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MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA HYDRO  
2010/11 & 2011/12 GENERAL RATE APPLICATION  
PRE-HEARING CONFERENCE

Before Board Panel:

- Graham Lane - Board Chairman
- Robert Mayer - Board Member
- Len Evans - Board Member
- Kathi Avery-Kinew (np) - Board Member

HELD AT:

Public Utilities Board  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
December 10, 2009  
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Pages 1 to 75

APPEARANCES

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Patti Ramage	)	Manitoba Hydro
Byron Williams	)	CAC/MSOS
Myfanwy Bowman	)	
Mona Pollitt-Smith	)	MIPUG
Patrick Bowman	)	
Michael Anderson	(np)	)MKO
William Gange	)	TREE/RCM)
Denise Pambrun	)	City of Winnipeg

	TABLE OF CONTENTS	
		Page No.
1		
2		
3		
4	Opening Remarks	4
5		
6	Opening Comments by Manitoba Hydro	14
7	Opening Comments by CAC/MSOS	22
8	Opening Comments by MIPUG	42
9	Opening Comments by RCM/TREE	56
10	Opening Comments by City of Winnipeg	64
11	Reply by Manitoba Hydro	70
12		
13	Certificate of Transcript	75
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 --- Upon commencing at 10:09 a.m.

2

3 THE CHAIRPERSON: Okay. Good morning,  
4 ladies and gentlemen. Welcome to the first pre-hearing  
5 conference with respect to Manitoba Hydro's General Rate  
6 Application for raised rates for 2010/'11 and the fiscal  
7 year 2011/'12.

8 I say the first Board's pre-hearing  
9 conference because the public notice that is being  
10 published, and a copy of which Manitoba Hydro is to  
11 provide to past Intervenors, contains a notice of another  
12 pre-hearing conference that will be held on Tuesday,  
13 December the 22nd of this year.

14 My name is Graham Lane, I'm Chairman of  
15 the Public Utilities Board. Also on the panel today is  
16 Board Vice-Chairman, Bob Mayer, Q.C., and Board Member,  
17 Dr. Len Evans. While Dr. Kathi Avery-Kinew is unable to  
18 attend this morning, she's also a member of the Manitoba  
19 Hydro hearing panel.

20 Staff assisting in this process will  
21 include Mr. Gerry Gaudreau, Board Secretary and Executive  
22 Director, and Mr. Hollis Singh, Associate Board  
23 Secretary.

24 Because it was not workable to include  
25 notice of today's Pre-hearing Conference in the to-be

1 published public notice, the Board has invited Manitoba  
2 Hydro and past Intervenors to attend today to provide the  
3 Board with submissions as to the process that will best  
4 facilitate the Board's review of all of the risk issues  
5 that relate to Manitoba Hydro's Rate Request.

6 As most of you here today are aware, in  
7 past general rate applications, the Board has reviewed  
8 and considered the risk that Manitoba Hydro faces. And  
9 the Board has often provided directives in its orders  
10 related to Manitoba Hydro's risk.

11 Arising from Manitoba Hydro's last General  
12 Rate Application were directives set out in Board Order  
13 32/09 involving the preparation of in-depth and  
14 independent quantification and study of all of the  
15 operational and business risk faced by Manitoba Hydro.  
16 The Board has also asked Manitoba Hydro to file all  
17 internally and externally prepared risk reports since  
18 2003/2004.

19 The Board notes that in Manitoba Hydro's  
20 General Rate Application, which was filed electronically  
21 on December the 1st, 2009, the Utility has filed  
22 corporate risk management information under Tab 12. And  
23 it's also filed a copy of its Corporate Risk Management  
24 Annual Report from October 2008, that as Appendix 12.1.

25 Also in Manitoba Hydro's filing in Tab 13

1 are responses to past Board directives. These responses  
2 indicate that Manitoba Hydro has contracted with the  
3 consulting firm KPMG to carry out an external review of  
4 the Utility's operational and business risk.  
5 Additionally, Manitoba Hydro indicates that it has filed  
6 with the Board, that having occurred on November the 6th,  
7 2009, internally and externally prepared reports  
8 addressing risk. Many of the reports that were filed  
9 with the Board by Manitoba Hydro were filed in  
10 confidence.

11 Still on the topic of risk, Manitoba Hydro  
12 has included as Appendix 12.2 in its GRA filing, a copy  
13 of a report by ICF International.

14 Lastly, and on December the 8th, 2009,  
15 Manitoba Hydro has provided the Board with a copy of  
16 another report from ICF International, this one dated  
17 December the 7th, 2009; it in response to a December 2nd,  
18 2009, memorandum of a Robert McCullough of McCullough  
19 Research, of Portland, Oregon.

20 As the Board has stated on a number of  
21 occasions in its orders since at least 2004, the Board  
22 needs to be fully informed as to the risk matters facing  
23 Manitoba Hydro, and as to the potential impact of risk on  
24 consumers' ra -- consumer rates, as well as the financial  
25 health of the Utility. With the considerable information

1 that has now been provided to the Board, the Board wants  
2 to discern the process that will best facilitate the  
3 Board's review and consideration of this information.

4 As Manitoba Hydro and past Intervenors  
5 regularly appear before and assist the Board in other  
6 applications, they were invited to provide submissions as  
7 to the process recommended to facilitate the Board's  
8 review of all risk issues facing Manitoba Hydro. And as  
9 I previously noted, a second pre-hearing conference is  
10 scheduled for December the 22nd, 2009, at which other  
11 prospective Intervenors may participate and make  
12 submissions respecting process and intervention in the  
13 General Rate Application Hearing itself, including any  
14 further submissions on the review of Manitoba Hydro's  
15 risk.

16 I will now turn matters over to Board  
17 Counsel, Mr. Peters, to both outline procedures for  
18 today's Hearing and to guide the process this morning.

19 Good morning, Mr. Peters.

20 MR. BOB PETERS: Thank you and good  
21 morning, Mr. Chairman, Vice Chairman Mr. Mayer, Panel  
22 Member Dr. Evans, ladies and gentlemen.

23 For the record, my name is Bob Peters. I  
24 act as counsel to the Public Utilities Board at today's  
25 Pre-hearing Conference and on Manitoba Hydro's 2010/'11

1 and 2011/'12 General Rate Application. The Board is also  
2 assisted in this matter this morning by Larry Buhr of LAB  
3 Consulted -- Consulting.

4 As you've already mentioned, Mr. Chairman,  
5 the Board has historically reviewed risks faced by  
6 Manitoba Hydro as part of the General Rate Application  
7 and related rate processes, and pursuant to the Public  
8 Utilities Board regulatory mandate for electricity rate-  
9 setting for Manitoba Hydro. Over the past few general  
10 rate applications, the Board has issued orders containing  
11 a number of directives to Manitoba Hydro to provide to  
12 the Board additional reports and analyses regarding the  
13 Utilities risks.

14 Now that the Board has received the  
15 requested reports, together with an indication that an  
16 additional report by KPMG is being prepared, the Board is  
17 seeking submissions and recommendations as to the process  
18 that should be followed for the filing and testing of the  
19 various risk reports.

20 Mr. Chairman and Board members, let me  
21 remind all parties present that the legislation enacting  
22 the Public Utilities Board has provided that the Board is  
23 not bound by the technical rules of evidence, and also  
24 that the Board's hearings are governed by the rules  
25 adopted by the Board.



1                   The legislation goes on to bestow the  
2 Public Utilities Board with the powers, rights, and  
3 privileges related to attendance and examination of  
4 witnesses and documents as are vested in the Court of  
5 Queen's Bench and its Justices. That said, the Board has  
6 published its rules which are available on the Board's  
7 website, and most attending today will be familiar with  
8 them.

9                   As you've indicated, Mr. Chairman, the --  
10 Manitoba Hydro has filed various reports in confidence  
11 with the Board. That raises an issue that all parties  
12 are invited to speak to; that being -- that -- excuse me,  
13 I knew it was cold, but -- the issue, Mr. Chairman, is  
14 how to deal with the reports that are filed in  
15 confidence.

16                   PUB Rule 13 has a default position of all  
17 documents being filed on the public record. However, the  
18 rules go on to permit the Board to receive information in  
19 confidence on terms the Board considers appropriate in  
20 the public interest.

21                   There are specific factors in the Board's  
22 rules to be considered in cases where a party seeks to  
23 file information with the Board in confidence. Those  
24 include whether disclosure will result in undue financial  
25 gain or loss, whether disclosure will significantly harm

1 someone's competitive position, whether the information  
2 is personal, financial, commercial, scientific or  
3 technical in nature, and the person's interest in  
4 confidentiality outweighs the public interest in the  
5 disclosure of the information.

6           And the rules also indicate the Board  
7 should consider whether the information has consistently  
8 been treated as confidential by a person directly  
9 affected by the proceedings and again, the person's  
10 interest in confidentiality outweighs the public interest  
11 in the disclosure of the information.

12           In addition to the issues involving  
13 confidentiality, there are other aspects of the process  
14 for the review of Manitoba Hydro's risks that the Board  
15 may wish to consider. Parties may want to include in  
16 their submission such matters as how any review of risks  
17 should be incorporated into a General Rate Application  
18 process that is now to unfold, or whether there is some  
19 other preferred process recommended. The Board, as  
20 indicated, has received approximately fourteen hundred  
21 (1,400) pages of Manitoba Hydro's latest General Rate  
22 Application, some 28 megabytes contained in five (5)  
23 binders.

24           The Board should also consider from the  
25 submissions whether additional evidence and/or witnesses

1 are going to be called by any of the parties. There  
2 should be consideration as to what process of discovery  
3 should be implemented; that is, is the information  
4 request process appropriate? Also whether the Board's  
5 general rules on Intervenor cost should apply to the  
6 aspects related to the review of risks. And also whether  
7 the Board should consider engaging an independent risk  
8 consultant to review all the reports filed, and if so,  
9 what process should be followed with that consultant's  
10 report.

11 Mr. Chairman, I'm not suggesting the Board  
12 limit the submissions of the parties present today to the  
13 topics I have identified. Quite the opposite. I'm  
14 suggesting the parties provide the Board with their  
15 thorough and complete submissions on the topics of the  
16 process for the Board's review of the risk issues that  
17 relate to Manitoba Hydro's rate requests.

