

**Preliminary Overview of the Proposed Intervention of the
Consumer Coalition**

Overview

This document provides background to the proposed intervention of the Consumers' Association of Canada, Manitoba Branch (CAC Manitoba) and Winnipeg Harvest (“the Consumer Coalition”) by outlining:

- Who is CAC Manitoba?
- Who is Winnipeg Harvest?
- Reasons for proposed intervention
- Nature of the proposed intervention including a brief overview of the proposed team of legal advisers and consulting experts
- Additional elements of collaboration
- Preliminary engagement plan

Attachment B sets out the low range and the high range of the proposed Consumer Coalition budget.

Last week, the Consumer Coalition outlined a preliminary list of issues in email correspondence. They also provided feedback to Manitoba Hydro during the issues workshop. Time permitting, the Consumer Coalition will provide a refined issues list and a schematic of their proposed intervention prior to the pre-hearing conference.

Who is CAC Manitoba?

CAC Manitoba is a volunteer, non-profit, independent organization working to inform and empower consumers and to represent the consumer interest in Manitoba.¹

Over the past 25 years, CAC Manitoba has been active in rate regulation matters relating to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, MTS, payday lending and the maximum cost of cashing government cheques. Over the past decade, CAC Manitoba has been engaged in many regulatory matters relating to Manitoba Hydro including:

- Every General Rate Application, Cost of Service and Diesel Proceeding (Manitoba PUB);
- The 2014 NFAT (Manitoba PUB) and the Wuskwatim NFAT (joint panel);

¹Formed in 1947, the organization is governed by a volunteer Board of Directors, elected annually at a general meeting of the organization’s membership. CAC Manitoba is a branch of the Consumers’ Association of Canada, but is financially separate and separately incorporated.

- Environmental proceedings relating to the Keeyask Generating Station, the Bipole III Transmission Line and Lake Winnipeg Regulation (CEC).

CAC Manitoba has a mandate to provide Manitoba consumers with unbiased information. Through interventions at rate hearings, CAC Manitoba represents the consumer interest on prices and quality of service (“rates for service”). In recent regulatory proceedings, CAC Manitoba has played an active role in issues such as:

- The impact of rate increases and rate design features² on all residential consumers including persons of fixed and modest income, those living in substandard housing and those who use electricity for both heating and lighting (all electric);
- Risks associated with export revenues, new capital expenditures, debt management and drought;
- The need for modern capital asset management for basic (sustaining) capital expenditures;
- The pace of O, M and A growth;
- The reliability of forecasts related to load, interest rates, export revenues and energy efficiency savings; and,
- The development of energy efficiency programming consistent with modern North American practice including equitable access to programs for low income consumers, tenants, all electric customers and those living in rural and remote communities.

CAC Manitoba policy is guided by its understanding of eight generally accepted consumer rights. Among these rights are:

- **The right to satisfaction of basic needs** - To have access to basic, essential goods and services: adequate food, clothing, shelter, health care, education, public utilities, water and sanitation.
- **The right to be heard** - To have consumer interests represented in the making and execution of policies for the marketplace, and in the development of products and services.
- **The right to a healthy environment** -To live and work in an environment that is non-threatening to the well-being of present and future generations , and the right to choose products and services that are less harmful to that

² (ie inverted or conservation rates)

environment.

CAC Manitoba seeks input on its policy positions through the innovative use of both focus groups and stakeholder advisory committees. In 2012-2013, CAC Manitoba had contact with approximately 14,000 consumers through its consumer education/information programs, services and consumer research. CAC Manitoba represents the interests of consumers across Manitoba.

Who is Winnipeg Harvest?

Founded in 1984, Winnipeg Harvest is a non-profit, community-based organization committed to providing food to people who struggle to feed themselves and their families. It seeks to maximize public awareness of hunger while working towards long-term solutions to hunger and poverty.

Winnipeg Harvest provides emergency food assistance to over 60,000 people a month across Manitoba. Approximately 45% of its clients are children.³

Winnipeg Harvest shares food with more than 50 Manitoba communities through the Manitoba Association of Food Banks. In partnerships with more than 380 agencies, it assists in the distribution of surplus food to hungry families all over Manitoba.

