Public Utilities Board

2014/2015 & 2015/16 General Rate Application

Final Submission

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I. Introduction and summary

As indicated in opening remarks, Green Action Centre is a non-profit that promotes practical measures to improve the sustainability and quality of life of Manitobans. Our research, education and advocacy are addressed to individuals, institutions, businesses and governments, including the PUB and Manitoba Hydro. We share the provincial goal for Manitoba "to be one of the most sustainable places to live on earth" and the promise to build "a strong, resilient green economy" (*TomorrowNow*, 6-7). Clearly the assets, operations, policies and programs of Manitoba Hydro play a central role in that task. Our many activities, concerns and policy briefs are displayed at http://greenactioncentre.ca/.

With respect to Manitoba Hydro, we advocate policies to ensure power is sustainably produced and used and that the immense benefits of reliable clean power are optimized—not squandered—and able to meet the needs of Manitobans, including low-income Manitobans. We have also advocated creative synergistic solutions and informed, goal-directed participatory processes as a means for advancing sustainability in the face of apparent differences or obstacles.

These last points are the focus of our intervention in the current GRA. We engaged Roger Colton to recommend an approach to create a Made-in-Manitoba suite of measures to achieve bill affordability for low-income customers *"who by reason of level of income and/or level of consumption, alone or in combination, receive monthly bills that cannot be consistently paid in a sustainable fashion over the course of time"* (MH/GAC (COLTON)-1). You heard from Mr. Colton a week ago.

As Mr. Colton demonstrated, bill affordability is not just a problem for some low-income customers but also for Manitoba Hydro running its business in accord with its mandate. For example, what are Hydro's options when it is required to supply energy for winter heating and the bills exceed a customer's ability to pay? Although the inability of some customers to pay Hydro bills on a sustained basis is a problem for Manitoba Hydro, the utility has engaged in no investigation or planning directed specifically at the inability-to-pay problem or sought to differentiate it from other reasons for bill non-payment (GAC-3-1, pp. 12-13).

Obviously Manitoba Hydro does have programs directed at low-income customers that are intended to provide some relief, such as the Affordable Energy Program to improve energy efficiency at no or low cost and the Neighbours-Helping-Neighbours one-time emergency payments. But, as Mr. Colton demonstrates, these programs, by themselves, are insufficient to address the problem of inability to pay. Despite Hydro's existing programs, there are tens of thousands of customers unable to pay their bills on a sustained basis (MH/GAC (COLTON)-2).

Consequently Green Action Centre urges the PUB to adopt Mr. Colton's recommendation to create a time-limited collaborative process involving Manitoba Hydro and other stakeholders, under the mediation and direction of PUB staff, for the purpose of devising a full suite of Made-in-Manitoba measures to address bill affordability and bill non-payment including additional bill assistance. We are particularly encouraged that President Scott Thomson indicated that Hydro is interested in being involved in such a process (transcript p. 505, 16-24) and that other interveners have likewise signalled their interest.

We note that in its February 23 letter to the PUB (MH-8, pp.7 f.) Manitoba Hydro proposed a collaborative process on the topic of residential low-income needs and responses. GAC responded offline to this invitation with a proposal on how to proceed but we could not reach agreement under the pressure of the impending GRA process. This hearing has provided an opportunity to air issues to be considered. In the balance of this brief we will address a number of them.

First we consider jurisdictional and legal issues related to the implementation of Mr. Colton's recommendations.

Then we elaborate several elements of Mr. Colton's recommendations and respond to questions and concerns raised when he appeared.

Finally we link the discussion to regulatory history including last year's NFAT process.

<u>II. Is it within the jurisdiction of the PUB to initiate a collaborative process under the mediating direction of PUB staff for the purpose of devising an enhanced affordable energy program that includes bill assistance?</u>

The Green Action Centre ("GAC") urges the Board to consider the establishment of the collaborative process to consider the issue of an affordable energy program. It is the position of GAC that the Board has the jurisdiction to order the collaborative process and has the jurisdiction to implement a rate affordability program that would charge affordable rates to qualified customers.

Rate affordability programs have been considered by the Boards of other Canadian regulators and have been considered by Canadian courts. The decided cases support the position of GAC that this Board has the jurisdiction to consider a rate affordability program.

In <u>*Advocacy Centre for Tenants - Ontario v. Ontario Energy Board*</u>, [2008] O.J. No. 1970 (Div. Ct.), the Ontario Divisional Court considered a decision of the Ontario Energy Board that it did not have the jurisdiction to establish a rate affordability assistance plan for low income consumers of natural gas. The Ontario Energy Board held that the proposal amounted to an income distribution scheme. The Ontario Energy Board noted that such a scheme would require a consumer rate class based upon income characteristics. The court noted that it was not disputed that a common feature of rate-making is the application of the same charges to all consumers within a given consumer classification based upon the cost of service.

In Ontario, the legislation gave to the Ontario Energy Board the power to set rates that were "just and reasonable". Section 36(3) of *The Ontario Energy Board Act* stated:

> In approving or fixing just and reasonable rates, the court may adopt any method or technique that it considers appropriate.

The Ontario Energy Board had held that the Board's "any method or technique" could not reasonably be interpreted to mean using income level as a rate grouping determinant. The court disagreed and held that the language of the Act provided greater flexibility to the Ontario Energy Board to employ other methods of rate-making in approving and fixing just and reasonable rates rather than simply the traditional cost of service formula.

The court then considered a number of factual matters that demonstrated the jurisdiction that the Board had exercised in the past. It pointed out that the Board had reduced a significant rate increase because of rate shock by spreading the increase over a number of years. The court considered this to be an example of the Board exercising its jurisdiction to take "ability to pay" into account in rate setting (paragraph 27).

The court noted that the Board had approved emergency financial relief to consumers in winter months. The court found that this resulted in inherent cross-subsidization within the residential consumer class (paragraph 28). The court held "if the Board has jurisdiction to approve utilities paying subsidies to the benefit of low income consumers then it arguably has jurisdiction to order utilities to provide special rates on a low income basis"(paragraph 29).