18 To facilitate the Board's hearing the  
19 submissions, I suggest that it would be appropriate for  
20 the Board to call on Manitoba Hydro and the parties  
21 present. I suggest the Board hear first from Manitoba  
22 Hydro, then from the past Intervenors in attendance,  
23 followed by any reply comments, if any, from Manitoba  
24 Hydro after hearing all other submissions.

25 Before identifying the parties in

1 attendance, Mr. Chairman, I should also indicate that the  
2 formal applications for Intervenor status in the General  
3 Rate Application Proceeding are expected to be filed and  
4 spoken to at the December 22nd Pre-hearing Conference  
5 that you referenced.

6 Also in an effort to assist these  
7 proceedings, I forwarded yesterday afternoon to the  
8 parties, some possible issues that I've already mentioned  
9 and also a draft, and I will stress draft timetable, that  
10 Manitoba Hydro has initially prepared.

11 There may be comments on that draft  
12 timetable this morning, and one that the Board should be  
13 aware of, courtesy of Dr. Miller, is that this year the  
14 World Energy Conference is being held in Montreal in the  
15 first week of May 2010. That would be in lieu of a  
16 separate CAMPUT Educational Conference. That CAMPUT  
17 Educational Conference will be held in abeyance in light  
18 of the World Energy Conference, and that occurring in the  
19 first week of May may affect the Board's availability.

20 I can indicate that if anybody doesn't  
21 have a copy of that draft timetable, that one is  
22 available for them.

23 Mr. Chairman, in terms of the submissions,  
24 I would propose that the Board call on Manitoba Hydro and  
25 Ms. Ramage first. I would suggest after Ms. Ramage that

1 the Board turn to Mr. Williams as counsel to the  
2 Consumers' Association of Canada (Manitoba). And also he  
3 appears as counsel to Manitoba Society of Seniors and --  
4 under the acronym of CAC/MSOS.

5 Ms. Pollitt-Smith is in attendance from  
6 InterGroup Consulting in representation of Manitoba's  
7 Industrial Power Users Group, we refer to as MIPUG.  
8 She's joined by Mr. Bowman, but I believe it'll be Ms.  
9 Pollitt-Smith on the microphone this morning.

10 I can then indicate that although invited,  
11 Mr. Anderson representing Manitoba Keewatinook Okimowin,  
12 or MKO, is not available this morning. He sent an  
13 earlier e-mail indicating a written submission would be  
14 forthcoming and I see that that written submission has  
15 now arrived. I'll attempt to make that available if  
16 there's a recess this morning.

17 Mr. Gange and/or Dr. Miller, representing  
18 Resource Conservation Manitoba and also Time to Respect  
19 Earth's Ecosystems, under the acronym of RCM/TREE, is  
20 present. Following RCM/TREE, I would suggest the Board  
21 turn to Ms. Pambrun, representing the City of Winnipeg.

22 Mr. Chairman, that concludes my list. And  
23 I appreciate it's somewhat unofficial at this point. I  
24 don't if there's anybody else who wanted the microphone.  
25 But if they did, it'd be appropriate to give them an

1 opportunity to come to the microphone.

2                   Following that order -- and as I've  
3 indicated, if there are any reply comments that Manitoba  
4 Hydro has, it would be my suggestion to return to Ms.  
5 Ramage to hear from Manitoba Hydro.

6                   So Mr. Chairman, subject to any questions  
7 you have of me, that concludes my opening comments. I  
8 thank the Board for their attention and suggest that you  
9 now call on Ms. Ramage from Manitoba Hydro, followed by  
10 the other parties, as I've indicated. Thank you, Mr.  
11 Chairman.

12                   THE CHAIRPERSON: Thank you, Mr. Peters.  
13 Before we begin, I would just want to make sure that  
14 everybody has a copy of that draft time table that came  
15 from Manitoba Hydro.

16                   Is there extra copies, Mr. Gaudreau?

17

18                   (BRIEF PAUSE)

19

20                   THE CHAIRPERSON: Okay. Thank you, Mr.  
21 Peters, and we'll take your advice. And we'll start,  
22 then, with Manitoba Hydro.

23                   Ms. Ramage...?

24

25 OPENING COMMENTS BY MANITOBA HYDRO:

1 MS. PATTI RAMAGE: Yes. Thank you, Mr.  
2 Chairman, Vice Chairman Mayer and Dr. Evans. Good  
3 morning.

4 For the record, my name is Patti Ramage,  
5 and I appear on -- as counsel for Manitoba Hydro this  
6 morning. With me today are -- in the front row -- two  
7 faces quite familiar to this board, Mr. Vince Warden,  
8 Vice President of Finance and Chief Financial Officer of  
9 Manitoba Hydro, along with Mr. Robin Wiens, who is  
10 division manager of Rates and Regulatory Affairs. In the  
11 back row for Manitoba Hydro here as an observer today is  
12 Mr. Ken Tennenhouse, Manitoba Hydro's general counsel and  
13 corporate secretary.

14 Mr. Chairman, the management of risk is an  
15 integral part of running any business and Manitoba Hydro  
16 is no different in that regard. Effective risk  
17 management begins with an examination of the mandate,  
18 mission, purpose and goals of an organization, its  
19 business units, its departments and any sections. Simply  
20 stated, the objective of a risk management process is to  
21 identify any threats that may -- may affect the  
22 achievement of an entity's mission or mandate and to  
23 ensure that plans are in place to mitigate the  
24 consequences of any negative occurrences.

25 Manitoba Hydro has a comprehensive risk

1 management program that manages risks in a highly  
2 structured and coordinated manner. At Tab 12 of the  
3 filing, we've identified eleven (11) categories of risks  
4 and forty-nine (49) subcategories of risks. A risk  
5 management committee with representation from senior  
6 levels across the Corporation meets on a regular basis  
7 and reports its findings to executive committee. A  
8 report on risk management is presented annually to the  
9 Manitoba Hydro Electric Board in accordance with best  
10 practices for risk management, documentation and  
11 reporting. Risks at Manitoba Hydro are being well-  
12 managed.

13                   When Manitoba Hydro presents a General  
14 Rate Application, it fully expects the Public Utilities  
15 boards to review the risks the Corporation faces as an  
16 integral part of its normal rate review process.

17                   Typical questions we would expect the  
18 regulator to ask include: What are the risks that might  
19 prevent Hydro from achieving the objectives as set out in  
20 its strategic plans and its financial forecasts? Are the  
21 proposed rate increases adequate -- adequate to meet  
22 Hydro's stated objectives? What happens if a drought -  
23 one of Hydro's major risks - occurs next year? What are  
24 the potential impacts of a drought on the test years?  
25 What are the impacts of prolonged economic downturn?



1 What happens if natural gas prices stay at current  
2 depressed levels? What happens if there's a spike in  
3 interest rates? How well-prepared are we for  
4 catastrophic loss of system supply? How would we respond  
5 to a shortage of skilled labour? What impacts will  
6 commodity prices have on costs? What are the  
7 consequences of a loss of export markets? And what  
8 happens -- what's going to happen with IFRS?

9                   These, and a multitude of other risks, are  
10 faced by Hydro as part of its everyday business. The PUB  
11 must satisfy itself that these risks are being  
12 appropriately managed as part of its rate approval  
13 mandate.

14                   In addition to the risks that have the  
15 potential to affect the test years, the PUB must also  
16 ensure that there's no unreasonable risks lurking in the  
17 future that could result in undue rate im -- impacts to  
18 customers in the years immediately following the test  
19 years. To provide the PUB with a level of assurance,  
20 Manitoba Hydro provides the PUB with its ten (10) year  
21 integrated financial forecast, which is also subject to  
22 review, as an integral part of the GRA.

23                   Of course, we are all well aware there's  
24 allegations swirling out there in the media, and I can  
25 assure you Manitoba Hydro wants those allegations

1 addressed in the most expeditious and effective way. The  
2 reputation of Manitoba Hydro and the confidence of all  
3 stakeholders is of utmost importance to us.

4           However, there is a process in place to  
5 address this matter. The Manitoba Hydro Board is  
6 conducting an independent external quality review which  
7 is expected to be completed by the end of March. The  
8 Ombudsman's Office is seized of the matter pursuant to  
9 Section 16 of the Ombudsman's Act. In addition, we've  
10 been informed that the Auditor General of Manitoba has  
11 engaged an out-of-province expert to assist her office in  
12 the off -- in the audit of Manitoba Hydro's risk  
13 management practices.

14           Manitoba Hydro is firmly of the view that  
15 the existing review should be completed before a  
16 duplicative review is contemplated by the PUB. The  
17 timing is not appropriate for yet another stand-alone  
18 review to be initiated. Such a review would, in Manitoba  
19 Hydro's view, serve no purpose and would be -- not be in  
20 the public interest.

21           Now, addressing the six (6) questions  
22 provided yesterday by board counsel. The first question  
23 was: Please outline the process for a Manitoba Hydro  
24 risk review. Should it be Part 1 of the GRA Hearing/to  
25 proceed the regular GRA process, or should it be

1 incorporated in the GRA itself?

2 Manitoba Hydro expects the Board to review  
3 the risks that the Corporation faces as part of its  
4 normal rate review process. Manitoba Hydro has filed  
5 materials regarding risk within its GRA. Virtually all  
6 of the materials supporting its Rate Application has a  
7 risk component. Risk is an integral part of Manitoba  
8 Hydro's business operations and should be examined as  
9 such. The focus of the GRA should be on the impact of  
10 risk in the test years.

11 It is expected that a separate process  
12 with respects to needs for and alternatives to proposed  
13 new plant will be held as a part of the commitment  
14 process for that new plant. Long-term risks associated  
15 with export sales and the construction of major new  
16 generation will be reviewed in that process. It would be  
17 premature and duplicative to commence a similar process  
18 within the GRA.

19 Moving to the PUB's second question, I  
20 would simply note that it's not really directed at  
21 Manitoba Hydro, requesting information and confirmation  
22 regarding evidence.

23 So, moving on to the third point, which  
24 is: Please identify what discovery processes you  
25 recommend be implemented in the pre-oral testimony

1 hearing phase for the process and a proposed schedule, if  
2 available.

3 Well, for the purposes of the GRA,  
4 Manitoba Hydro believes that the two (2) rounds of IRs  
5 proposed in the -- in Manitoba Hydro's draft schedule,  
6 which has been circulated, that those will be sufficient  
7 to deal with the risk issues.

8 On the fourth point addressing the add --  
9 the issue of confidential filings and/or submissions  
10 respecting risk issues and the process the Board ought to  
11 adopt to determine what documents or portion of documents  
12 should be kept confidential by the Board and not placed  
13 on the public record.

