

# SUBMISSION BY THE CONSUMER COALITION (CAC MANITOBA AND WINNIPEG HARVEST)

2016 MANITOBA HYDRO COSS  
2<sup>ND</sup> PRE-HEARING CONFERENCE

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# Oral Submission

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- Purpose PHC 2
- Coalition position
- Relevant contextual factors:
  - significant issues
  - intent *Order 26/16*
  - reliance on *Order 26/16*
  - outcome of process to date
- The “Key” Issue Test
  - material
  - contested
- Application of Key Issues Test and Recommendations

# Purpose

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Following the receipt of answers to Intervenor Undertakings, the Board will hold a second Pre-Hearing Conference. The Pre-Hearing Conference will give rise to an order by which:

- a) The Board will identify designated issues that will be subject to oral evidence provided by one or more concurrent evidence sessions, followed by cross examination
- b) Any issue not designated for oral evidence will be subject to written submissions by the parties.

(17/28)

The Board:

“considers it important that cross examination be permitted on **key issues**” (16/28)

# Coalition Position

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1. Cross examination on “key” issues was promised and is necessary
2. Agnostic on concurrent panels versus availability of selected witness [independent and corporate]
3. If concurrent panel, PUB should seek comment on process questions [see OEB 2013 Procedural Order]:
  - Treatment of company witness and witness who have not filed expert reports
  - Should experts be allowed to ask questions
  - Process rules

# Issues of Longstanding Significance

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This hearing represents the first review of Manitoba Hydro's cost of service methodology in almost a decade.

*Order 26/16, p. 15*

# Critical Issues on the Horizon

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“The Board notes that with Bipole III and Keeyask coming into service in the next few years, the relative value of each functionalized asset group could be impacted significantly.” (15/28)

# Primary Issues for Oral Hearing of the Coalition

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ISSUE	SUBISSUE	MATERIALITY	CONTESTED
GENERATION	CLASSIFICATION/ ALLOCATION	~ \$840 M (> ½ of total costs to be allocated)	-Wghtd Energy + Adder -Wghtd Energy+No Adder -Equivalent Peaker
TWO EXPORT CLASS	ONE CLASS OR TWO	Impacts on RCC of using one class range from 2.1% (GSL>100) to -0.7% (Res.)	-Two Classes (50/50) -One Class -Two Classes by 66% to Firm
	TREATEMENT OF NER	Impacts material for some classes if direct assign in vs. out Potential impacts greater if NER set aside for alternative purposes & not allocated	-GT&D, no direct assign -Do not allocate back in COS -GT&D + direct assign

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	INTERCONNECT-IONS	Existing - \$4.7M MMTP/GNTL - ~\$115 M (I/S 2022)	-Wghtd Energy + Adder -2CP
	NON-TARIFF TRANS	~\$33 M – minimal impact on RCCs	-Allocate to Domestic & Firm Exports - Allocate just Domestic
DSM	ALLOCATION vs. DIRECT ASSIGN	` \$34 M - Impact on RCCs from 1.9% (GSL>100) to -1.3% (Residential) Positioning of DSM as part of IRP	-Direct Assignment -Allocate as Resource – GT&D -Direct Assignment -Hybrid of Both -Resource - Allocate as Demand – 2CP



# Intent of *Order 26/16* and Regulatory Renewal

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- better information decision makers
- confidence of public, intervenors and regulated entity
- time and value for money
- preserve and enhance regulatory reputation

Manitoba regulators including PUB and CEC generally strong reputation. Backdrop of legitimacy concerns other regulators (ie NEB)

# Intent of Procedural Order – Improve and Preserve

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- include wide variety of perspectives
  - dispense with ordinary cost procedures (financial need) (5/28)
- improve historic approaches in terms of disclosure, data, methodology
  - electronic model (5/28, 18/28)
  - MFRs (5/28)
- improve testing of evidence – through concurrent evidence process on key issues
  - 2<sup>nd</sup> ever concurrent evidence panel (6/28, 16/28, 17/28)

# Intent of Procedural Order – Improve and Preserve

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- **preserve right of cross examination** on key contested issues which are the subject of concurrent evidence. The Board “considers it important that cross examination be permitted on key issues” (16/28)
- **innovate in discovery process**
  - MFR
  - One round Hydro IRs - no IRs for intervenors (16/28)
  - Workshops with undertakings
    - Hydro (filing and irs)
    - Intervenors (questions related to intervenor evidence) (16/28)
- **expedite length of oral hearing by identifying issues for concurrent evidence and cross examination**
  - other matters designated for written submissions

# Some Highly Successful Outcomes

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- MFRs – highly successful
  - streamline and better focus IRs
  
- Model access – highly successful
  - better understanding of Hydro COSS analysis
  - opportunities to improve the model
  - insight in exploring unexpected results
    - what led to negative impact on residential RCC of allocating DSM to gen, trans, distribution