The court held that the traditional cost of service approach was the root principle for determining rates. The court held however that the Ontario Energy Board had the jurisdiction to look beyond cost of service to arrive at rates that are considered just and reasonable. The court pointed out that this could include a consideration of conservation rates. Further, the court held that the Board did have the jurisdiction to take into account income levels in pricing to achieve the delivery of affordable energy to low income consumers (paragraph 55).

In conclusion, the majority of the divisional court held that the issue before it was jurisdiction, not how and the manner by which the Board should exercise the jurisdiction conferred upon it. The court held that the Ontario Energy Board did have the jurisdiction to consider "ability to pay" in setting rates.

It is instructive that there was a dissenting opinion in the <u>*Tenants*</u> case. Justice Swinton advanced the issues that one would expect would be raised by those opposed to an energy affordability program. He raised the uniform rates argument. He raised the cross-subsidization argument. He would have held that the Ontario Energy Board lacked the jurisdiction to consider a rate affordability program.

The important point for the purposes of this argument is that these arguments were considered and rejected by the majority decision.

The Ontario Court of Appeal had the opportunity to consider the *Tenants* case in the case *Toronto Hydro-Electric System Ltd. v. Ontario Energy Board* 2010 ONCA 284. The court considered the *Tenants* case and relied upon the decision in its analysis of the jurisdiction of the Ontario Energy Board. The Ontario Court of Appeal has therefore confirmed the *Tenants* case as proper law.

In *Dalhousie Legal Aid Service v. Nova Scotia Power Inc.* 2006 NSCA 74, a request was made of the Nova Scotia regulator to consider a rate affordability program. The Board held that it did not have the jurisdiction to reduce power rates based on the income level of the customer. The Nova Scotia Court of Appeal agreed that the Board did not have the statutory authority to adopt a rate assistance program for low income customers. The court based its decision on Section 67(1) of *The Public Utilities Act*, which reads:

> All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the Board may by regulation declare what shall constitute substantially similar circumstances and conditions.

The court held at paragraph 25:

> Section 67(1) is mandatory. The rates and charges "shall always ... be charged equally" to persons of similar circumstances and conditions in respect of service. The statute does not endow the Board with discretion to consider the social justice of reduced rates for low income customers.

It is the position of GAC that the Manitoba legislation is much more closely akin to the Ontario legislation as opposed to the Nova Scotia provisions. As stated in the *Dalhousie* case, the legislation in Nova Scotia is mandatory. There is no flexibility provided to the Nova Scotia regulator. There are no similar provisions in the Manitoba legislation.

The Ontario legislation specifically provides to the Ontario regulator the jurisdiction to employ whatever rate-setting method it deems appropriate.

In Manitoba, *The Crown Corporations Public Review and Accountability Act* ("the Review Act") confers to the Public Utilities Board the jurisdiction to consider rates for services provided by Manitoba Hydro. The Review Act states that *The Public Utilities Board Act* applies with respect to review of rates for services.

The Review Act states that in reaching a decision with respect to a review of rates for services, the Board may take into consideration any compelling policy decisions that the Board considers relevant to the matter and any other factors that the Board considers relevant to the matter (Section 26(4)(viii) and (ix)).

The legislative authority of the Board in Manitoba is at least as great, and is arguably greater than the legislative authority of the Ontario regulator. The Ontario legislation states that the Ontario Board may adopt any method or technique that it considers appropriate in approving or fixing just and reasonable rates. The Manitoba legislation does not contain a limitation of "just and reasonable". It states that the Board may take into consideration any compelling policy considerations and any other factors that the Board considers relevant.

The legislative authority provided to the Board is limited only by what the Board considers relevant. It would therefore be an error on the part of the Board to find that it does not have the jurisdiction to consider the question of an affordable energy program.

The question has also been raised at the hearing whether the Board has the jurisdiction to order a collaborative process to consider a rate affordability program. This question may be somewhat academic. Manitoba Hydro has indicated to the Board through Mr. Thomson (Transcript pp505-506) and

Mr. Barnlund (transcript pp2952-53) that it would be prepared to take part in a collaborative process to consider the issue of an affordable energy program.

In any event, the Board does have the power to order that a collaborative process take place. GAC recognizes that this is something of a novel approach in Manitoba. GAC is unaware of a mandatory collaborative process being ordered previously pursuant to legislation in Manitoba. However, as Mr. Thomson has testified, BCUC regularly administered negotiated settlements for a number of FortisBC GRAs. *The Public Utilities Board Act* does, however, give broad powers to the Board, which can be used in the manner recommended by GAC.

Section 27 of *The Public Utilities Board Act* gives the Board the power to inquire into any matter or thing within its jurisdiction. The concept of an affordable energy program is clearly within the jurisdiction of the Board. Section 27 of *The Public Utilities Board Act* therefore provides to the Board the jurisdiction to launch an inquiry into an affordable energy program. How that jurisdiction would be exercised would be within the purview of the Board. The fact that that inquiry could take the form of a collaborative process is within the decision-making capability of the Board.

Section 27 also gives the Board jurisdiction to require information from Manitoba Hydro. Section 28 of the Review Act could be used by the Board to require Manitoba Hydro to take part in the collaborative process.

In conclusion, on the jurisdiction of the Board, it is the position of GAC that the Board:

(a) has the jurisdiction to consider the issue of a rate affordability program; and

(b) has the jurisdiction to order a collaborative process to develop a rate affordability program to be presented to the Board for consideration and approval.

III. Further elaboration of Mr. Colton's recommendations.

Mandate

The objectives of a rate affordability program are two-fold: (1) to maintain service to the maximum extent possible; and (2) to meet the five payment objectives of the utility. The payment objectives of the utility are as follows:

- To receive complete payment;
- To receive prompt payment;
- To receive regular payments;
- To receive unprompted payment (i.e., payment without need for "chasing" them);
- To receive continuing payments.

A utility wants to meet these objectives in as cost-effective manner as possible. In order to do that, however, the utility needs a complete set of tools in its tool-box, because different responses are the appropriate tool to use in light of different reasons why customers are not maintaining service, or making complete, prompt, regular, unprompted, continuing payments.

One of the tools in the tool-box involves traditional credit and collection mechanisms. However, when someone cannot afford to pay, traditional credit and collection mechanisms simply don't work. That's not a social policy conclusion. It is simply a matter of what tool is right for the job at hand. Some customers will be able to pay their bills if their bills could simply be reduced by reducing their consumption. Some customers have a seasonal inability-to-pay, and thus simply need levelized budget billing. Some customers miss a payment and don't have the ability to make it up immediately. Those customers need deferred payment plans.