14 Manitoba Hydro has and will request  
15 confidentiality with respect to certain contract terms,  
16 for example, pricing information, as well as with respect  
17 to cyber and physical security issues. In the interests  
18 of transparency, Manitoba Hydro prefers to keep the  
19 filing of confidential information to a minimum.  
20 Manitoba Hydro is prepared to work with the parties to  
21 provide a level of disclosure that satisfies their needs  
22 without resorting to have to -- to file information with  
23 the Board in confidence.

24 Under the rules of practice and procedure,  
25 the Board has the ability to accept information in

1 confidence. There are no rules with respect to the  
2 disclosure of information so filed with other parties.

3           Given the serious potential negative  
4 impacts associated with disclosure of such confidential  
5 information, Manitoba Hydro believes the current process  
6 is appropriate. The Board in the past has been very  
7 clear that information filed in confidence will remain  
8 confidential.

9           The fifth point was: Please address the  
10 issue of intervention and cost awards respecting the risk  
11 review process and whether standard rules should --  
12 applied by the PUB for Manitoba Hydro GRA, should be  
13 applying the process, and if not, why not.

14           Here, Manitoba Hydro would reply that the  
15 usual rules applicable to a GRA process should apply.  
16 Manitoba Hydro requests that all parties prepare and  
17 submit their detailed budgets for review and comment. As  
18 has been Hydro's position in the past, Intervenors should  
19 identify all experts whose costs will be included in  
20 their bill of costs, and these requests should be updated  
21 as necessary, as the Hearing proceeds, and be subject to  
22 the approval of the Board.

23           The sixth point was: Please address the  
24 issue of whether the Board should consider engaging an  
25 independent risk consultant to review all reports filed,

1 and, if so, what process do you recommend be followed  
2 with that consultant's report.

3 Manitoba Hydro sees no need for an  
4 independent risk consultant to review the reports as  
5 filed as part of the GRA process. If, however, the Board  
6 chooses to go this route for the reports filed in  
7 confidence, Manitoba Hydro would res -- would expect that  
8 any reports, modelling or theories developed by the  
9 Board's expert, would be presented to both Intervenors  
10 and Manitoba Hydro in a manner that maintains  
11 confidentiality, and at the same time allows the parties  
12 to review and test the information during the hear --  
13 hearing process. The Board should not be relying on any  
14 information which is not on the record of this  
15 proceeding.

16 And with that, Mr. Chair, I would suggest  
17 -- I'll turn the mic over to the Intervenors and hear  
18 their positions and then Manitoba Hydro can determine if  
19 it has any further comments.

20 THE CHAIRPERSON: Thank you, Ms. Ramage.

21 Okay. Well, on that note then we will go  
22 to CAC/MSOS and Mr. Williams.

23

24 OPENING COMMENTS BY CAC/MSOS:

25 MR. BYRON WILLIAMS: Yes, and good

1 morning, Mr. Chairman and members of the Board.

2 I -- I do have some of my colleagues here  
3 today. We're not billing for their time, just in case  
4 you're worried. To my -- we're -- we're really blessed  
5 with two (2) very strong articling students this year.  
6 To my left is Heather Unger, and she's been working, as  
7 you'll see in a couple of moments, on this file. My  
8 colleague, Ms. Bowman -- Myfanwy Bowman, is behind us.  
9 And another of our students, Mira Novek, is here as well.  
10 And last but certainly not least is my boss, Ms. Desorcy,  
11 who's been on my tail on this file, assertively, already.

12 Mr. Chairman and members of the Board, you  
13 should have two (2) documents provided by CAC/MSOS. One  
14 (1) is a reach -- research memoranda -- memorandum by Ms.  
15 Unger, which addresses some issues related to  
16 confidential information, and I'll refer to that in due  
17 course, and also a hastily-typed preliminary views of  
18 CAC/MSOS in response to the -- the six (6) questions  
19 posed by the Board.

20 And I note that there's a -- a few typos.  
21 My former friend, Mr. Bowman, has already pointed out a  
22 few of them to me. I'm sure the Vice Chair, Mr. Mayer,  
23 will -- will catch a few more as we -- as we go along.

24 THE CHAIRPERSON: Ms. Ramage, you have a  
25 copy of this, do you?

1 MS. PATTI RAMAGE: Yes, I received this  
2 this morning.

3 MR. BYRON WILLIAMS: Mr. Chairman, just  
4 in terms of the preliminary view -- and the starting  
5 premise of my clients obvious is that the issues related  
6 to the risk re -- review are central to the General Rate  
7 Application. And -- and certainly my clients believe  
8 that the time is ripe in the context of this carrying to  
9 -- the Board has been asking for this information for a  
10 considerable period of time. The time is ripe within the  
11 context of a General Rate Application to -- to address  
12 these issues. And there's really two (2) reasons why my  
13 clients believe it's so important.

14 First of all, imprudently managed risks,  
15 in my clients' views, pose the risk of putting  
16 unnecessary costs upon consumers, and that's something to  
17 be avoided, if at all possible, with good risk management  
18 practices. At the same time, my clients recognize that  
19 there has to be sufficient retained earnings to provide  
20 some cushion against risks with a relatively high  
21 probability of occurring; echos of the argument my  
22 clients made in the recent MPI proceeding.

23 And my clients certainly point out that  
24 while retained earning should not be acting as a crutch  
25 for imprudent management activities, the appropriate



1 level of retained earnings and appropriate management  
2 activities are central and critical to the Rate  
3 Application. And as I said previously, this is the time  
4 -- in my clients' view, this is the year where these  
5 issues should be thoroughly and fully canvassed.

6           And I do want to just, as another starting  
7 premise, just in terms of the -- a number of the  
8 materials that have been already filed in confidence with  
9 the Board, the materials on blue paper -- certainly my  
10 clients intend to pursue, in the context of this  
11 proceeding, assertively pursue relevant inf --  
12 information that's -- that's been filed with regard to  
13 the risk analysis. So they certainly anticipate that we  
14 are likely to -- to run into some discussions about  
15 confidentiality and that there are likely to be motions  
16 with that regard.

17           In terms of the six (6) questions posed by  
18 the -- the Board, the first one relating the process for  
19 the risk review, just by background comment, obviously  
20 what we've been presented is a two (2) year GRA, it's  
21 important to note that not all the material in -- in  
22 support of that GRA, to my clients' knowledge, has been  
23 filed yet. There's still more to come which may pose  
24 some challenges as we go along.

25           And we also note, which may be of -- of

1 some interest, that Hydro's spoken of retaining a cost  
2 allocation expert and that might -- may be of some  
3 interest as -- but there's not been much of a discussion  
4 of when we might anticipate receiving that information.

5           The Board will be aware that a typical  
6 hydro proceeding has two (2) separate components: One (1)  
7 being a revenue requirement component, followed by a  
8 brief break so that counsel and advisors can recharge  
9 their engines, and moving to the cost allocation hear --  
10 part of the Hearing.

11           My clients' strong recommendation with  
12 regard to risk analysis is that given the complexity of  
13 the issues, the importance of the issues, and also the  
14 likelihood that we are going to have some procedural  
15 jousting in terms of relevant information, making sure  
16 it's on the record, that there should be a third distinct  
17 portion to this proceeding devoted to risk analysis  
18 issues. So in no particular order, my clients would  
19 recommend that the Board address this Hearing with three  
20 (3) distinct portions: revenue requirement, cost  
21 allocation, and risk analysis.

22           Assuming that the Board -- assuming that  
23 the Board's with my clients so far, that you buy into  
24 that analysis, we presented -- and that may be a leap --  
25 we presented two (2) options for the Board's

1 consideration. And really the first one is one that,  
2 certainly with our clients, we've been thinking a lot  
3 about. The second one which we also thought was  
4 deserving of being put before the Board, it actually  
5 flows from discussions we've had with our friends. Mr.  
6 Bowman's now My Friend again at -- at InterGroup on  
7 behalf of MIPUG.

8                   So both options are ones I think my  
9 clients would be interested in and supportive of, but  
10 I'll -- I'll go through both.

11                   One is really the -- the two (2) year GRA  
12 option, really similar to what Manitoba Hydro has  
13 proposed but incorporating a separate risk analysis  
14 element. Now, that -- and the first option would take  
15 place, we would propose, in the late spring, early summer  
16 of 2010. Like Mr. Peters, I tend to be off in my  
17 estimates of time, underestimating -- and I think I  
18 would offer some caution in terms of the estimates I  
19 proposed here.

20                   Part 1, if we follow that route would be  
21 to set the stage a distinct sec -- distinct part of the  
22 hearing focussing on risk analysis: Hydro presents their  
23 witnesses, Intervenors present their witnesses, if  
24 there's other witnesses presented, whether it's KPMG or  
25 the unnamed consultant, that would be addressed in that

1 portion of the Hearing. We expect that that would take a  
2 significant period of time, perhaps eight (8) to ten (10)  
3 days. And again, perhaps, as I said, judge my time  
4 estimates with caution. I'm better than Mr. Peters but  
5 not by much.

6 Part 2, in terms of the -- we would  
7 suggest after a break of a couple of weeks, is the  
8 revenue requirement. And my clients really want to  
9 emphasize that there are -- risk analysis is important to  
10 this General Rate Application, but there a number of  
11 other very important issues related to this -- to this  
12 revenue requirement; whether that's day-to-day  
13 expenditures; we have some significant interest in energy  
14 efficiency matters as well.

15 So, again, we think the revenue  
16 requirement portion of the Hearing would take a  
17 considerable period of time. Again, a, perhaps, not  
18 conservative enough estimate, ten (10) to twelve (12)  
19 days.

20 And Part 3, cost allocation, recognizing  
21 that it's unlikely that the -- if Hydro does have a cost  
22 allocation report, it would be ready by this point in  
23 time. We've estimated five (5) days.

24 A couple caveats about this option, Mr.  
25 Chairman. This will be a time-stressed option, I think,

1 for all parties. We've got this ongoing disclosure  
2 debate; I'm sure everyone will approach disclosure with  
3 the -- the public interest in mind, but there's likely to  
4 be sharp differences of opinion. There's still material  
5 not fine -- filed and, al -- although it does not relate  
6 to the risk analysis part of the Proceeding, we know that  
7 Hydro's contemplating a cost allocation study and that  
8 will not -- we wouldn't anticipate would be available.  
9 So those are three (3) of the challenges we associate  
10 with this option.

