to file our presentation as an exhibit.

THE CHAIRPERSON: Oh, certainly. Yeah.

MS. KATRINE DILAY: Thank you. We'd like to file the presentation given this morning as Exhibit Consumers Coalition 5. And it's marked already on the presentation.

THE CHAIRPERSON: Yeah. Okay.

--- EXHIBIT NO. CC-5: Consumers Coalition closing comments presentation, December 15, 2021

MS. KATRINE DILAY: Thank you so much for the time.

THE CHAIRPERSON: Thank you. Mr. Czarnecki, do you have reply?

MR. BRENT CZARNECKI (by Teams): Yes,

we will have a reply, Mr. Chair. And -- and very respectfully, and knowing where we are today in the process, a procedural dilemma that I have, sitting here right now, is that -- and I -- I appreciate that we're operating at warp speed here -- that we have received substantive submissions from both Coalition and from MIPUG this morning.

And from the presentation, I heard -- more particularly from Mr. Hacault this morning, I heard a lot of new evidence that we just haven't had a chance to go through his submission, check the references.

I heard things about Hydro being in the middle of the pack of electricity rates, based on Gerdau. I'm really struggling to -- how I can do service to my clients properly without a transcript and going through it.

I am really encouraged though, having said all that, by Ms. Kapitany's -- Board Member Kapitany's question about we're dealing with a test year here. And a lot of what I heard -- and also, frankly, Mr. Chairman, your -- your comment about what you were hearing was more from a full GRA perspective.

So I'm -- I'm just not sure where we're at procedurally because a lot of this information is now on the record. It will be considered by the Board. But, from what I heard, it's properly out of scope. Like, it is not dealing with the test year that we're in and it's stretched very, very far.

And Mr. Tess is new to this and he's asking me, Well, where are the right bounds on reply on this? And, frankly, I don't know.

And so that's why maybe we can discuss when we can do a reply, or what you think the bounds of the reply should be, or if we could do some today, or others in writing. Because I just don't know how to do a proper reply or even consider a proper reply at this stage.

THE CHAIRPERSON: Yeah. So reply, as I understand it, is intended for either new information put forward that could not have been anticipated by you in the Hearing. So it's -- it's a pretty narrow -- pretty narrow standard.

If your submission is -- or, at least, I heard part of it is -- there was a lot out of scope, then you can take the position that, in fact, as we go through the information put forward by Mr. Hacault, we take into account that you believe there are issues that were out of scope in his submission, we could certainly take that.

If the question is -- if what you're putting to us is that you want us to consider some sort of break for you to -- if you're putting forward, I guess, a formal motion, that we consider what the -- what the next step is in the process, you know, I guess the panel will break for ten (10) minutes and come back and give you our views. Because I -- I, quite frankly, am not prepared to make a decision on my own without consulting with -- with the rest of the panel.

So, Mr. -- Mr. Williams...?

DR. BYRON WILLIAMS: And -- and, again, just -- our client certainly feels that what we've submitted is properly within the record. I just note that I think we had an opportunity to -- we had a window of tomorrow morning in terms of reply.

So although, certainly, from our perspective, we feel our submissions are based on the record and within the scope, and we recognize the narrow ambit for reply from our client's perspective, if my learned friend's dilemma could be resolved by -- by submissions tomorrow, we have no objection to that, from our client's perspective.

THE CHAIRPERSON: Okay. Mr. Peters...?

MR. BOB PETERS: Well, I was going to jump on the microphone and just try to offer a suggestion, as well, to friends opposite. And I've -- I've heard Mr. -- sorry, I've heard Dr. Williams's suggestion and -- and maybe what I'm hearing, and for Mr. Czarnecki to comment on, is if he had the balance of this afternoon to work with his people on their -- and I appreciate they've got a -- a paper copy of -- of the exhibits used for the submissions -- and work on his -- on true reply points today and then verify it with the transcript and file it tomorrow morning and -- on -- in writing, if that would be satisfactory to the Board, or does the Board want to receive it virtually on Teams or in this hearing room.

So, those are matters that maybe the Board will have to -- to recess on. But I'm just wondering with -- before the Board does recess for a few minutes, if Mr. Czarnecki can indicate does he feel comfortable committing to having his reply submitted tomorrow morning?

MR. BRENT CZARNECKI: And thank you very much for the suggestions. And, Mr. Chair, I -- I fully appreciate the test for reply evidence, and we did our very best, knowing that parties hadn't filed evidence in this proceeding, to anticipate where they were going. So on the point 8 and just, you know, an award -- an increase, you have our position on that.