Some customers, however, simply cannot afford their bills. For those customers, using tools like traditional credit and collection mechanisms, levelized budget billing, deferred payment plans, or even energy efficiency (and fuel switching) are not appropriate, because their use cannot accomplish the payment objectives of the utility. For these customers, the company needs a new and additional tool, an affordable bill program.

In such circumstances, the affordable bill program doesn't replace all the other tools. All the other tools remain necessary. It is, in other words, not the only tool in the tool-box. But it is one of the tools that needs to be in the toolbox.

What GAC proposes is for MH simply to have all of the tools that are needed to be present in its toolbox. The "suite of interventions", as envisioned by Mr. Colton, includes: (1) traditional credit and collection mechanism; (2) emergency assistance; (3) rate affordability assistance; (4) arrearage management ; (5) energy efficiency; (6) fuel switching; and (7)inclining block rates or conservation rates.

The suite of interventions that GAC has proposed all interact with each other and make each other more effective and more cost-effective. Energy efficiency and fuel-switching, for example, work with rate affordability assistance. By reducing consumption, some people will no longer have an unaffordable bill (and thus would not need affordability assistance). Even with those folks who do need affordability assistance, energy efficiency and fuel switching reduces the cost of providing that assistance. If an unaffordable bill can be reduced by 15%, fewer dollars are needed to bring that bill down to an affordable level. If a low-income customer can afford to pay $60, but receives a $100 bill, usage reduction or fuel switching that can bring the bill down to $85 won't make the bill affordable, but it will lower the cost of the affordability assistance that needs to be provided.

Similarly, traditional credit and collection will be needed in conjunction with an affordability program. An affordability program simply posits that people will improve their performance on the five payment objectives if their bill payments are within reach of their financial capacity. If bills are brought down to an affordable level, however, and the customers do not meet their payment obligations, they should be subject to the same payment enforcement as any other customers are subject to.

Inclining blocks rates are an excellent example of the synergies of the various components of the suite of interventions. Inclining block rates will provide more affordable bills to a majority of low-income customers (because they reach all customers, without need for an application or any type of enrollment and low-income customers have a lower average consumption than non-low-income customers.[1]) Inclining blocks rates, however, harm low-income large users (such as people using electric heating). As a result, there is a need for affordability assistance for that smaller group of electric heating customers. Inclining block rates help enable energy efficiency by rewarding customers who reduce their consumption. However, some people either do not have the ability to reduce their consumption, or their incomes are sufficiently low, that even the most efficient usage possible would still be unaffordable.

Inclining block rates are a good thing irrespective of an affordability program. But, as with other elements of the suite of interventions, they are only part of an effective and cost-effective response to nonpayment.

Eligibility and Enrollment

The issues of how to enroll customers, and how to verify their income, really depend on the model of rate affordability that the collaboration ultimately

[1] Manitoba Hydro (May 2010). 2009 Residential Energy Use Survey Report: Low-Income Cut-Off (LICO) Sector, at iv ("LICO customers consume less electricity than NON-LICO customers. This correlates with the findings that LICO customers tend to be single persons, seniors, apartment dwellers, residing in smaller dwellings"). See also, 2009 Residential Energy Use Survey Report, at 25 (LICO households use about 30% less electricity on an annual basis than do NON-LICO households).

agrees upon. It cannot be determined up-front, because the extent of income verification depends on what the information needs are. For some models, all that is needed is for someone to be placed into a range of income (or a range of LICO/LIM). For other models, what is needed is simply a toggle (someone either is or is not low-income).

What needs to be done with income verification and enrollment is to involve as many entities as possible. Some of those entities may be community-based organizations. Some of those entities may be government agencies. As Mr. Colton testified to in his oral testimony, some people would go to a community-based organization even though they would never walk in the door of a government social assistance provider. The collaborative would need to address how it would reach First Nation and Metis communities.

The entire issue of income verification, however, is an issue that is quintessentially subject to the collaborative process. By bringing the various stakeholders together, the collaboration can identify both the needs of various communities, and the available processes that can be piggy-backed upon.

Determining what energy burden threshold should be used (assuming that the affordability program model decided upon by the collaborative even uses an energy burden threshold, which is not a "given") involves the balancing of any number of interests. If one were to select a single point to demarcate "affordable" bills, it would be six percent of income. As Mr. Colton testified to, that number has an empirical basis to it.

What the collaborative would need to do, however, is to balance what level of nonpayment is "acceptable" with the costs of the program. In the PECO collaborative that Mr. Colton discussed (both in his Direct and in his oral testimony), PECO Energy had 140,000 program participants when it simply offered a tiered rate discount. When the collaborative started looking at bill burdens, however, it found that the upper income tiers were receiving discounts even though the bill burdens were already affordable. Accordingly, the "new" program model agreed to (when PECO agreed to move from the tiered discount to a fixed credit program model), roughly 40,000 customers who had been receiving assistance, would no longer receive assistance because they didn't need it.

The bill burden that is deemed to be "affordable" also has an impact on the dollar level MH would deem to be its maximum eligibility. The higher the bill burden that is deemed affordable, the sooner a customer would receive no benefits through a program even if income-eligible. Assume, for example, a customer has a $20,000 income. An affordable bill burden of 6% means that any bill of more than $1,200 would need bill affordability assistance. An affordable bill burden of 8%, however, would mean that only bills that exceed $1,600 would receive assistance. The higher the bill burden, in other words, the lower the effective income ceiling on program participants (because "affordable bills" at higher income levels exceed actual bills).

The appropriate bill burden is an issue for the collaborative. It involves balancing the affordability of bills to the customers, with the resulting bill payment outcomes to the utility, with the program budget. Those decisions are not arithmetic exercises. They instead involve policy trade-offs.

It is unreasonable to expect any program to generate participation rates of anywhere close to 100%. There are too many reasons why people do not participate in a bill affordability program. These include but are not necessarily limited to:

- People have an affordable bill without assistance.
- People don't want to go through the "hassle" of applying for a program. They believe the amount of assistance "isn't worth it."
- People don't know about the program.
- People know about the program, but don't know that they are eligible.