11           Option 2. And if you really like it, you  
12 should give credit to Mr. Bowman. If not, I'll take the  
13 blame for it. It's -- it's really to -- in the spring,  
14 early summer of 2010/'11, really do a more traditional  
15 General Rate Application only for the 2010/'11 year. And  
16 then in the fall of 2010, delve into the risk analysis  
17 and -- as the first part of what would be the -- the GRA  
18 for 2011/'12.

19           How that would work, at least at a -- a  
20 very pre -- preliminary stage, would be do Part 1, a  
21 typical revenue requirement, have a break, do Part 2 on  
22 cost allocation, and then we would expect an -- an order  
23 to flow with regard to the 2010/'11 GRA. And then, in  
24 the fall, address risk analysis issues and the 2011 GRA;  
25 again, a -- a three (3) part process: risk analysis,

1 followed by revenue requirement, followed by cost  
2 allocation.

3                   What are the challenges with this report?  
4 One (1) is delay. And if the Board is itching to get at  
5 the risk analysis this spring, this is a -- a delay.  
6 It's going to take longer to address these issues and  
7 there is the potential for higher costs. So those are  
8 the challenges we've identified on a preliminary basis.  
9 So that's my clients' proposals or response in terms of  
10 Question 1.

11                   Question 2 asks whether my clients intend  
12 to fully participate. And certainly my clients are  
13 keenly interested in the issues raised by this  
14 Proceeding.

15                   One (1) of the typos you may note is I've  
16 indicated that currently they're seeking -- contemplating  
17 expert evidence on four (4) issues. Of course, Mr.  
18 Bowman has reminded me I've got five (5) bullets below on  
19 my outline. I'm not promising that my clients will be  
20 bringing evidence on all five (5) issues, but I just want  
21 to flag these are the ones that, on a preliminary basis  
22 in conversations with Mr. Harper and Mr. Matwichuk,  
23 they've identified as matters of potential interest.

24                   Issue 1 would be issues related to risk  
25 management, including best practices related to setting

1 an appropriate retained earnings level.

2 Issue 2, a CAC/MSOS standard, would be  
3 issues related to the reasonableness and prudence of  
4 Hydro's expenditures.

5 Issue 3 might be energy efficiency issues,  
6 and perhaps including energy efficiency issues related to  
7 remote communities.

8 Issue 4 may be evidence related to Hydro's  
9 debt management practices.

10 And Issue 5, and you should certainly put  
11 a big question mark beside this one because we haven't  
12 seen the materials on the blue paper. But if the  
13 evidence suggests that there is an issue, potentially my  
14 clients might look at bring -- bringing evidence related  
15 to whether Hydro is reasonably maximizing its export  
16 opportunities.

17 And, again, that's the most tentative of  
18 the five (5), and we don't have the information on which  
19 we would form that judgment at this point in time.

20 Please identify what -- Question 3 asks us  
21 to identify what discovery process would be recommended  
22 and a proposed schedule. My clients aren't at the stage  
23 of proposing a schedule, but there is a couple points,  
24 some are -- of which are -- are typed out there and some  
25 which I'll speak to orally.

1                   In conversation with Mr. Harper,  
2 certainly, if the -- the Board decides to follow a kind  
3 of a three (3) -- a -- three (3) distinct portions to the  
4 Hearing -- risk analysis, revenue requirement, cost  
5 allocation -- we still think that there would be some  
6 value in integrating the Information Request for both --  
7 for the risk analysis and the other parts of the Hearing.  
8 Why we say that is that there are certain issues where  
9 it's not clear whether the question properly belongs in  
10 the revenue requirement part of the issue or the risk  
11 analysis part of the issue.

12                   Mr. Harper and I, just talking this  
13 morning, identified issues related to the drought where  
14 we could see overlap, and you don't want to be getting in  
15 that kind of dispute; does it properly belong in the risk  
16 analysis portion of the Hearing.

17                   In terms of the -- the -- we certainly  
18 recommend two (2) rounds of Information Requests. A  
19 couple of points my clients would make though: There is  
20 information not yet filed and how are we going -- going  
21 to address that? Do we want two (2) kicks at the cat in  
22 terms of that information? I'm not sure I should be  
23 talking about kicking cats in this day and age, so I'll  
24 withdraw that statement. But do we want two (2)  
25 opportunities? I don't want any PETA people chasing me.



1                   So there's issues in terms of dis -- what  
2 do we do with the unfiled material. We also anticipate  
3 that the schedule should include, after the first round  
4 of information requests, a motions day, or some sort of  
5 motions process, because we expect that there will be  
6 confidentiality issues raised. Again, we will propose a  
7 -- more thorough comments on December the 22nd.

8                   But two (2) options the Board might  
9 consider is an oral hearing day on motions, or  
10 alternatively what the CRTC does and confidentiality  
11 motions there are quite extensive, it would be a written  
12 proceeding. So there's a couple of options the Board  
13 might want to consider.

14                   So in terms of the schedule for discovery,  
15 I think my clients would reserve the right to provide  
16 more thoughtful comments on December the 22nd.

17                   In terms of Question Number 4, address the  
18 issues of confidential filings and -- and a process, I'm  
19 not -- you'll be relieved to -- to know that I'm not  
20 going to read to you Ms. Unger's memo; it's a really good  
21 one and -- and a thoughtful one.

22                   But when you do look at it, certainly the  
23 process that the Ontario Energy Board follows and also  
24 the BCUC follows I think are particularly worthy of  
25 consideration. But general comments on disclosure and

1 confidentiality, one of the things that the PUB, from my  
2 clients perspective, should be rightly proud of, is its  
3 transparency. And certainly my clients see --  
4 transparency is central, both to procedural fairness and  
5 also to public confidence in the process.

6           And just as in the PUB Rule 13, the  
7 starting premise certainly for my clients is to -- in  
8 favour of maximum transparency. But my clients recognize  
9 that there may be circumstances and certainly certain  
10 export price forecasts may be among those circumstances.  
11 Relatively rare circumstances where the public disclosure  
12 of information may be contrary to the public interest.  
13 If that does certainly be the case and certainly Ms.  
14 Ramage has adverted (sic) to that possibility, we think  
15 Hydro should bear a strict onus to demonstrate a prima  
16 facie case why that information should not be publicly  
17 disclosed, and certainly Intervenors should be offered a  
18 right of reply.

19           In the event -- and hopefully it is a very  
20 rare event, where the PUB decides on a balance of  
21 probabilities that that information should not be  
22 disclosed to the public, but that it's both relevant and  
23 necessary for its determinations. And my client's strong  
24 view, the interest of procedural fairness dictate that a  
25 process has to be developed by which that information can

1 be shared with our clients and their advisors.

2                   It's -- it's unfair to the process and it  
3 is not good for public confidence in the process if Hydro  
4 makes the information available to the Board which --  
5 which we do not have an opportunity to test.

6                   And certainly the OEB, the Ontario Energy  
7 Board, has a -- a really well developed and thoughtfully  
8 developed process in terms of confident --  
9 confidentiality undertakings which we'd recommend for the  
10 Board's consideration. We'd certainly want to reserve  
11 rights for further comment on that, but that is a  
12 starter, we think, is valuable to the Board.

13                   When you go through Ms. Unger's memo, we'd  
14 refer you, as well, the attachments, which set out  
15 actually the confidentiality undertakings that are used  
16 both in Ontario and BC, and we hope the Board will find  
17 them informative.

18                   Number 5, in terms -- was quite an  
19 interesting question. It asked whether the standard  
20 rules applied by the PUB for cost should apply. And  
21 certainly, my clients -- in terms of the risk analysis --  
22 and my clients do not take a position on this question,  
23 yet they do have some comments. But they note there are  
24 two (2) possible reasons why the standard rules, in terms  
25 of cost -- the cost process -- might not -- might not be

1 strictly followed.

2                   One (1) is, depending on the issue, we  
3 anticipate some problems in retaining experts based on  
4 the traditional PUB cost rules. If, for example -- and  
5 I'm not saying we will -- but if, for example, my clients  
6 feel the need to go to the United States and file -- find  
7 an expert in -- whether it's export pricing, which is not  
8 that likely, or on risk analysis, which is somewhat  
9 possible, it is unlikely that we will be able to retain  
10 those experts on the typical contingency agreement that  
11 we reach with them; you know, taking a gamble that you're  
12 going to get your costs and even at the rates the PUB  
13 provides.

14                   My clients' strong preference would be to  
15 use a locally-grown talent, to the degree possible. And  
16 we have great talent here. But that's one concern.

17                   And the other concern doesn't relate to my  
18 clients. But they are aware that the risk analysis issue  
19 is central to the rate proceeding; it also has some  
20 relevance to the broader public interests. The Board may  
21 -- may wish to look at other parties who might not  
22 normally be entitled to a cost award -- maybe not your  
23 typical non-profits, but we leave that to other parties  
24 to speak to.

25                   Those are my clients' comments on Question

1 5. Certainly, they'll be applying for costs. And they  
2 anticipate that the cost award that they will be seeing  
3 will be material.

4 A sixth interesting question is whether  
5 the PUB should consider engaging an independent risk  
6 consultant. As a starting principle -- a starting point  
7 -- general principle, my clients would say that only in  
8 rare circumstances should the Board retain independent  
9 experts. This may be one of those cases, but it should  
10 be rare that it does so. And we've suggested that four  
11 (4) criteria that might guide your deliberations in this  
12 regard are the importance of the issues at stake, the  
13 complexity of the issues, the likelihood that other  
14 parties will retain an independent expert for the same  
15 purpose, and the opportunity to maximize administrative  
16 efficiency.

17 For the Board's information, I'm sure Mr.  
18 Singh and perhaps Mr. Gaudreau may recall, my clients are  
19 aware of one example in the past where the Board has  
20 retained an independent expert. I believe it was on an  
21 MTS matter, and it might have been Mr. Selwyn (phonetic).  
22 It was in the late '80s, early '90s -- before my time.  
23 Mr. Peters had hair when -- when that was considered.

24 And my clients are also aware of one (1)  
25 example where I think it was our recommendation to the

1 Board on an MPI matter that they look at retaining an  
2 independent expert and the Board rejected it on that  
3 occasion. We're not bitter; we just recall it.