Winnipeg Harvest assists:

- 180 Food Banks (this includes First Nation, rural and northern communities, as far north as Lynn Lake);
- 129 Meal and Snack Programs;
- 41 Daycares;
- 18 Soup Kitchens; and,
- 16 Other Facilities.

Winnipeg Harvest has advocated for affordable access to financial services, transit, telecommunications, energy efficiency programming and heating and lighting.

Winnipeg Harvest has experience in regulatory proceedings especially as they relate to payday lending and Manitoba Hydro. It has frequently collaborated with CAC Manitoba. During the recent NFAT proceeding, Winnipeg Harvest partnered with CAC Manitoba and the MMF in presenting a ratepayers panel; it also presented policy recommendations aimed at ameliorating the impact of rate increases upon vulnerable

³Winnipeg Harvest feeds nearly 27,000 children each month.

consumers.

Other Potential Coalition Members

In the event that intervenor status is granted, the Consumer Coalition believes there is a reasonable possibility that other organizations will join their coalition. They will advise the PUB of any proposed additions.

Reasons for Proposed Intervention

What are the rate setting implications of an era of aggressive capital expansion? How can Manitoba ratepayers best be shielded from the risks and potential adverse consequences of Hydro's aggressive actions?

Consistent with prior interventions, the Consumer Coalition seeks to protect the interests of residential consumers and to ensure their “rates for service” are “just and reasonable”.⁴

At a time of high economic uncertainty, Manitoba consumers are facing hydro-electric rate increases projected at double the rate of inflation for roughly 20 years. The Consumer Coalition has grave concerns that the proposed rate increases are not sustainable over the short, medium and long term. Important issues of inter- and intra-generational equity are at stake.

They seek to understand two central questions:

- Are the effects of the proposed rate increases sustainable for Manitoba industry, business and consumers including persons of fixed and modest income, those living in substandard houses and those who use electricity for both heating and lighting (people issues)?⁵
- Would proposed rate increases of this magnitude be required by an economic, efficient and prudently managed corporation (health of corporation issues)?

⁴Section 26 (1) of the *CCPRAA* and s. 77 of *The Manitoba Hydro Act*.

⁵Schedule A to the *Sustainable Development Act* confirms that “Economic decisions should adequately reflect environmental, human health and social effects.” Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ESCR) confirms the right to adequate housing. In General Comment 4, the ECSR Committee confirms that “all beneficiaries of the right to adequate housing should have sustainable access to energy for cooking, heating and lighting.” Report of the Special Rapporteurs on adequate housing and extreme poverty and human rights, November 26, 2013, p. 2.

Guided by the legislative scheme⁶ and PUB *Orders 5/12* and *98/14*⁷, the Consumer Coalition will address four central elements of rate setting:⁸

- Are the forecasts of Manitoba Hydro reasonably reliable as they relate to rate setting?⁹
- Has Manitoba Hydro demonstrated that its actual and projected costs incurred are necessary and prudent?¹⁰
- Has Manitoba Hydro demonstrated that its revenue requirement is reasonable in the context of its overall general health?¹¹
- Taking into account the statutory objectives, what is a just and reasonable rate for Manitoba consumers?¹²

The Consumer Coalition notes that there are certain issues relevant to consumer impacts, cost of service and rate design which the PUB may decide are better canvassed in the

⁶See in particular, s. 26 of *The Crown Corporation Public Review and Accountability Act* (CCPRAA) and s. 27 of *The Public Utilities Board Act*, s. 2 of *The Manitoba Hydro Act* and *The Affordable Utility Rate Act*.

⁷See also s. 26(4) of the CCPRAA. [26\(4\)](#) In reaching a decision pursuant to this Part, The Public Utilities Board may: (a) take into consideration (i) the amount required to provide sufficient moneys to cover operating, maintenance and administration expenses of the corporation, (ii) interest and expenses on debt incurred for the purposes of the corporation by the government, (iii) interest on debt incurred by the corporation, (iv) reserves for replacement, renewal and obsolescence of works of the corporation, (v) any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation, (vi) liabilities of the corporation for pension benefits and other employee benefit programs; (vii) any other payments that are required to be made out of the revenue of the corporation, (viii) any compelling policy considerations that the board considers relevant to the matter, (ix) any other factors that the board considers relevant to the matter; and (b) hear submissions from any persons or groups or classes of persons or groups who, in the opinion of the board, have an interest in the matter.