- People have a misunderstanding about whether they are eligible (e.g., a common example involves folks who think that since they own a home, they can’t receive such assistance).
- People have a misunderstanding about the consequences of such a program (e.g., if I apply for assistance, I’ll lose my home).
- People want to be self-sufficient (I haven’t applied for assistance yet, and I’m not going to start now).
- People do not have the ability to negotiate the application and income verification process.

Mr. Colton did indicate that one way to help improve the cost-effectiveness of a program was to limit it to payment-troubled customers. People who are not in payment-trouble, in other words, simply don’t get the outreach. The people who are in payment-trouble do.

Mr. Colton indicates that participation rates of 40% to 50% are the upper ends of reasonableness of expected participation.

Segmentation Studies as part of the Collaborative Process

A segmentation study helps to inform MH both of the types of nonpayment and the types of nonpayers. The advantages of a segmentation study are laid out in some of the materials that were attached to Information Requests (the most important, perhaps, being Attachment D to PUB/GAC-2). According to the Wisconsin utility:

> In early 1983, it occurred to some people at WPSC that we really didn't know why customers didn't pay their bills. It had been widely assumed that people didn't pay because they were playing games with the bill collector. It did not seem reasonable to us that substantial numbers of customers might not be adequately prepared to respond to the collection demands put on them.

After doing its segmentation study, the Wisconsin utility found, among other things:
The research concluded that the subject population naturally gravitated into five major clusters or categories with similar characteristics, as follows:

- 12 percent have money, know exactly what they are doing, and will pay if faced with disconnection.
- 41 percent may have enough money but tend to lack money management skills to make it go as far as it needs to.
- 12 percent are in transition--either going into or coming out of poverty.
- 16 percent are poor, lack enough resources to pay their bills, and are angry.
- 19 percent are poor and blame themselves for their situation.

The utility then reported that:

> Contrary to the assumptions prior to the research that most customers had money, knew exactly what they were doing, and could pay, only 12 percent fell into that category. These were customers who paid almost immediately when presented with a disconnect notice. The remaining 88 percent had very limited or no resources to respond to disconnection demands. Furthermore, 19 percent saw themselves as helpless to cope with the situation and blamed themselves. The operational implications of these findings were extremely important.
>
> First, all of the Company's credit policies were geared to the 12 percent who could easily respond to disconnect notices. These policies were very inadequate to help Company employees cope with the other 88 percent who could not respond in the same way. In addition, to the extent that Company management implied to frontline collection personnel that the Company's response to rising arrears or losses would be to "get tough" by disconnecting more accounts, certain results were inevitable. Frontline credit personnel would probably choose to disconnect those among the 19 percent

> who saw themselves as helpless and would not **complain.** Such behavior would produce the illusion of action (more disconnects) but with no concomitant improvement of results (collection of money, reduced arrears). Subsequent research into specific accounts confirmed this to be the case.

The utility further reported:

> If utilities have credit policies that are in sync with the multiple supplier model, they will experience significant and persistent conflict with slow-paying customers. They will constantly engage in actions which are geared to straining or severing relationship with the customer when in reality that will not **happen.** If a utility wants to reduce such conflict, they must carefully examine their collection perspective and their paradigms about collections. Our perspective may be too limited. And our assumptions about the "boundaries" and "rules for success," also referred to as paradigms, may be keeping us in a box where no solutions are evident.

Similarly, PGW (Philadelphia Gas Works) did a segmentation study and identified four distinct types of nonpayers: (1) perpetually challenged; (2) chronically delinquent; (3) on-time payers; and (4) chronic late payers. (PUB/GAC-2, Attachment E and Attachment F). That company, too, developed distinctly different responses, including discount rates for the “perpetually challenged” as a means to improve both its financial performance and its collection performance.

Quite simply, it is not possible to know which of the interventions to use from the suite of interventions unless you know what your nonpaying customer base is comprised of. A segmentation study should not however delay the collaborative process unduly.

In addition, there may be a need for further information to assist in the collaborative process. Who does the research depends on who has the best capacity to generate information. If the information needed involves payment patterns, for example, that information should come from MH. If, however, the question is what do First Nation communities use as the entry point into assistance programs, that information should come from First Nation participants in the collaboration.

If the question is what barriers exist to program participation, and how does one overcome those barriers, that question should be posed to social assistance providers, community-based organizations, and constituency groups. Similarly, if the question is how does one best reach particular populations (e.g., the disabled, the aged, First Nations), that question should be posed to constituent groups.

IV. What are the merits of a collaborative process and having the PUB initiate rather than Manitoba Hydro or the provincial government?

It is the position of GAC that the PUB should lead the collaboration. Hydro certainly should not lead the collaboration. It is a participating stakeholder. It cannot both lead the collaboration and be a participating stakeholder (that does not have interests that coincide with all other stakeholders). The potential for conflict with Hydro leading the collaborative is too great. To the extent that an impasse arises, either substantively or procedurally, the leader of the collaborative needs to be sufficiently independent to be able to drive toward a resolution. One cannot be both a stakeholder and an independent process person at the same time.

The same objection could apply to the province. The provincial social assistance providers should be encouraged to be participants. They do not, however, have the utility regulatory perspective that is needed. While the interests of the customers are one interest to be included, the interest of the utility, as a utility, is another interest. Whether the utility is using its money efficiently or effectively (let alone cost-effectively) to assist in the collection of billed revenue would not be within the provincial realm of expertise or interest.

Having the PUB's imprimatur of approval is important to all stakeholders in the collaborative. There is a degree of collegiality in the collaborative. However, there is no question but that there is also a degree of the PUB making clear that "we want this to happen, and we want it to succeed." Having the PUB lead the collaborative has the practical effect of imposing a degree of accountability on all of the participants.

V. The connections between least-cost planning, DSM, conservation rates and bill affordability

"Think globally, act locally" is a slogan reflecting the synoptic view of sustainable development that guides synergistic activities to satisfy multiple values and objectives at the same time.

Power Smart programs are often described in these terms. A Power Smart investment lowers the cost of power to consumers, increases power available for export sales (thereby increasing the flow of dollars into Manitoba), and reduces environmental impacts of the electrical system through GHG mitigation in export markets and/or forestalling impacts of new generation.