It's more to some of the factual, the evidentiary issues, that are very concerning to me. And I'll use one (1) example too from Coalition that I've noted down, was Ms. Dilay said Manitoba Hydro is not using asset management principles. That's false, and I'm not sure where the evidence of that goes. And that's just one (1) example, we may find more.

So, I appreciate the time that we could have for that. And, you know, I haven't even spoken to my client. I'm raising it initially because it is very concerning to us, that the leeway of -- of some of these -- and business operating capital per project, was ruled out of scope by this Board.

And so, of course, we didn't have a panel speaking about why we felt every project was necessary for safe and reliable service. You have the words of our CEO and CFO that they do believe its reasonable.

So, I'm -- before I can articulate a proper reply, I'm struggling again with what is properly in scope for this proceeding and what is not? And I -- I think it -- maybe I've talked myself into having more time to review the transcript. And we're in your hands if you want us to do it in writing or virtually if there's limitations.

I -- I -- we'll do what we need to do for this panel, but that's the dilemma I'm having right now.

THE CHAIRPERSON: Certainly. Okay. No, I -- I understand your point.

We're going to -- we're going to break for fifteen (15) minutes and -- and quite frankly if we need more time, we'll advise the -- the Interveners that we need more time. Thank you.

--- Upon recessing at 11:29 a.m.

--- Upon resuming at 11:55 a.m.

THE CHAIRPERSON: Ms. Schubert, are -- are we okay? Okay. I'll call on Mr. Peters.

MR. BOB PETERS: Thank you, Mr. Chair. Just as the panel was assembling, I had an opportunity to speak with Mr. Czarnecki on -- on the reply. And while the Board was in recess, I understand there were some discussions amongst the parties that were not in recess with the Board.

And, Mr. Czarnecki, would you want to speak to those first before the Board speaks?

MR. BRENT CZARNECKI: Sure. Yes, please. And -- and thank you for the opportunity.

What we were envisioning was Manitoba Hydro providing a written reply by noon tomorrow. But, of course, Mr. Chair, we are in the Board's hands, and if you feel differently procedurally, we will do our very best. And -- and, by the way, that is with consent by Mr. Williams and Mr. Hacault.

MR. ANTOINE HACAULT: I can confirm that for the record.

THE CHAIRPERSON: Let's just...

(BRIEF PAUSE)

THE CHAIRPERSON: Okay. Are we on, Ms. Schubert? Okay.

So the parties will agree to the proposed recommendations of the counsel here. Unfortunately, we haven't heard from AMC's counsel or MKO's counsel, but we'll proceed on the basis that there will be a written submission filed by Manitoba Hydro no later than noon tomorrow, with copies going to all the other parties. It will be restricted as proper reply, so it's new -- new issues not reasonably anticipated, and there will not be new evidence.

The Board has a pretty good idea of what the evidence is, Mr. Czarnecki. You don't need to -- to go through it. Certainly, if you go through issues and say you think it's out of scope or -- or inappropriate or not relevant, you can raise as you -- you deem appropriate but it is limited to reply.

Ms. McMillin is going to contact the reporter and try and get the transcript done immediately, so that you have additional time. So if you could file it by noon.

As such, in terms of the oral hearing, this will conclude the oral hearing, and I will give my closing comments subject to the filing of the -- filing of the reply.

This concludes the interim rate application of Manitoba Hydro. Subject to filing the reply by Manitoba Hydro, the Board will immediately start its process to review and consider the evidence and the submissions following the filing of the reply and will issue its decision as soon as possible.

Given the nature of the application and the holiday season that is shortly upon us, the Board may issue two (2) orders, with the substantive reasons in the second order.

The Board panel thanks the parties to

this hearing, particularly for the cooperative approach, followed by all parties in this expedited and compressed process.

The Board would also like to thank its advisors who provided such important service before and during this hearing: Bob Peters, from Fillmore & Riley, Ryall Engineering; and Cathcart Advisors; as well as Wendy Woodworth, from Digi-Tran, our reporter to this Hearing.

We also thank our small but mighty staff who worked so hard before and during the hearing to ensure it went off smoothly: Our executive director Darren Christle; our unflappable judicial hearing officer Kristen Schubert; and finally our secretary to this hearing, Rachel McMillin.

With that, I will close the Hearing, subject -- the oral portion of the hearing -- subject to the filing tomorrow of the reply of Manitoba Hydro, and on behalf of the Board wish everyone here and online a happy and safe holiday season to you and your loved ones.

Thank you. We're adjourned.

--- Upon adjourning at 12:08 p.m.

Certified Correct,

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Wendy Woodworth, Ms.