4           In terms of the Board -- in terms of  
5 whether it should choose to retain the independent  
6 expert, I have to say on behalf of my clients, that when  
7 they look at the -- the -- the massive amounts of  
8 material in the Board's possession, much of it on blue  
9 paper, that is daunting for our clients. And certainly  
10 as Intervenors, we want -- our clients wish to use their  
11 resources most effectively, and they may choose to only  
12 address -- let's say that there's six (6) critical risk  
13 analysis issues presented, my clients may only feel  
14 confident in addressing one (1) or two (2). They'd  
15 rather do thoroughly through expert evidence; they'd  
16 rather only do a couple relatively well than spread the  
17 resources too thinly.

18           So the -- the amount of material already  
19 in the Board's possession on issues related to the risk  
20 analysis is daunting, and that might argue in favour of a  
21 -- of the Board retaining an independent witness.

22           What might argue against the Board  
23 retaining an independent consultant, and I think it's  
24 been the traditional underpinning of the Board's caution  
25 in this regard, is whether it affects the perception of

1 the Board. And we don't know what that independent  
2 consultant will say. Whether it will be -- whether the  
3 Intervenors will like the evidence better or Hydro, we  
4 don't know. But when the Board walks down that path, it  
5 -- it -- it comes closer to the perception of taking an  
6 advocacy position.

7                   So those -- those are the words of caution  
8 my clients would offer as they straddle the fence firmly  
9 on this question, and hopefully they're of some  
10 assistance.

11                   My last comment, it relates to schedule  
12 subject to any questions the Board may have, my clients  
13 will provide more thoughtful comments on schedule.  
14 There's nothing written before the Board, if you're  
15 looking.

16                   MR. ROBERT MAYER: We were wondering who  
17 to blame.

18                   MR. BYRON WILLIAMS: Just in case I  
19 needed to handwrite some -- some materials, Mr. Mayer.

20                   In terms of schedule my clients will  
21 provide more thoughtful comment on December the 22nd.  
22 Three (3) general comments is:

23                   One (1) is that the -- the date for the  
24 first round of interrog -- Information Requests may be  
25 tight for our experts who are engaged in a variety of

1 proceedings in Quebec, Alberta, Ontario. So the January  
2 11th date may be certainly tight for our clients, the two  
3 (2) experts that we intend to retain for sure, Mr.  
4 Matwichuk and Mr. Harper.

5                   Secondly, I've already raised the issue of  
6 -- there's a lot of material, to my client's  
7 understanding, that's not been filed, or that we would  
8 hope to see filed. And certainly with that regard the --  
9 the schedule put forward by Manitoba Hydro might be  
10 overly optimistic.

11                   And finally, in terms of Intervenor  
12 evidence, we note that there only appears to be a week  
13 between the filing of Second Round Information Responses  
14 by Hydro -- I don't have the material right in front of  
15 me -- and Intervenor evidence being due. And certainly -  
16 - I think I see My Friend, Mr. Bowman, nodding -- we  
17 would certainly want a bit more time than that. But  
18 we'll provide more thorough comments on December 22nd on  
19 the schedule.

20                   Subject to any comments from my clients  
21 and she's suggesting none, or any questions by the Board,  
22 those are our submissions, Mr. Chairman and Members of  
23 the Board.

24                   THE CHAIRPERSON: Thank you, Mr.  
25 Williams. So we'll move on now to --



1                   MR. ROBERT MAYER:    Could we -- Mr.  
2 Williams, your proposal -- or your Option 2 is an  
3 interesting concept.  But when we get around to  
4 addressing the issue of exactly when we're going to hold  
5 these hearings, I think we have to keep in mind, because  
6 the rumour has circulated to the effect that we've going  
7 to have to do a needs and justification hearing  
8 respecting the -- the bills on Keeyask and Conawapa.  And  
9 I'm not so sure -- I don't know how long down the road we  
10 can realistically look if the Wisconsin contracts are  
11 rapidly approaching, or expected to be rapidly  
12 approaching.

13                   Can we give that some thought between now  
14 and the 22nd of December.

15                   MR. BYRON WILLIAMS:    I could actually,  
16 Mr. Mayer, because -- I could probably give you some  
17 thought prior to that.  Maybe even right now, if -- if  
18 you'd wish.  And certainly this is only based on informal  
19 conversations I've had with -- with -- and Hydro can  
20 certainly correct me if I'm wrong.

21                   But we were mindful of the potential for -  
22 - for Keeyask, a needs-for and justification.  We're not  
23 sure what process is -- is going on, but the last  
24 tentative schedule I saw, we thought we were looking at a  
25 filing in early 2011, i.e., January.

1                   Now that's -- the schedule that we  
2 proposed was mindful of that but certainly if Hydro has -  
3 - I don't have that on any good authority, so I'm sure  
4 Ms. Ramage can correct me if I'm -- I'm imprecise.

5                   MS. PATTI RAMAGE: If it's of any  
6 assistance, I can advise that it wouldn't be before  
7 January 2011. We're confident of that. I can't speak to  
8 that exact date, but it won't be before.

9                   THE CHAIRPERSON: Thank you. That is new  
10 information for the Board. Okay, again, thank you, Mr.  
11 Williams.

12                   And we will go on to the person  
13 representing the Manitoba Industrial Power Users Group,  
14 MIPUG, Ms. Pollitt-Smith.

15  
16 OPENING COMMENTS BY MIPUG:

17                   MS. MONA POLLITT-SMITH: Good morning,  
18 Mr. Chair and members of the Board.

19                   As was introduced, I'm Mona Pollitt-Smith  
20 from InterGroup and I'm here with my colleague, Mr.  
21 Bowman, on behalf of MIPUG, the Manitoba Industrial Power  
22 Users Group, an organization that's appeared here many  
23 times before in the past.

24                   Mr. Bowman's just handing out some written  
25 remarks that we've prepared today as well. I won't speak

1 exactly to these remarks, but I'll be summarizing many of  
2 the points that are in them.

3           We received and reviewed the letter sent  
4 by the Board earlier this week inviting attendance at  
5 this procedural conference related to the review of the  
6 risk issue, and we also reviewed the six (6) questions  
7 provided by Mr. Peters yesterday afternoon. The remarks  
8 that we've prepared -- the written remarks that we've  
9 prepared were focused more on the Board's earlier letter,  
10 but we will touch upon Mr. Peters' six (6) questions  
11 later on in my oral statements.

12           There's one (1) significant caveat that we  
13 have to note at the outset. There's been no time to get  
14 considered views or instructions from the MIPUG members  
15 on this issue. We've been able to talk with some of the  
16 members and we can relay that those we've talked to have  
17 generally expressed the view that this is an important  
18 issue to be considered by the Board.

19           We've prepared our remarks today as best  
20 we can based on traditionally-held MIPUG positions. At  
21 this time we'd like to be as helpful to the Board with  
22 regard to resolving these issues and concerns, in order  
23 to facilitate an orderly review of these risk issues as  
24 part of the overall GRA process.

25           So, moving on to the sort of summary of

1 the issues in the handout we've provided. The Board's  
2 letter asked for parties to consider and provide views on  
3 three (3) key issues. They were the scheduling of the  
4 oral testimony on the matters of risk, the intentions of  
5 the parties with regard to the intervention and their  
6 participation in this Hearing, and the treatment of  
7 confidential -- confidential issues filed with the Board  
8 -- or confidential information filed with the Board  
9 during this process. I'll deal with each of these in  
10 turn and provide a summary of our remarks on each.

11 With regard to the issues related to  
12 schedule and process, this is addressed in detail in the  
13 handout we've provided. Just by way of summary, the  
14 issue of utility risk is integ -- and I think most  
15 parties have touched on this already -- but the issue of  
16 utility risk is integral to setting rates and to any GRA  
17 review process of rates. The PUB has specific experience  
18 required to deal with this issue, and it also has  
19 available to it a public process for an orderly and  
20 transparent review.

21 Risk is typically dealt with in utility  
22 rate reviews and has been an issue discussed and reviewed  
23 during past GRA processes. However, at this time, the  
24 magnitude and scale of the issue is unique to this  
25 Hearing.

1                   First, there is information on risk that  
2 has been provided, or that we anticipate will hopefully  
3 be provided, by Hydro, that is unique compared to the  
4 type of risk information available typically in past GRA  
5 reviews. Given that this information is now available,  
6 it's timely to undertake this special process, and there  
7 is the potential to be able to establish a process to  
8 deal with this issue in a substantive way as part of this  
9 GRA review process.

10                   This review is also timely given that risk  
11 has become an issue of public concern, and there is  
12 currently a lot of public attention on this topic, giving  
13 it a unique level of importance and concern in the  
14 context of this GRA.

15                   Considering the magnitude of this issue  
16 and its unique nature in relation to the GRA process, the  
17 significant process issues that we're faced with need to  
18 be resolved to ensure that the Board's review of risk can  
19 be undertaken in an orderly manner.

20                   At the outset, when we got the Board's  
21 letter and we started to think about this special risk  
22 issue and how it would be dealt with in this Hearing, we  
23 did consider one (1) alternative of sort of lumping  
24 everything together into one (1) process to be dealt with  
25 as part of this GRA for the 2010/'11, 2011/'12 test

1 years. But the more we thought about this the more it  
2 sort of raised concerns and alarm bells for us, with  
3 regard to how the parties and the Board and everyone  
4 would deal with this issue.

5           On the one (1) hand, if it was included  
6 with the GRA along with every other issue to be examined  
7 and addressed, prior to setting rates for both rate ye --  
8 test years, there was a concern that there would be a  
9 pressure to deal with the risk issue on an expedited  
10 schedule or in a hasty manner in order to get rates in  
11 place for Manitoba Hydro so that they wouldn't be  
12 materially prejudiced in having their rates in place for  
13 the 2010/'11 test year. To our minds, rushing through  
14 this process to address it in time to set rates by the  
15 summer would prejudice the Board and other Intervenors  
16 with their regar -- with their ability to fairly deal  
17 with this material issue.

18           We also considered still keeping  
19 everything together in one (1) process, but extending the  
20 process out to allow for, you know, extended timelines  
21 for when material comes in, longer IR processes, maybe  
22 starting things later, and we thought that wasn't really  
23 fair to Manitoba Hydro and maybe it would prejudice them  
24 in terms of the timing for when they would be able to get  
25 their 2010/'11 rates in place.

1                   So after considering that, we came up with  
2 a second sort of way of looking at how to deal with this  
3 material risk issue within the overall GRA process. Mr.  
4 Williams alluded to it, but I would like to sort of take  
5 the opportunity to expr -- express what we were trying to  
6 present correctly.