⁸The Consumer Coalition notes that the equitable allocation of costs between ratepayers is an essential part of ratesetting but there appears to be some agreement that some of these issues should be deferred until future proceedings.

⁹Among the forecasts to be considered are interest rates, export revenues, exchange rates, capital cost, depreciation and load forecasts (including DSM). Consideration of the impact of recent developments in the oil and gas industry will be canvassed for their relevance to pipeline load.

¹⁰Among the major cost drivers to be considered are the prioritization of sustainable capital investments as well as the prudence and reasonableness, of O, M and A expenditures and debt management. Issues relating to the cost effectiveness and accessibility of energy efficiency investments also will be canvassed. Consideration of the cost effectiveness of current bill collection practices also may be considered.

¹¹Risk associated with export revenue, drought, capital expenditure and debt management will be considered as will the appropriateness of the financial targets.

¹²We will consider both the merits of the 2014/15 GRA and the 2015/16 GRA. This discussion will consider the sustainability of impacts on residential customers both of the overall rate increase and proposed (TOU) and (diesel) or potential (energy intensive rate) and (inverted rates) rate changes. It will assess available data and data gaps as they relate to the impacts on vulnerable consumers. Consideration of options to mitigate harsh bill impacts will be canvassed as well as the utility of a working group to address the challenge of and solutions to energy poverty. To the extent they are considered relevant to this proceeding and not to later proceedings such as cost of service, our clients are interested in issues raised by other parties such as a separate class for all electric customers and a separate class for persons living in remote communities and/or on reserve.

pending cost of service proceeding or a General Rate Application relating to the 2016/17 year.¹³

Nature of the Proposed Intervention

In a manner that minimizes duplication, the Consumer Coalition intends to present both cross examination and closing submissions on the four central elements of the ratesetting process addressed in this hearing. Legal services will be provided by the Public Interest Law Centre.¹⁴

The Consumer Coalition intends to participate in or assist in the development of evidence in the following areas:

Consumer Impacts/Ratepayer Impacts

- The Consumer Coalition will collaborate with the Manitoba Association of Food Banks, the MMF and the MKO in the presentation of a ratepayer impacts panel(s) which will address the impacts and challenges of the 2014/15 interim rate increase and the proposed 2015/16 rate increase.

The panel(s) will be primarily composed of affected residential customers from a variety of perspectives including low income urban as well as rural and remote all-electric. It is our understanding that the MKO may wish to canvass the perspective of certain institutional customers.

- The Consumer Coalition will support the Green Action Centre's presentation of GAC expert witness Dr. Roger Colton. Dr. Colton will address issues such as the effect of energy poverty, a menu of options to address energy poverty and proposed future activities including the merits, if any, of a NGO/Hydro working group to develop policy options to address energy poverty.¹⁵ The Consumer Coalition will retain Mr. Harvey Stevens to assist Dr. Colton in the identification of appropriate data and data gaps relating to vulnerable hydro users including

¹³These might include issues raised by other parties such as a separate class for all electric customers and a separate class for persons living in remote communities and/or on reserve. They also might include TOU rates, Energy Intensive Rates and Inverted Rates. The Consumer Coalition is of the view that the discussion of mitigating customer impacts should proceed in this hearing with an understanding that the issue requires further study preferably by a working group with a NGO and Hydro co-chair.

¹⁴Byron Williams has worked on rate regulation matters for over 20 years with a particular focus on Manitoba Hydro for the past decade. He has been lead counsel for CAC Manitoba in a series of proceedings including rate applications, cost of service reviews, NFATs and environmental impact reviews. Ms Meghan Menzies has worked extensively on Hydro matters both in the 2014 NFAT and in the ongoing consultation relating to Cost of Service matters.