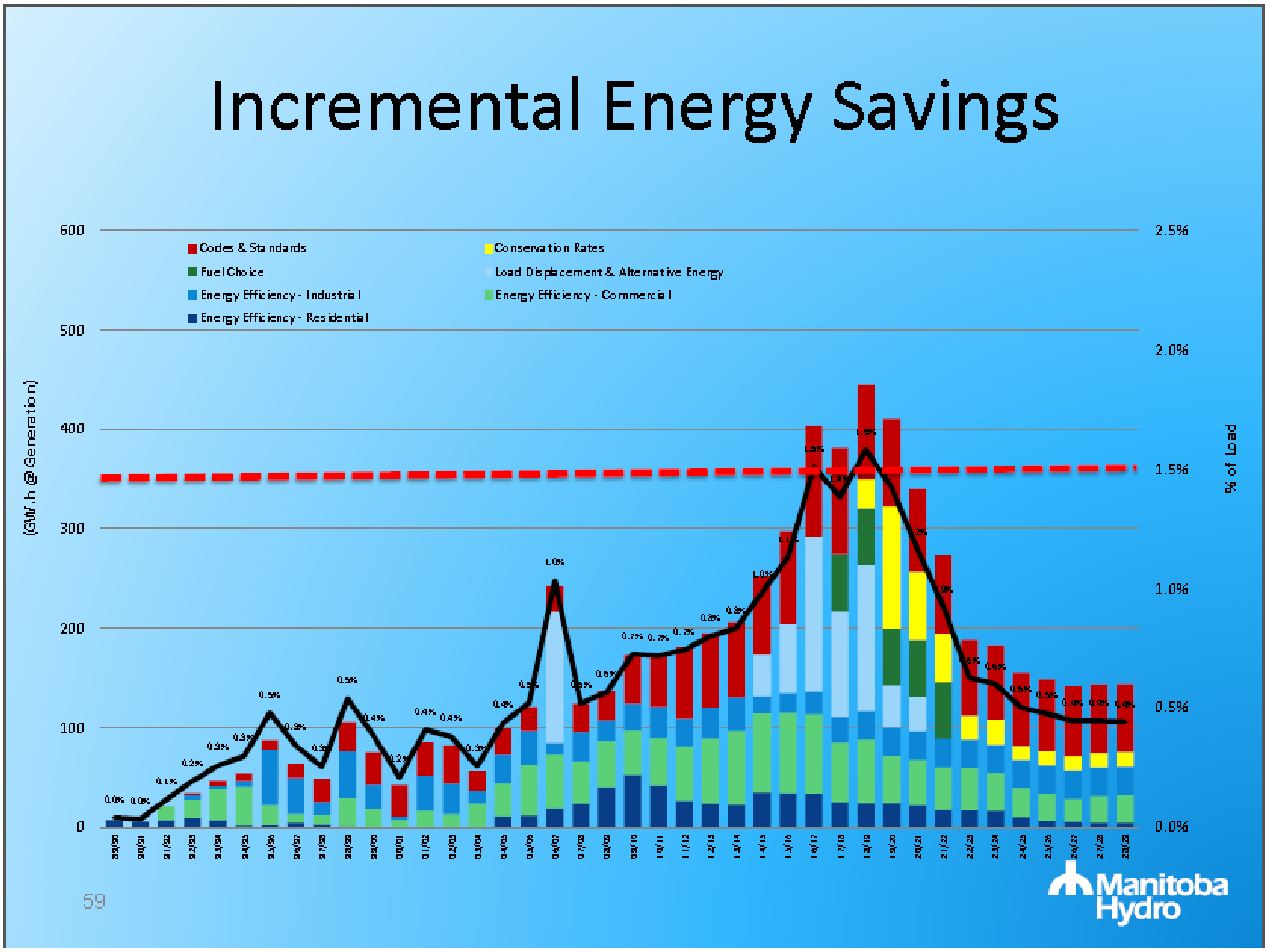
GAC's thesis, expressed in the following narrative, is that potential synergies don't stop there. Adding conservation rates and an affordable energy program for low-income customers (as recommended by Mr. Colton) to complement Power Smart DSM initiatives, Manitoba Hydro can better fulfill its mandate and multiply its social and environmental benefits. These programs together constitute a synergistic, mutually reinforcing bundle of policies that simultaneously promote conservation, justice, affordability and economic goals. Creative policy development looks for similar synergies in all sectors.

Last year's NFAT hearing provided ample opportunities for the parties to this GRA to engage in synoptic thinking with respect to resource planning. In its final report, the PUB made the following observations (page 22 of 306).