# Process Outcomes and implications for Oral Evidence

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- Hydro workshop
  - some disclosure achieved
  - but paper record is challenged, lengthy preambles **which are not evidence and not tested**
  - educative results not achieved to satisfaction of all

“The attempt to use the workshop format for follow up on discovery proved **ungainly**”

(Chernick, p. 72)

# Process Outcomes and implications for Oral Evidence

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## Intervenor Workshop – worthwhile

- better understand positions of experts
- educate board
- areas for further research

## But

- would have been even more useful in 2014
- **waters were muddied** (Mr. Todd on NER)
- not aware of Hydro position on new matters (primary/secondary distribution, is subtransmission really transmission?)
- little exploration of issues important to individual intervenors (CRP – allocation of cost higher than credit)
- little exploration “key” issue – interconnection [115 million in 2022]
- has posing questions challenged objectivity of witnesses?
- lengthy preambles (see pages 250 – 272) **which are not evidence and not tested**

# Rigorous Testing – still to come

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- workshops – discovery and educate
- time limited
- no cross examination by Coalition – sought only to explore (as directed by facilitator)
- no opportunity for informed oral comment from intervenors on new issues still in discovery process
- no opportunity for informed oral and/or written comment by Hydro on new issues still in discovery

# **One Board Member not present to judge demeanour of Hydro witnesses**

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# Rigorous Testing – still to come

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## Generation

- no understanding of equivalent peaker methodologies [how did Hydro perform calculations and merits of approach]
- were the merits of the equivalent peaker concept meaningfully tested?
- do SEP prices continue to capture energy and demand consistent with original intent
  - what is keeping peak prices relatively higher as compared to off peak (Transcript pp 708-713)
- Explanation of inconsistencies (if any) with prior 2002 and 2005 evidence of certain witnesses

# Rigorous Testing – still to come

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## Export Class

- reconciling “impatient COSS” approach of Intergroup with “patient capital” advocacy of Intergroup during the NFAT
- implications of other approaches in the literature or regulatory precedent such as “Revenue Crediting v Cost Allocation” in the context of opportunity sales (FERC)
- is allocating all costs associated with Keeyask to the export class during the advancement period really on the table? (Transcript pp 469-473)

## NER

- how do we un-muddy the NER waters (Todd)?
- have we fully and fairly canvassed the implications of negative net export revenues on the PCOSS (export price stresses)
- merits of two potential approaches flowing from Mr. Bowman's recommendation (Harper response)?
- have we received any informed commentary on the implications of Mr. Todd's creative musings?

# Rigorous Testing – still to come

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## Transmission

- proposed analytical approach to assets such as BP1, 2 and 3
  - Mr. Bowman,302 – I'd want to think on it a bit more . . .
  - Mr. Bowman, 303 – . . . I'd have to think about the example you gave a little bit more
  - Mr. Aathos 303 . . . this is, you know, a – a working session as opposed to, you know, final brief testimony or anything like that
  - Mr. Bowman 303 ...that's why I said I need to think about it more in the context of a working session.
- have we even scratched the surface of the relative merits of the “used and useful” (Harper), “but for” (Bowman) and “essential” [Chernick] tests? What are the implications of regulatory precedent?
- how do we coherently approach the definition of a transmission asset?
- is the record confused on what are and what are not tariffable assets?
- what is and what is not part of the “northern generation complex”?
- is approach of certain intervenors on non tariff transmission consistent with the articulation of principles in their evidence
- how relevant is NARUC precedent or decisions flowing from FERC tariff 1000
- implications of enhanced grid resiliency focus of NERC and FERC on BP3 selection

# Rigorous Testing – still to come

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## DSM

- no meaningful exploration of the regulatory precedent for assigning DSM costs to specific classes or to G, T and D
- what insight can we gather from regulatory precedent and is it applicable to Hydro?

# Approaches not fully thought through

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strings and sweaters (Mr. Harper and unraveling)

# Rigorous Testing

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- key issues with core elements minimally explored
- intellectual coherence of evidence (unravelling - sweaters, strings and sheep) (all)
- empirical integrity of calculations or figures relied upon – stuck to conceptual discovery (three intervenors)
- challenge witnesses on consistency with analytical approach or positions in past proceedings (one intervenor and utility)
- explore potential inconsistencies with authorities relied upon (two intervenors and utility)
- explore potential inconsistencies with literature from Cdn and US authorities
- did not test credentials, expertise and limitations on knowledge

# The “Key” Issue Test

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# Treatment of issues that may not meet Key issues criteria but which are not fully explored

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## Some Options:

- affected parties may feel record sufficient
- direct Hydro to put evidence on record on new issues and offer opportunity for reply
- expand purpose of fall hearing

# Have unsworn concurrent panels already occurred?

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- Has posing the workshop questions tainted the objectivity of certain witnesses or the prospects for a productive concurrent panel?

# Parties should not be prejudiced for relying on the Board Order in good faith

Thank You