7                   MR. ROBERT MAYER:    As opposed to the way  
8 Mr. Williams did.

9                   MS. MONA POLLITT-SMITH:   Sometimes it's  
10 good to go after Mr. Williams. You can always correct  
11 his mistakes.

12                   This issue provides additional scope to  
13 this process, and it's not to -- and the material -- the  
14 materiality of the risk issue that we're dealing -- right  
15 now isn't typical of the normal GRA. And it's our -- our  
16 -- we -- we just suggest that the Board shouldn't rush to  
17 resolve this issue within the timelines that are set out  
18 for a typical GRA process. The Board can control its own  
19 process and -- and -- in it can consider -- you know, it  
20 should consider what options are available to it.

21                   We would suggest that the Board can deal  
22 with the normal GRA issues on the established timeline  
23 for the GRA in order to determine and estab -- and set  
24 the 2010 and '11 rates. We would suggest the normal  
25 issues that the Board would consider would be the revenue

1 requirement issues and the cost of service issues.

2           And we would -- we would -- in our  
3 consideration, those issues would be dealt with this  
4 spring/early summer for the whole process. We'd consider  
5 cost of service issues. We'd consider the revenue  
6 requirement issues. And then, at the end of that  
7 process, the Board would set rates for the 2009/2011 test  
8 years so that Hydro would have those rates determined in  
9 a timely manner.

10           Instead of shoe-horning the additional  
11 risk-related issue into the current GRA timelines as one  
12 (1) of the many other matters that have to be addressed  
13 and adjudi -- adjudicated on by the Board prior to  
14 setting rates for both test years, the -- we would think  
15 the Board might want to consider extending the proceeding  
16 to allow time to deal with the additional risk issue  
17 after the normal GRA matters have been considered and  
18 addressed.

19           So we'd get through the GRA process, we'd  
20 consider revenue requirement issue, we'd consider cost of  
21 service issue, the Board would issue an Order on the  
22 2010/'11 rates, we'd adjourn for a little while, and then  
23 we would reconvene, you know, by the late summer/early  
24 fall to consider the special issue of -- of risk and  
25 provide ourselves some time to sort of deal with this



1 issue in a sort of more fulsome and robust way.

2                   In this way -- and then after we've dealt  
3 with this risk, the Board could consider and determine  
4 the 2011 and 2012 rates. We wouldn't propose that the  
5 Board have a separate second revenue requirement and cost  
6 of service proceeding in the fall; we would -- we would -  
7 - we would advance the position that you'd take care of  
8 that this spring. It's done and considered and we can  
9 focus on risk and any other issues that come up related  
10 to it in the fall and then set -- set the rates for the  
11 second test year.

12                   In this way, the review of risk still  
13 occurs as part of the overall jury process, but the Board  
14 and other parties have the time to fully consider the  
15 issue and establish any other related processes that may  
16 be required. This includes processes for filing  
17 confidential information, any additional process is to  
18 deal with motions related to confidentiality as they  
19 might arise, and separate timing for IRs or evidentiary  
20 processes that may be required due to the later filing of  
21 relevant information outside of the timelines established  
22 for the review of GRA materials.

23                   We think that addressing the normal GRA  
24 issues first and then taking the time appropriate to deal  
25 with the risk related issues afterwards has merit and



1 been that one of the strengths of the Board's process is  
2 that it is a public process that provides for an open and  
3 transparent review. Our preferred options are that all  
4 documents should be made public as much as possible.

5           Option Number 2. If the documents can't  
6 be made public, the Board should try to rely only on  
7 publicly available documents in making its order.

8           The strengths of adhering to these two (2)  
9 options are that the value of making determinations based  
10 on publicly available information is that someone reading  
11 the decision afterwards can look at the record and see  
12 what the Board relied upon in its determinations and  
13 understand fully the Board's conclusions. The process  
14 works best when the Board's reasoning and processes for  
15 coming to a decision are transparent.

16           Once you move beyond these two (2)  
17 options, you start to entertain the notion of having  
18 information filed in confidence with some parties that  
19 isn't available to other parties or that just generally  
20 isn't publicly available. Once that happens, the review  
21 becomes further removed from the public domain and the  
22 processes for review of information become more  
23 complicated and more opaque, and the unique value of this  
24 public review process begins to -- begins to erode.

25           As noted, given this is likely to be a

1 significant issue going forward, there is probably a need  
2 to establish ground rules at the outset, hopefully at a  
3 later procedural conference.

4           Okay, I will now quickly address Mr.  
5 Peters' questions that were provided yesterday afternoon.  
6 Okay. He sent six (6) questions for Intervenors to  
7 review in advance of the Pre-hearing Conference. Most of  
8 these questions have been touched on in my remarks in  
9 some way already and I'll just run through them briefly.

10           Question Number 1, he asked to outline the  
11 process for the -- the propo -- any proposed process for  
12 the risk review. I think in the opening comments and in  
13 the handout we provided, we've outlined our thoughts on  
14 this process and for undertaking the risk review, so I  
15 won't repeat myself there.

16           The second question he asked was to  
17 confirm if -- whether Intervenors were -- how Intervenors  
18 were going to be participating in the process and their  
19 level of intervention. We've noted already that we don't  
20 have instructions from the MIPUG members with regard to  
21 any intervention at this time. I have note -- for  
22 reference the past interventions have included evidence  
23 in cross-examination.

24           With regard -- the third question he  
25 raised was -- was with regard to the discovery processes

1 for the review of this issue. We would reiterate that  
2 it's best to establish a process -- to establish a  
3 process that helps address these material issues in an  
4 orderly manner. In this regard, a separate IR process  
5 for this risk issue is likely warranted due to the timing  
6 issues separating any ability to review this issue at  
7 this time, and draft IR's to filed as part of the regular  
8 GRA interrogatory process.

9           Unlike the GRA filing that is currently  
10 available for review, we just don't have the information  
11 available yet to commence this process. Once these  
12 reports are available to Hydro there may be additional  
13 processes related to confidentiality that will have to be  
14 resolved before the parties can review the information,  
15 ask interrogatories, and prepare their evidence.

16           With regard to the treatment of  
17 confidential filings which is Question Number 4, raised  
18 by Mr. Peters, we've touched on the need to establish  
19 some clear ground rules at the outset. MIPUG's position  
20 in the past has been to err on the side of making sure  
21 documents relied on are public. To the extent documents  
22 are not public, it's best that the Board err on the side  
23 of what is in the public domain in writing its order.

24           With regard to the fifth point raised by  
25 Mr. Peters which was the issue of cost awards in this

1 proceeding, the issue -- we'd note that the issue of risk  
2 is unique in this GRA And it's in the public -- and it's  
3 a public interest issue that goes to the general level of  
4 rates rather than the rate specific to each customer  
5 class. In the past the Board has tended to relax cost  
6 rules for unique processes IN -- on general issues of  
7 concern. This is a tough issue for members and we'll  
8 have to discuss it with them before providing any further  
9 positions on this one.

10                   With regard to the final issue raised by  
11 Mr. Peters, Question 6, dealing with the Board engaging  
12 an independent risk consultant and whether the report --  
13 any report filed by that consultant would be filed on the  
14 record, we just note the following concerns that we have  
15 on thinking about this yesterday. In this process, the  
16 Board will have a series of reports from various  
17 consultants; hopefully they'll all be publicly available.  
18 The Board will also have Intervenor expert evidence and  
19 testimony to consider.

20                   We've not discussed this issue with the  
21 MIPUG members but I think we can assert that the members  
22 want the Board to have the resources it needs to  
23 understand that the material issue is to be reviewed. If  
24 the Board requires additional advisors to help it and its  
25 staff examine these unique issues, then the Board should

1 get the advice and assistance it needs.

2                   However, we have some reservations about  
3 another consultant's report being added to the mix and we  
4 don't recommend that another independent consultant  
5 report prepared for the Board be filed as evidence in  
6 this Proceeding. These are significant con -- there's --  
7 there's a significant concern about the level of  
8 confusion this might cause for the process. We're here  
9 in this process to test Hydro's evidence, not the Board's  
10 evidence. Filing a report to be filed as part of this  
11 process may confuse the Board's role and its independence  
12 as part of this process.

13                   These are the general comments that we can  
14 be -- that we can provide at this time. We look forward  
15 to a further opportunity to provide more detailed  
16 comments at the December 22nd, 2009, Pre-hearing  
17 Conference and we thank you for your time.

18                   THE CHAIRPERSON: Thank you very much.  
19 Appreciate that and look forward to your participation on  
20 the 22nd as well.

21                   For Resource Conservation in Manitoba and  
22 Time to Respect Earth's Ecosystems, an Intervenor that  
23 has appeared several times before the Board in relation  
24 to Manitoba Hydro and other matters, Mr. Gange or Dr.  
25 Miller.

1                   Which one of you or both wants to address  
2 us?

3

4           OPENING COMMENTS BY RCM/TREE:

5                   MR. BILL GANGE:    Mr. Chair, it may be  
6 both, depending upon how many blanks there are from my  
7 submission that -- that Dr. Miller needs to fill in.

8                   Generally speaking, Mr. Chair, the -- with  
9 respect to the question that's been asked about the  
10 process for the Manitoba Hydro risk review, the position  
11 of Hydro that -- that there are other reviews that are  
12 currently being undertaken. It is the position of  
13 RCM/TREE that this body has a particular expertise that  
14 it is unlikely that any of the other bodies, the  
15 Ombudsman or the Auditor, might well have.

16                   This body has, for many years and on many  
17 applications, had to undertake a form of a risk review.  
18 These are -- the issues that are involved here are issues  
19 that are not easily picked up. They are not issues that  
20 one can just read a review of and say I understand what  
21 the -- the problems are.

22                   Your body, the Public Utilities Board, is  
23 one that has -- has studied these issues time and time  
24 again. And so it is our view, the submission of  
25 RCM/TREE, that it is -- it is the Public Utilities Board



1 that must conduct that type of a review.

2           The other reviews may well be useful in  
3 different ways, but with respect to the risk analysis and  
4 -- and its impact upon rates and -- and the proper  
5 management of Hydro, it is the position of RCM/TREE that  
6 -- that your body has the unique expertise and the  
7 jurisdiction to conduct that review, and it ought to be  
8 done by you.