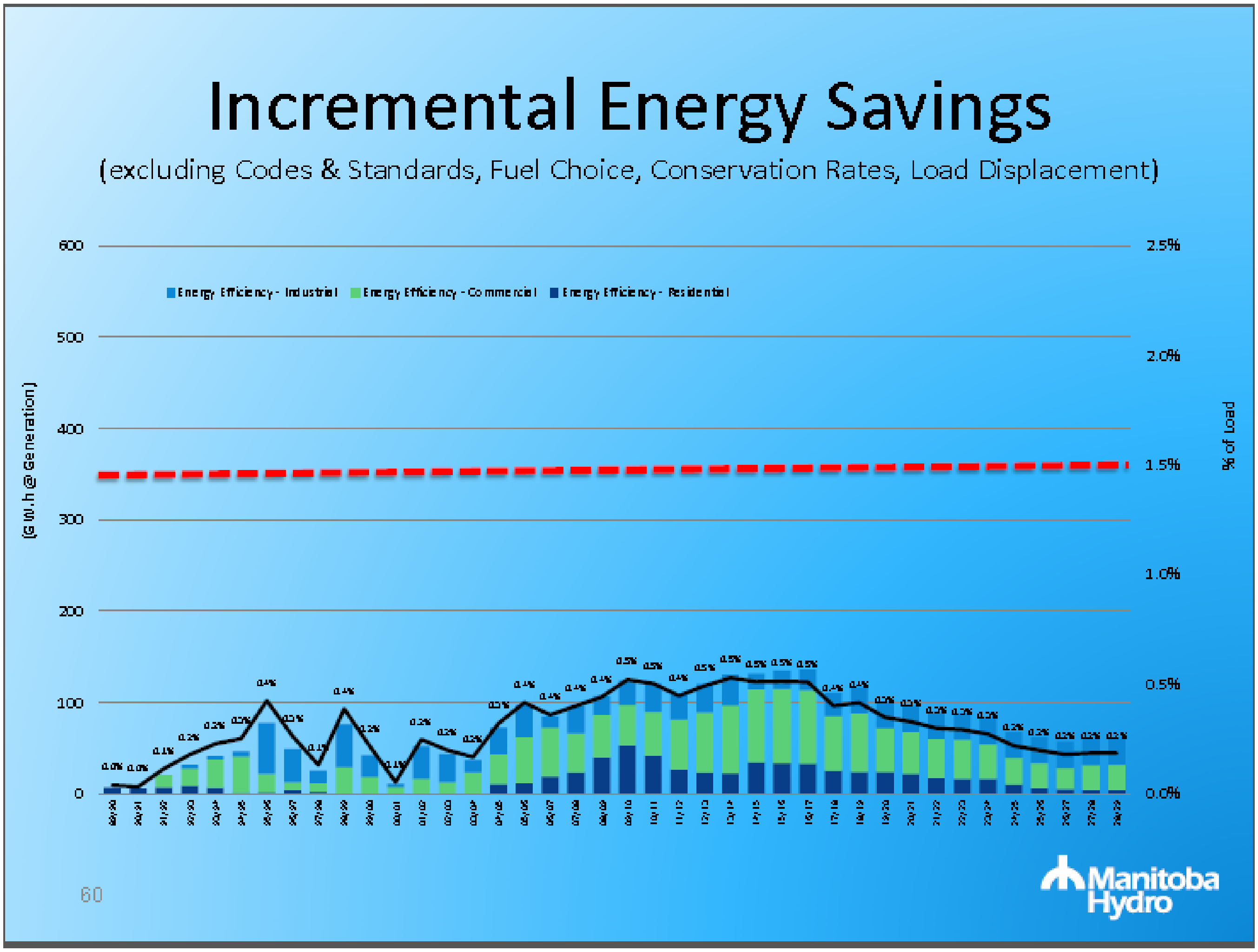
> *In 2014, Manitoba Hydro also prepared a 15-year supplementary plan. In that plan, Manitoba Hydro expects to offset 66% of anticipated load growth to 2028/29, saving 1,136 MW of capacity and 3,978 GWh of dependable energy annually.*
>
> *To place this into perspective, the capacity savings in the supplementary plan amount to more than 80% of the net system capacity addition from the proposed Conawapa Project. Similarly, the annual dependable energy savings from the Power Smart Plan exceed 85% of the dependable energy output from the proposed Conawapa Project. To achieve these electricity savings, Manitoba Hydro budgets $822 million, which is less than 8% of the $10.7 billion cost of building Conawapa.*

The NFAT Panel agreed that least-cost integrated resource planning needs to consider the significant contributions that aggressive DSM can make to balancing supply and demand and recommended a commensurate DSM target of 1.5% of domestic load for Manitoba. How can this level of savings be met?

Manitoba Hydro's current forecast savings manage to exceed 1.5% of domestic load for a four-year period from 2016/17 to 2019/20 but not for the longer term (MH-67, slide 59 below), as noted in the NFAT testimony of Philippe Dunsky.



Note further that only about a third of the conserved energy is expected to come from standard Power Smart energy efficiency programs. The significant additional achievement comes from codes and standards, fuel switching, conservation rates, and load displacement and alternative energy. When these measures are stripped away, the mountain of savings during this peak period becomes the relative molehill of traditional energy efficiency programs shown in slide 60 below.



Both Manitoba Hydro and the PUB have long recognized the importance of conservation rates for energy saving. It's not just a question of behavioural changes like turning off a light switch or lowering the thermostat, although these are important. Inclined block rates with a higher runoff rate make it more cost-effective to add insulation or to replace an electric furnace with geothermal or to cost-justify higher codes and standards. Conservation rates work synergistically with all the other DSM measures.

For these reasons, inclined (or "inverted") rates have been on the agenda of both the PUB and Manitoba Hydro for the last decade.

PUB Order 117/06 recognized the importance of the link between rate design and the promotion of energy efficiency and its benefits.

> *The Board seeks to assure itself that MH's rate design and rates are consistent with the pursuit of the environmental objectives of The Sustainable Development Act (SDA). As a further response to the risk that higher domestic consumption poses for net income and domestic rate levels, MH is directed to bring proposals forward to the Board to eliminate declining block rate schedules, and to introduce inverted and time of use rates, initially for large volume nonresidential customers. Energy efficiency presents the potential for a virtuous circle, wherein lower domestic consumption results in reduced customer bills, higher MH aggregate net export revenue and net income, and lower carbon emissions by MH's American export customers (3).*

PUB Order 116/08 reiterated the importance of conservation incentives in rates and urged that inclined rates be extended to all customer classes.

> *The Board encourages MH to develop plans to employ an inverted rate structure for all customer classes, initially to be designed on a revenue neutral (to MH) basis and to send a "price signal" for every kilowatt hour of energy used, to promote conservation (306).*

The PUB also directed that bill impacts on low-income customers, especially those with heating load, should be addressed (Directive 18 of 116/08).

Manitoba Hydro did briefly introduce token inclined rates and proposed to lower the basic charge and gradually increase the difference between the first and runoff blocks to promote conservation and affordability for low-consuming low-income customers. Tab 10 of Hydro's 2010/11 & 2011/12 Rate Increase Application proposed the following change for Residential rates (pp. 3-4).

> *Residential*
>
> *For rates effective April 1, 2010 the monthly Basic Charge will decrease by $1.00 per month to $5.85, and for rates effective April 1, 2011 the Basic Charge will drop an additional $1.00 per month to $4.85. These decreases are being proposed to assist low income customers with low metered*

monthly consumption. Seasonal residential customers will maintain their current Annual Basic Charge of $82.20

The total increase in class revenue will be derived solely from the Energy Charge. Consistent with the intention of promoting energy conservation, the gap between the first block rate and tail block rate will be larger than the current rate structure. For rates effective April 1, 2010, the first block rate will increase by 1.9% to 6.37¢/kW.h, whereas all energy consumed in excess of 900 kW.h per month will be at the higher rate of 6.75¢/kW.h, representing an increase of 7.1% from current rates. In year two of the rate application, the first block rate will increase an additional 1.6% to 6.47¢/kW.h and the tail rate will increase another 7.1% to 7.23¢/kW.h.