¹⁵Costs related to Dr. Colton will appear in the GAC application for intervenor status.

relevant aspects of the social safety net. It is not expected Mr. Stevens will be called as a witness.

- The Consumer Coalition will assist or collaborate with the MKO in the event it is determined that there is merit in calling evidence relating to cost effective mechanisms to improve energy efficiency for persons living in substandard housing. Preliminary discussions have been held with Mr. Chris Neme but he has not yet been retained.¹⁶

Financial Issues including Financial Targets, Risk Management including Debt Management and Interest Rate Forecasting

- The Consumer Coalition proposes that it takes the lead on issues relating to financial targets, financial risk management and interest rate forecasting. It proposes to present (perhaps jointly) Dr. Lawrence Booth¹⁷ and Mr. John McCormack.¹⁸ Dr. Booth will be asked to address issues related to a principled approach to appropriate financial targets for a crown owned monopoly retailer of hydro-electric power. In developing his evidence, Dr. Booth will be asked to draw upon his extensive research in many Canadian jurisdictions including his insight into the behaviour of credit rating agencies. He also will address Manitoba specific issues such as the implications of the Provincial debt guarantee and Hydro's era of aggressive capital expansion. Mr. McCormack will address the reliability of Manitoba Hydro's interest rate forecasts in both the short and

¹⁶Chris Neme leads a variety of consulting projects for clients across the United States, Canada, and Europe. He specializes in analysis of markets for energy efficiency measures and the design and evaluation of programs and policies to promote them. Prior to co-founding Energy Futures Group, he served as Director of the Vermont Energy Investment Corporation's 30-person consulting division. During his more than 20 years in the energy efficiency industry, Mr. Neme has conducted analyses of efficiency potential in five states; reviewed or developed efficiency programs in more than 20 states and provinces and in Europe; supported utility-stakeholder "collaboratives" in eight states, and defended expert witness testimony before regulatory commissions in ten different states and provinces. Mr. Neme has led several different training courses on the elements of good efficiency program design. He has also published papers and/or presented assessments of efficiency markets, programs and policies through a wide variety of publications, conferences, Consortium for Energy Efficiency Technical Committees, ENERGY STAR working groups and other forums. Mr. Neme recently served as Co-Chair of NEEP's EM&V Research and Evaluation Committee.

¹⁷Dr. Booth's major research interests are in corporate finance and the behaviour of regulated industries. He has published extensively in top academic and professional journals and is the co-author of two major textbooks: *International Business and Introduction to Corporate Finance*. Dr. Booth has provided expert evidence on issues related to cost of capital in many Canadian jurisdictions. He has specifically addressed issues relating to financial targets for Crown Corporation in a number of Canadian jurisdictions. His learned articles have addressed such issues as *What Drives Provincial-Canada Yield Spreads, Dividend Smoothing and Debt Ratings, Assessing Foreign Exchange Exposure: Theory and Application Using Canadian Firms*.

¹⁸Mr. McCormack has expertise in finance including interest rate forecasting. He has provided finance related expert evidence to both the AEUB and the BCUC. He provided expert evidence to the Manitoba Public Utilities Board on a number of occasions regarding the reliability of Manitoba Hydro and Centra Gas interest rate forecasts for the purposes of rate setting. He also has addressed the risks associated with Hydro's debt management approach. During his tenure at ScotiaMcLeod where he rose to a role of Vice-President, Mr. McCormack executed approximately \$5 billion in financing and wrote five trust deeds for major borrowers in the energy industry.

medium term. In an era of massive Manitoba Hydro borrowing, he also will consider the risks and opportunities associated with Hydro's debt management strategy. Mr. McCormack also will share his insight related to the behaviour of credit rating agencies based upon his experience in executing roughly \$5 billion in financing related to the energy industry. It is expected that input will be sought on related issues from Mr. Matwichuk, who is assisting the MMF.

- In the event MIPUG chooses to call an expert witness on issues related to depreciation including the proposed approach to ELG and ASL, CAC Manitoba and Winnipeg Harvest will support MIPUG as may be requested.¹⁹

Implications of Sustaining Capital Expenditures on Just and Reasonable Rates including the prioritization of sustaining capital asset expenditure.