9           Although there are -- there are obviously  
10 different perspectives and different arguments that can  
11 be made in terms of how that process ought to take place,  
12 it is our position that the -- that -- that the risk  
13 management review ought to take place within the -- the  
14 GRA process. These are issues that are in the news right  
15 now. They're -- they're topical. They are issues that  
16 have to be addressed sooner rather than later.

17           And so, with respect to the -- the  
18 positions that have been advanced by Mr. Williams and --  
19 and Ms. Pollitt-Smith, that in terms of putting them off,  
20 it is our view that -- that probably the best way of  
21 doing it is to get this on -- in the -- the Rate  
22 Application that is scheduled to take place in the  
23 springtime. And -- and although I -- in listening to  
24 both of the arguments that have been put forth, I  
25 understand the values that -- that the -- of the issues

1 that have been addressed, but on balance, it's our view  
2 that -- that it ought to take place in the integrated  
3 process.

4 The second question that Mr. Peters put to  
5 us is confirming if -- if RCM/TREE would wish to file  
6 evidence and provide oral testimony. I'm going to  
7 address that question along with the Issue Number 6 of  
8 the independent consultant.

9 And -- and Dr. Miller, in thinking about  
10 this, has -- has discussed with me the possibility of, if  
11 there is to be an independent risk consultant, that that  
12 independent risk consultant ought to be made available to  
13 the Intervenors as well, so that the -- the process, as  
14 we would -- would see it happening, is that -- that the  
15 independent risk consultant would make himself or herself  
16 available to the Intervenors to have the Intervenors  
17 raise the questions that they wish to have reviewed.

18 The -- the advantage to that would be a  
19 substantial savings in cost and in time. The  
20 disadvantage, perhaps, is that it may narrow the -- the  
21 possible viewpoints that are being put forward. But the  
22 -- the thought process is that if the consultant was to  
23 be made available so that the -- the Intervenors could be  
24 raising their issues with the consultant, the consultant  
25 would take those concerns into account in finalizing a

1 report.

2                   We have discussed with Mr. Chernick, who  
3 we expect will be our -- our consultant, with respect to  
4 many of the issues at the -- at the General Rate  
5 Application, we've discussed with him the concept of risk  
6 management. And -- and his response back is being that  
7 risk management is always something that has to be  
8 addressed in all of these issues. However, given the --  
9 the particular concerns that are in the news, and the  
10 whistle blower complaint and that whole issue, it -- it  
11 may be that there's going to be more of a focussed  
12 review.

13                   We do not have identified an expert at  
14 this point that would -- that would assist RCM/TREE in --  
15 in a more focussed way. And so it's difficult at this  
16 point for us to be able to say whether we would be filing  
17 evidence if the idea of the -- if the consultation with  
18 the independent consultant was not followed through.

19                   So we would reserve our right to do so  
20 after further discussion with -- with Mr. Chernick. The  
21 issues are issues that -- that RCM/TREE identifies as --  
22 as issues that are certainly within its mandate, and  
23 within its -- its focus in terms of the issues that it  
24 tries to identify for the PUB.

25                   As you know, RCM/TREE does not come to

1 these hearings and attempt to comment on each and every  
2 issue that is raised. RCM/TREE tries to bring forward a  
3 focussed approach and -- and -- but -- but, at the same  
4 time, we do see that some of the issues that have been  
5 raised in the risk management issue are things that would  
6 probably be commented upon by RCM/TREE.

7 In terms of identifying what discovery  
8 processes we would recommend, again going back to our  
9 view that -- that it ought to be in the integrated  
10 process, we would think that those issues would be dealt  
11 with in -- in the normal course of the information  
12 request process.

13 With respect to confidential filings, Mr.  
14 Chernick has addressed this issue the last time that he  
15 was before this Board, and had raised the issue with you  
16 that, in his experience, material is often filed in the -  
17 - in the jurisdictions that he testifies at. In -- in a  
18 process similar to what Mr. Williams has advised you is  
19 the -- the practice in Ontario, and that is that -- that  
20 there is some material that is filed that -- that is  
21 recognized as being so sensitive that -- that it cannot  
22 go onto the public record.

23 We agree with the position of MIPUG, and  
24 we agree with the position of Mr. Williams, that as much  
25 as possible ought to be on the public record. But from a

1 realistic point of view we recognize that there are some  
2 things that are just not going to be disclosed.

3           And what Mr. Chernick has said, and what  
4 the Ontario procedure is, is that the parties come  
5 forward and sign a confidentiality agreement that they  
6 will not disclose any of that material. RCM/TREE is more  
7 than willing to take part in that kind of a process.

8           Mr. Miller -- or Dr. Miller discussed this  
9 with Mr. Chernick this week, and doc -- and Mr. Chernick  
10 had said to Dr. Miller that in every jurisdiction that he  
11 has ever testified in, other than Manitoba and British  
12 Columbia, the process has always been that confidential  
13 material is available to -- to all of the Intervenors;  
14 and we would think that there's no reason why that cannot  
15 happen with respect to these issues, again, with the --  
16 the foundation that, as much as possible ought to be on  
17 the public record.

18           With respect to the costs awards, we would  
19 expect that -- that the normal process would apply. And  
20 again, I understand the -- the issues that -- the  
21 argument that there may be different cost consequences  
22 with respect to, for instance, a party like MIPUG that  
23 does not apply in most instances for cost.

24           That if MIPUG is being asked to address an  
25 issues that it ordinarily would not come to the table

1 with, then perhaps in fairness, costs ought to be awarded  
2 in that kind of a circumstance to a party such as MIPUG,  
3 or another Intervenor that may not be in the same  
4 category as -- as my client or Mr. Williams' clients.

5 And if I could just have one (1) -- one  
6 (1) second with Dr. Miller.

7 That's all for RCM/TREE. Thank you, Mr.  
8 Chair.

9 MR. ROBERT MAYER: Mr. Gange, I've been  
10 looking at my schedule since I got here, and looking at  
11 what Hydro has suggested and everybody keeps talking  
12 about late spring/early summer or -- and late  
13 summer/early fall. I suppose that if we're going to  
14 maintain some kind of currency, and I hate to really  
15 suggest this, but is anybody talking about summer?

16 The -- I mean, you're not getting my time  
17 at the Folk Festival, and I am going -- I am going to  
18 take one (1) week to canoe another one of Manitoba's  
19 rivers before somebody dams it.

20 But, aside from that, can we realistically  
21 look at some time in the summer, because it doesn't look  
22 like we're going to get -- we're going to get done by  
23 May. We're going to need, you know, in all probability,  
24 as much of June as people are available and we're going  
25 to obviously have a number of people who want to be

1 involved in the process.

2                   It's something -- I don't ask for an  
3 answer at this point. I throw it out because I think  
4 we'll, as a Board, be in a much better position to  
5 discuss this on the 22nd than we are now, but it's  
6 something I think we all maybe have to consider.

7                   MR. BILL GANGE: Thank you, Mr. Mayer,  
8 and I -- I recognize the -- the point that you've made,  
9 and -- and although many of us don't like working during  
10 the summer, and I'm first in that list, I recognize that  
11 there may have to be compromises to -- to schedules for  
12 that. And the Folk Fest is sacred ground, so...

13                   THE CHAIRPERSON: Thank you, Mr. Gange  
14 and Mr. Mayer.

15                   Recognizing that Mr. Anderson who  
16 represents MKO, I believe you already -- Mr. Peters...?

17                   MR. BOB PETERS: Mr. Chairman, apropos of  
18 that comment, in my opening comments I alluded to Mr.  
19 Anderson having sent an email this morning. He sent one  
20 at 8:20 to virtually all of the parties who are invited  
21 to this room notifying us that he would not be here  
22 today. He said he would do his best to provide a written  
23 submission later on today.

24                   I was incorrect in my comments to the  
25 Board where I indicated that his written comments had

1 arrived. Rather, at about 10:20 this morning, his -- he  
2 sent a further email which I interpret only to be a  
3 correction of an email address issue and, again, it was  
4 copied to almost all the parties in this room.

5 So I don't want the Board to -- to leave  
6 this morning thinking that Mr. Anderson's written  
7 submissions have yet been received, because I have not  
8 yet seen them.

9 THE CHAIRPERSON: Thank you for that  
10 update, Mr. Peters.

11 As we understand it, the other party yet  
12 to speak is the City of Winnipeg.

13 Ms. Pambrun...?  
14

15 OPENING COMMENTS BY THE CITY OF WINNIPEG:

16 MS. DENISE PAMBRUN: Thank you, Mr.  
17 Peters and the Board. I have two (2) tasks before you --  
18 me this morning. The first is to address the Board, but  
19 the bigger one (1) is to fill the shoes of Mr. Buhr who  
20 is my predecessor before this illustrious Board for many  
21 years. I'm sure you will all be disappointed to know  
22 that I cannot promise you that I will be able to come up  
23 with the pithy statements that Mr. Buhr regularly  
24 peppered you with, but I'll do my best to try to bring  
25 the wisdom that he brought forward.



1                   I am, of course, at a disadvantage  
2 because, compared to all my colleagues in this room,  
3 because I do not have the extensive background in this  
4 area that you all do, and I have not had an opportunity  
5 to discuss the questions provided to us by Board counsel  
6 and the Board, of course, in any detail with my client, I  
7 can only provide you with very general comments, but I  
8 hope they will be of some assistance.

9                   As you all know, the City's role in these  
10 General Rate Applications in the past years has been  
11 quite limited, memorable because of Mr. Buhr, perhaps,  
12 but necessarily limited because the City's interest is  
13 mainly only in the area of area and roadway lighting.

14                   The -- so the City will likely take, once  
15 again, a fairly limited role in these proceedings,  
16 although, when I did take this matter over from my  
17 predecessor, there was a fairly considerable discussion  
18 with the client about whether this go-around we might  
19 take a more extensive role and -- and hire an expert and  
20 go into this matter in somewhat more detail. That  
21 discussion is ongoing and I cannot tell you what decision  
22 has been reached.

23                   In that respect, I would like to comment  
24 firstly on the sixth point raised in the questions  
25 because the Board has raised the very interesting

1 question about whether it might retain an expert in these  
2 matters to assist it, as it has the right to do under its  
3 rule -- under its -- under its statute.

4           It's an interesting matter because it is a  
5 provision that might assist parties like the City. Of  
6 course, you don't think of the City as a small party, but  
7 we play a small role in these matters.