Through an interim order the PUB did approve continuation of "inverted" rates for April 1, 2010. But subsequently, in Order 40/11, the PUB directed that for April 1, 2011 the second interim rate increase should be applied so as to eliminate altogether the block differential for residential rates. The train left the tracks! Why? As Order 40/11 explains, "MH has yet to reflect consideration of home heating loads in its rate design" (30). Manitoba Hydro did note that its original proposal would lower bills for low-income customers with below average consumption, but the utility has yet to produce a mitigative bill assistance program for low-income customers with higher bills, especially those living in electrically heated homes.[2]

Thus in the eyes of previous PUB panels, bill affordability, especially for low-income electric heat customers, is an essential condition for the higher levels of DSM achievement fostered through conservation rates.

As we indicated in our opening remarks for this GRA, GAC regards this stalemate as a dysfunctional outcome of a slow motion dialogue between Manitoba Hydro and the PUB with directives and responses occurring at two year intervals of successive GRAs. Ten years of starts, stops and reversals is long enough. Bill affordability is an important issue in its own right to maintain customer service while addressing Hydro's bill collection problems. But its importance is magnified when it is seen to obstruct higher levels of cost-effective DSM achievement that

[2] Note that MH failed to adopt a GAC recommendation that electric heat customers achieve parity with non-heating customers by giving them a proportionately larger cheaper first block during the heating season.

flow into least-cost integrated resource planning. In short absence of affordability measures for vulnerable persons has led to a failure of Hydro to fulfill its mandate "*to provide for the continuance of a supply of power adequate for the needs of the province, and to engage in and to promote economy and efficiency in the development, generation, transmission, distribution, supply and end-use of power….*"

VI. Demand Side Management and the devolution of DSM responsibilities to the "Entity"

GAC is not in favour of removing demand side management responsibilities from MH unless a way can be found to preserve Hydro's many strengths and advantages in this area. We have not yet seen such an alternative presented. As discussed in the hearing, the efforts of the DSM team at MH are projected to result in the savings of energy comparable to the energy produced by the Brandon Thermal Station, Wuskwatim and Keeyask combined. (Slide 20 MH Ex 67, Transcript pp 2934-2938). These savings come at a much lower cost to the Manitoba consumer than does the generation of new power sources. The question raised at the NFAT was whether past achievements can be continued or exceeded in the future at the level of achievement of other leading jurisdictions.

Mr. Kuczek presented a strong case for the deep integration of Power Smart activities with Manitoba Hydro activities and the considerable technical and programming expertise. Mr. Kuczek testified that many of the people involved in DSM activities may only work on DSM on a part time basis while fulfilling other responsibilities for the corporation. These types of synergies would not be possible with a stand-alone corporation responsible for DSM activities, unless a degree of integration of activities could be achieved.

We have also seen that even more important that Power Smart incentive programs is the establishment of better codes and standards for buldings, appliances and equipment. Mr. Kuczek's presentation cited the contributions of

Dale Friesen, Colleen Kuruluk and other staff driving those standards at the National and provincial level.

GAC has communicated our understanding of the reasons for the divestment proposal as well as our reservations and a discussion of alternatives in a letter to the Province, which we attach to this brief.

VII. Conclusion

The 2015 General Rate Application provides significant challenges to the Public Utilities Board, Manitoba Hydro and the Interveners. We have two competing demands that must be addressed. On the one hand, the purpose of a rate hearing is to establish rates that return to the corporation in full the cost to the corporation of supplying power. The purpose of the rate hearing is to ensure a healthy utility. Given the costs that will be incurred by virtue of the construction of Keeyask and Bipole III, there is a significant need to increase rates to fund the expenses that will be incurred.

The competing demand is that some members of our society cannot afford to have their energy bills increase at a rate of 3.95% per year for the foreseeable future. Some families suffer from energy poverty right now and have done so for years. Those families will fall further behind with every rate increase. Further, with every rate increase, there will be more people that will be captured by the energy poverty net. For those families and individuals who suffer energy poverty, no rate increase is justified.

These two demands are irreconcilable at present.

GAC supports the concept of a healthy Manitoba Hydro. As a result, GAC supports the application to increase rates by 3.95%. It is the view of GAC that the evidence supports the requirements of Manitoba Hydro to increase rates during this period of expansion. GAC is also mindful of the significant costs that the corporation will have to incur for the maintenance of its existing assets.

For many, the rate increase proposed is of little consequence. Most of us do not suffer from energy poverty. But what can be done to ease the burden of those for whom the cost of energy is truly a hardship? The main focus of GAC's intervention in this rate application has been to suggest to the Board a solution to the reality of the competing demands. We recognise that the development of an energy affordability plan is a complex issue. It is not something that can be developed on the fly or in a four week hearing with one day dedicated to the issue. That is why we have suggested to the Board that the proper method of approaching this question is to order a collaborative approach under the supervision of PUB staff that involves interested parties to study and to design a made-in-Manitoba energy affordability program. We know that there will be differences of opinion on how that program would work. We know that it will require creative thinking and compromise. It is the position of GAC that such a process would work best under the supervision of PUB staff. It is our view that such a process is the only method of attempting to accommodate the two competing demands facing the Board at this rate hearing.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 17TH DAY OF JUNE 2015

Gange Goodman & French

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November 14, 2014

The Honourable Eric Robinson
Minister Responsible for Manitoba Hydro
Manitoba Legislature

by email: **minna@leg.gov.mb.ca**

Dear Minister Robinson,

Re: New DSM Agency

Welcome to your new responsibilities as Minister Responsible for Manitoba Hydro.

First let us introduce ourselves. Green Action Centre is a non-profit, non-governmental hub for greener living based in Winnipeg and serving Manitoba. We are a registered charity, governed by an elected community board. We promote greener living through environmental education and encourage practical green solutions for homeowners, workplaces, schools, communities and the Province. Among our many activities, we have been frequent interveners before the Public Utilities Board on Manitoba Hydro initiatives, including the recently concluded NFAT. Details on our programs, activities and policies can be found at greenactioncentre.ca.