- The Consumer Coalition proposes that it take the lead amongst intervenors in testing whether the prioritization of expenditures on sustaining capital assets is appropriate, prudent and reasonable. The firm of La Capra and Associates will be asked to provide a critical analysis of Manitoba Hydro's sustaining capital management and budget prioritization practices with a view to whether they are consistent with good North American practice in asset management and capital prioritization.²⁰

Sustaining capital expenses can have a major effect both on cash flow and the income statement. It is generally recognized that many North America utilities have needed to modernize their approach to basic capital asset management to ensure that service objectives are met and to protect the interests of ratepayers.

For last the half decade, CAC Manitoba has been encouraging Manitoba Hydro to move towards modern capital asset management approaches citing studies such as *Leveraging Network Utility Asset Management Practices for Regulatory Purposes*.²¹ Issues relating to capital asset management were a significant element of recent rate proceedings with Manitoba Hydro promising updated analysis was in progress. There are significant values associated with sustainable capital expenditures related to the interim 2014/15 application, the 2015/16 GRA and the 2016/17 GRA (when it is undertaken).²²

¹⁹The Consumer Coalition will examine whether there is a need for an analysis of O, M and A expenditures especially as influenced by IFRS.

²⁰La Capra is well known throughout North America and played a prominent role in the Manitoba Hydro NFAT. A summary of its proposed experts will be available in the next day.

²¹Kema, 2009.

²²At Tab 5, page 28-29 it states that in 2015/16 \$593 M of the \$833 M in in-service additions are sustaining. Similarly, in 2016/17 \$692 M of the \$900 M in additions is sustaining. In 2014/15, sustaining capital accounts for \$576 M of \$1.7 B total in-service additions.

Additional Elements of Collaboration and the Minimization of Duplication and Expense

The Consumer Coalition had an extensive discussion with MIPUG on issues such as Capital Expenditure, O, M and A, Financial Forecasts, DSM and customer impacts. MIPUG collaborated in the preparation of an issues list intended to minimize overlap.

Where both intervenors propose to review similar areas, they will be reviewing for different reasons. They will work collaboratively to ensure there is no repetition in the hearing.

The Consumer Coalition expects to share a number of resources with the MKO. It is expected that Mr. William Harper's input relating to forecasts, prudence and risk will be prepared for the Consumer Coalition with input from the MKO.²³ The Consumer Coalition also expects to share the resources of an expert on energy efficiency with the MKO. The purpose of the expert consultant would be to advise on issues relating to the 2014 and 2015 DSM plan and issues relating to improving energy efficiency for persons living in substandard housing conditions.

Preliminary Elements of Engagement Plan

The Consumer Coalition expects to undertake a number of focus groups related to this proceeding. At a minimum, they expect to undertake two focus groups one involving in urban consumers and one involving individuals who hail from more remote and Northern communities. They are considering ways to receive input from other rural residents including those in more Southern communities.

The Consumer Coalition will engage with an advisory group including persons representing seniors, low income persons, those living in remote communities and those speaking from an environmental perspective. They will seek the input of independent business including rural business.

²³Mr. William Harper is a regulatory economist who has served as the principal analyst on Hydro Related issues for CAC Manitoba for well over a decade. He has provided expert evidence on issues related to risk, financial targets, o, m and a expenditures, rate design and cost of service in many Canadian jurisdictions including Manitoba, BC, Ontario and Quebec. Mr. Harper led the CAC Manitoba team of consultants in the recent NFAT hearing. Mr. Harper has over 30 years experience in the design of rates and the regulation of electricity utilities. While employed by Ontario Hydro, he has testified as an expert witness on rates before the Ontario Energy Board from 1988 to 1995, and before the Ontario Environmental Assessment Board. He was responsible for the regulatory policy framework for Ontario municipal electric utilities and for the regulatory review of utility submissions from 1989 to 1995. Mr. Harper also coordinated the participation of Ontario Hydro (and its successor company Ontario Hydro Services Company) in major public reviews involving Committees of the Ontario Legislature, the Ontario Energy Board and the Macdonald Committee.