8           And it is the type of provision that might  
9 prove to be of assistance to parties, like the City, that  
10 normally play only a small role in these proceedings,  
11 and, of course, the City is a general rate payer as well,  
12 but typically plays -- plays an interest or has an  
13 interest in only a small part of the proceedings.

14           That is something the Board might consider  
15 when it considers this question, because having an  
16 independent consultant available to the Board might, as  
17 Mr. Gange commented on, prove to be of assistance to  
18 parties that may only have a small role to play or may  
19 not have the resources to get into the bigger issues.

20           And while the City takes no official  
21 position on that matter, that may be an issue that you  
22 consider. It's hard for the City to justify perhaps the  
23 cost of hiring an expert when it plays only a small part,  
24 but it has -- this is an important matter for the city.

25           There -- it pays a lot of money, Tier 4,

1 the one (1) area where it has a particular interest, and  
2 that has always been a matter of some concern, so just  
3 that comment you might consider.

4           With respect to the very important issue  
5 of the risk management, I don't have, of course, the  
6 background, the technical background that you have all --  
7 and expertise you've all gained in this matter, but, of  
8 course, I read the newspaper and I'm aware that this  
9 issue has been swirling around and is of obvious  
10 importance to all Manitobans.

11           The City would not likely be playing any  
12 considerable role in the questioning that will be going  
13 on here on this issue. And because of that and because  
14 of the fact that this issue seems to have taken on a life  
15 of its own and may very well dominate this hearing, the  
16 City's rather selfish position on this is that it would  
17 prefer that this matter be split off from the General  
18 Rate Application.

19           And I appreciate that may be a very  
20 selfish perspective, but it probably prefers not to have  
21 me sitting here for days on a matter that can be very  
22 well handled by my very competent colleagues in this  
23 room.

24           Let them deal with it, and then we'll come  
25 back and just deal with the area that might have a more

1 direct impact on the City's ultimate pocketbook and  
2 bottom line, which, of course, is of interest to our own  
3 rate payers, and not perhaps pay me to do something that  
4 others can do equally well that will not have as direct  
5 an impact on our own tax base and our own taxpayers.

6           So perhaps that's not as compelling a  
7 reason as the more grandiose and principled approach  
8 taken by my colleagues, but it is of direct interest to  
9 the people to whom I respond, which obviously are the  
10 people who pay my salary and the taxpayers.

11           So with respect to some of the other  
12 issues, I guess in a certain way my -- my comments are  
13 reflected there, as well. The City will not -- probably  
14 will not be filing evidence in the one (1) area where  
15 we're specifically concerned, but I don't have final  
16 instructions on that and I -- I will be in a position to  
17 tell you more on December 22nd, when I return.

18           The discovery process is one that will be  
19 of quite a lot of interest to me in my learning process  
20 as I come to understand a little better how things work  
21 here.

22           I can just tell you that, from my own  
23 experience before different administrative tribunal, the  
24 Municipal Board, the discovery process is not one that  
25 was well developed there and I -- but from what I did

1 wish could happen there, I do think a two (2) stage  
2 process is always helpful.

3           And I'm interested in some of the comments  
4 made by my learned friend here on the left, Mr. Williams,  
5 where he talked about the opportunity to go back and --  
6 and follow up on the questions, and I thought that was an  
7 extremely helpful suggestion, so excuse my -- sorry. So  
8 perhaps I can be forgiven for following up on that, what  
9 seemed to me a helpful suggestion.

10           In respect of the costs, I don't think I'm  
11 qualified to comment at this stage. I will defer to my  
12 other colleagues.

13           The schedule, I think it's fair to say I'm  
14 not in a position to comment.

15           It seems from my -- well, I guess I'm not  
16 totally inexperienced in these matters. I've been  
17 practising twenty-five (25) years. I think the twenty-  
18 five (25) years I've spent at the Bar tells me that any  
19 schedule put forward by any litigator in the world is  
20 completely and hopelessly unrealistic.

21           And from that perspective I can tell you  
22 that I'm out of the country from May 3rd to May --  
23 whatever it is, 14th, but I'm sure that doesn't matter  
24 because there's no way on God's green earth that Bob  
25 Peters is going to have this matter heard on that day.

1 But perhaps that's just me being a cynical old woman, I  
2 don't know.

3 In any event, thank you for an opportunity  
4 to speak this morning and I wish you all the best luck in  
5 the world with this obviously very complex proceeding and  
6 I'm looking forward to learning as much as I can about  
7 it. Thank you.

8 THE CHAIRPERSON: And we look forward to  
9 your continued participation, thank you.

10 I believe Mr. Peters has already canvassed  
11 the room and I don't believe there's any other parties  
12 represented that want to put forward a position. Hearing  
13 none, we were going to provide an opportunity to Ms.  
14 Ramage if she had any other remarks that she wanted to  
15 make.

16 There's been a lot of comments made, Ms.  
17 Ramage, do you want a short break to think on it or are  
18 you prepared to -- or do you have any remarks to make?  
19

20 REPLY BY MANITOBA HYDRO:

21 MS. PATTI RAMAGE: I have a few comments  
22 I'd like to make now that I -- that I can respond to but  
23 if it would -- with the indulgence of the Board, I would  
24 like the opportunity on further reflection of what we've  
25 heard this morning to, if necessary, be able to -- to

1 respond perhaps even on the 22nd or --

2 THE CHAIRPERSON: Of course.

3 MS. PATTI RAMAGE: -- or between -- now.

4 Okay. Then I'll just proceed now if -- so that we can  
5 all get on with the rest of our day.

6 I think Manitoba Hydro can reiterate its  
7 position that risk analysis is an integral part of its  
8 Rate Applications and it should not be a separate  
9 process. Manitoba Hydro hasn't heard anything from the  
10 Intervenors that would justify a separate process. In  
11 fact, I think I've heard the -- the opposite. Mr. Gange,  
12 if I -- or Mr. Williams, in my notes, if I recall  
13 correctly, he talked about the line being very difficult  
14 between revenue requirement and risk analysis.

15 And I can't see my notes right now, so I  
16 won't say I'm quoting him but I'm getting close to that  
17 line being very difficult to discern. And we would  
18 submit that it's virtually impossible. Risk forms a part  
19 of everything we do and I don't know how we would  
20 separate that out. It's an integral part of everything  
21 we do and it can't be neatly packaged and separated.

22 A separate risk proceeding would result in  
23 significantly increased costs, which Mr. Williams also  
24 noted, increased costs with no increased value. Manitoba  
25 Hydro is strongly opposed to this.

1                   Ms. Pollitt-Smith referred to the  
2 magnitude and uniqueness of the risk issue without  
3 identifying what she considered to be the greater, the  
4 normal risks or the uniqueness of those risks.

5                   There are no extenuating risks associated  
6 with Manitoba Hydro's General Rate Application. The  
7 major risk of drought, loss of export markets,  
8 catastrophic loss of infrastructure and the myriad of  
9 other risks faced by the Corporation are largely --  
10 they've been dealt with in previous rate applications.

11                   What has changed is, with our much  
12 stronger financial position, Manitoba Hydro is in a  
13 better position to deal with those risks and we're better  
14 positioned to deal with risk related events than we were  
15 in the past.

16                   With respect to confidentiality of  
17 information, I think there's actually a significant  
18 amount of agreement in the room. Manitoba Hydro agrees  
19 with the Intervenors that as much information as possible  
20 should be on the public record.

21                   Manitoba Hydro doesn't object really to  
22 confidential information being provided to Intervenors.  
23 However, there's a strong proviso and that proviso is  
24 Manitoba Hydro and its ratepayers have to be 100 percent  
25 assured that commercially sensitive information and



1 information related to cyber and physical security of the  
2 system does not find its way into the hands of those who  
3 can bestow financial and physical harm to the  
4 Corporation.

5           And that's a very proviso and until we  
6 have that assurance, we can't -- we can't release that  
7 information. But I think all Intervenors would agree  
8 with us on that point. So it's something that would --  
9 that has to be worked out before we can start releasing  
10 information.

11           A final point I would like to make is that  
12 Manitoba Hydro wholeheartedly agreed with Mr. Gange's  
13 quote from Mr. Chernick that risk management is always  
14 something that has to be addressed in all issues.

15           But there is a concern with the caveat at  
16 the end, and that was that given the whistle-blower,  
17 there may be a more focussed review. If that's the case  
18 and if this Board requires a more focussed review,  
19 whether in the context in the G -- of the GRA or a  
20 separate process, we would expect that the scope be  
21 defined for Manitoba Hydro and for the Intervenors so  
22 that we all know what we're talking about.

23           I -- as I've indicated, I don't think it's  
24 possible; risk is integral to everything we do. So we're  
25 putting a challenge that I don't think can be met, but we

1 do need to know what that -- that scope would be.

2                   And -- and with that, that would be our  
3 submissions at this point.

4                   MR. ROBERT MAYER: Ms. Ramage, we've all  
5 been living in the real world for the last few months,  
6 and I -- I'm glad somebody actually mentioned the  
7 elephant in the room and the risk analysis and the  
8 whistle-blower and whatever, and I think you would have  
9 to agree, wouldn't you, Ms. Ramage, that the public  
10 really does expect this Board to look into that  
11 relatively thoroughly and I would suggest relatively  
12 quickly.

13                   Am -- am I incorrect in that assumption?

14                   MS. PATTI RAMAGE: I think the public  
15 expects that it be looked at. I'm not sure that this is  
16 the process to look at it. But I think this process is  
17 expected on an ongoing basis to look at risk, and that I  
18 think that the -- the public expects that of this Board.

19                   THE CHAIRPERSON: Thank you, Ms. Ramage.

20                   I want to thank all the other parties that  
21 came today. I think it was a useful exercise having this  
22 pre-pre-hearing conference. We'll be coming together  
23 again on December the 22nd. In advance of that, I  
24 imagine we'll be receiving comments from Mr. Anderson for  
25 MKO, and the Board may have some further guidance for the

1 parties ahead of December 22nd, and, if we do, we will  
2 certainly provide it.

3 Mr. Peters, can you think of anything that  
4 we should also add?

5 MR. BOB PETERS: Mr. Chairman, I have  
6 nothing further. Thank you.

7 THE CHAIRPERSON: Okay. We'll stand down  
8 now. Thank you. Enjoy the rest of your day.

9  
10 --- Upon adjourning at 11:50 a.m.

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15 Certified correct,

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21 Cheryl Lavigne, Ms.

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