NFAT recommendation to divest DSM services from Manitoba Hydro

In its final NFAT report, the PUB made the following recommendation:

> *There is an inherent conflict of interest when a utility acts as both a seller of electricity and a purveyor of energy efficiency measures. Therefore, the Panel concludes that the planning and provision of DSM services should be divested from Manitoba Hydro* (93).

This was a surprise recommendation. A variety of evidence as to shortcomings in Manitoba Hydro's approach to DSM and recommended improvements was presented at the NFAT. But no expert recommended or discussed such a divestment. Rather MKO first made the recommendation in concluding argument on the basis that most First Nation homes were ineligible for DSM because their accounts were in arrears and a more effective approach was needed (86-87, 90).

A list of concerns that a solution should satisfy.

Green Action Centre does not claim sufficient experience with alternative DSM delivery models to recommend an optimal configuration for DSM services in Manitoba. We are pleased that Mr. Dunsky, our NFAT DSM expert in collaboration with CAC-Manitoba, has been retained for advice. We hope that his terms of reference are not overly narrow and that he is permitted to recommend what is best for Manitoba. What we can provide are a number of observations based on our experience as a long-time PUB intervener reviewing Manitoba Hydro's operations and proposals.

- In discussions about the prospects of DSM divestiture, we have heard opinions that this could be a real opportunity for DSM to take off (e.g. like Efficiency Vermont, which after years of high achievement wants to increase its targets) or a potential disaster if it were to become, say, a special operating agency of government, which would lack the skills built up by Hydro and be subject to another bureaucracy.

- One observation is that with all the Power Smart functions currently residing in MH, pulling them out is very likely to have a disruptive effect initially with the risk that there will not be adequate replacements. An optimal solution will have to address how these functions are most efficiently and effectively performed and changes managed. The list of these functions is long.

    - MH provides funding, financing (e.g. PAYS) and technical analysis and advice.
    - MH integrates DSM information and referrals into its customer service operations and marketing initiatives.
    - MH develops annual Power Smart plans and periodic DSM potential studies;
    - MH integrates DSM into its load forecasting.
    - MH has committed to moving to supportive rate structures (e.g. inclined residential rates), which address the issue of lower economic incentive to conserve in Manitoba than in other higher-rate jurisdictions. Both past PUB orders and MH's strategic plan had called for this but they were unable to create a mutually acceptable implementation.
    - Equal inclusion of DSM in integrated resource planning was also recommended by the PUB. If DSM is removed from MH, would IRP be impaired? Would MH be even more likely to favour build vs. conserve solutions?
    - No doubt many other links and synergies between DSM and other parts of MH's operations exist.
    - And MH has the skilled personnel that perform all these functions

    What will happen to these organizational and personnel assets of MH? To what extent can they be linked with, transferred to or recreated in another organization without loss in efficiency and effectiveness?

- Against the above considerations, one must consider Scott Thomson's opening testimony at the previous GRA, which supports the PUB's conclusion that there may be a conflict or interest or subordination of DSM within Manitoba Hydro.

    > It's important, particularly given our current financial position, that any new DSM programs have a sound business case. **I believe that DSM should reduce the upward pressure on rates, not increase it. That is the approach that we're taking.**
    >
    > *Scott Thomson, Dec. 10 transcript, p. 269*

    This is a double standard, contrary to Integrated Resource Planning, when contemplated new construction is anticipated to have huge rate impacts. Hydro personnel say, however, that they have moved beyond that position.

- Mr. Dunsky and Mr. Chernick, in their NFAT testimony, demonstrated through interjurisdictional comparisons that Manitoba Hydro has significantly underestimated the long range potential of DSM to flatten demand and defer the need of new generation to meet domestic load.

- The PUB performed its own calculation on p. 22 of its report.

  To place this into perspective, the capacity savings in the supplementary plan amount to more than 80% of the net system capacity addition from the proposed Conawapa Project. Similarly, the annual dependable energy savings from the Power Smart Plan exceed 85% of the dependable energy output from the proposed Conawapa Project. To achieve these electricity savings, Manitoba Hydro budgets $822 million, which is less than 8% of the $10.7 billion cost of building Conawapa.

- A number of witnesses were critical of MH's ability adequately to mitigate the bills of low-income persons through its DSM programs.

Possible solutions?

As indicated before, Green Action Centre does not pretend to have an optimal solution that satisfies all the concerns enumerated above, but here are a few ideas for consideration, some of which might be used in combination.

1. Have the Power Smart program separately regulated with a well-defined mandate from and accountability to the PUB. Roger Higgin, a CAC witness and former Ontario regulator, testified that high DSM performance can be obtained from a private utility by rewarding them in rates for achieving or surpassing targets whereas a public utility merely needs to have targets mandated. Note that the PUB's NFAT report is the first to mandate a DSM target (1.5% into the indefinite future). Hitherto MH has set its own targets (more recently reviewed by the Province) based on economic considerations as cited above. Would such a mandate and other measures for DSM improvement recommended by the experts suffice?

2. Another possible model would be to have Power Smart as an independent division of MH, with an independent Board of conservation experts. This would retain Hydro assets of people, rate design, customer service, financing, networks, database, IRP participation but answerable to a separate Board for the Power Smart mandate.

3. A third possibility is to make more use of independent contractors like BUILD and Aki Energy, each with their own segment of the market. E.g. Aki Energy is working towards hundreds of geothermal conversions on First Nations. This more distributed organization would not have to put all the eggs in one organizational basket.

4. If a completely separate DSM agency is established, links with MH will need to be established to fulfill the various functions enumerated in the first section. One way to facilitate the links and retain the expertise of existing staff would be to have some of them work on secondment to the new agency.

The independent monitor is essential, no matter who is implementing the DSM.

Conclusion

We hope these thoughts are useful as you develop a response to the PUB recommendation to divest DSM services from Manitoba Hydro. Please address questions to our Manitoba Hydro contact Peter Miller at p.miller@mymts.net or (204) 452-9017.

Sincerely,

Lisa Quinn, Chair (ljquinn@hotmail.com)
Green Action Centre Policy Committee

CC:
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