



360 Portage Avenue (22) · Winnipeg Manitoba Canada · R3C 0G8
Telephone / N° de téléphone: (204) 360-3257 · Fax / N° de télécopieur: (204) 360-6147 · baczarnecki@hydro.mb.ca

June 25, 2023

THE PUBLIC UTILITIES BOARD OF MANITOBA
400-330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

ATTENTION: Dr. D. Christle, Board Secretary and Executive Director

Dear Dr. Christle:

**RE: MANITOBA HYDRO'S 2023/24 & 2024/25 GENERAL RATE APPLICATION –
MANITOBA HYDRO'S WRITTEN REPLY SUBMISSION**

Please find enclosed Manitoba Hydro's Written Reply Submission for the 2023/24 & 2024/25 General Rate Application, to be marked as an exhibit in this proceeding.

Should you have any questions with respect to the foregoing, please do not hesitate to contact the writer at 204-360-3257.

Yours truly,
MANITOBA HYDRO LEGAL SERVICES
Per:

A handwritten signature in blue ink, appearing to read 'Brent Czarnecki'.

Brent Czarnecki
Senior Counsel

PUBLIC UTILITIES BOARD

WRITTEN REPLY SUBMISSION OF MANITOBA HYDRO

**WITH RESPECT TO MANITOBA HYDRO'S
2023/24 & 2024/25 GENERAL RATE APPLICATION**

June 25, 2023



1 **1. Introduction**

2
3 On June 22, 2023, final written submissions were filed, and oral arguments were
4 delivered, by legal counsel for the Interveners. This reply evidence of Manitoba Hydro is
5 limited in addressing new arguments raised in the Interveners’ submissions that could not
6 be reasonably contemplated before Manitoba Hydro’s initial submission on June 19,
7 2023. Any lack of reply evidence should not be construed as agreement by Manitoba
8 Hydro to Interveners’ submissions. Manitoba Hydro relies on, and urges the PUB to review
9 in full, its final submissions filed as Exhibit MH-56 MH Oral Final Submission Presentation
10 - June 19, 2023 and Exhibit MH-57 MH Final Written Argument - June 19, 2023.

11
12 **2. The *Charter* & “Equitable Benefits”**

13
14 AMC takes the position that “if First Nations do not equitably benefit from rate increases,
15 then the proposed rates are not just and reasonable”¹ and that the PUB needs to balance
16 its objectives with substantive equality and *Charter* values when setting electricity rates.

17
18 Manitoba Hydro agrees that the PUB may consider *Charter* values when exercising its
19 discretion in setting just and reasonable rates. Provided that a *Charter* right or value is
20 implicated by a decision (such as s. 15(1) as alleged by AMC), an administrative decision-
21 maker must balance the *Charter* value with the statutory objectives.²

22
23 The statutory objectives of the PUB include setting just and reasonable rates for service
24 by balancing customers’ interests against the utility’s interests. The PUB achieves this
25 objective through its review function and the application of cost causation and cost of
26 service methodologies. Manitoba Hydro only charges customers the cost of providing
27 electrical service actually incurred. Rate setting in Manitoba is further constrained by
28 customer classes, such that power supplied to a class must be the same price charged to
29 similar ratepayers in the province. All residential customers, regardless of income,
30 affordability, First Nations status or any other social policy considerations, receive
31 substantially similar electricity service from Manitoba Hydro and are charged the same

¹ AMC-9, AMC Written Final Submission, June 22, 2023, paragraph 45.

² [Doré v. Barreau du Québec, 2012 SCC 12](#), paragraph 55 [emphasis added].

1 rate.

2

3 Treating First Nation customers the same as other residential customers in accordance
4 with the PUB's legislative framework is not discriminatory or infringement of the *Charter*.
5 Even if section 15(1) of the Charter is engaged, the PUB must nevertheless balance this
6 with its statutory mandate, which is arguably already done, when balancing the interests
7 of all ratepayers with the financial health of Manitoba Hydro.

8

9 With respect to First Nation customers and the claim that they require "equitable
10 benefits", Manitoba Hydro notes that AMC does not cite any legal authority requiring
11 economic benefits or equitable sharing as part of the provision of electrical service. There
12 is nothing in the legislative framework or case law that suggests equitable sharing is
13 required or a factor to be considered by a regulator when setting rates. In any event,
14 historical issues with First Nations and other Indigenous parties are addressed by
15 Manitoba Hydro in a collaborative manner in many other ways such as through
16 agreements, programs and other measures,³ which are separate and distinct from the
17 rate setting process.

18

19 The Consumers Coalition more generally argues that considerations of the *Charter* value
20 of substantive equality in terms of affordability "heightens the importance of just and
21 reasonable rates", and that for rate design, Manitoba Hydro has to consider the hardships
22 imposed on its customers.⁴ Poverty and economic disadvantage alone are not recognized
23 as analogous grounds under section 15(1) of the *Charter*.⁵ While there may be groups of
24 Manitoba Hydro customers that deal with poverty, economic disadvantage and/or
25 affordability issues, these groups of customers as a whole are not defined by a shared
26 personal characteristic that would constitute an analogous ground. Thus, any required
27 balancing of *Charter* values in this regard when setting rates should not be considered by
28 the PUB, or alternatively, the PUB need only give it limited consideration in accordance
29 with all other factors regarding rate setting when fulfilling its legislative mandate.

30

³ AMC/MH I-34a-e, page 3, bullet 1.

⁴ CC-33, CC Closing Submission Presentation, June 22, 2023, slide 129; Transcript June 22, 2023, pages 4363-4364.

⁵ [Boulter v. Nova Scotia Power Incorporation, 2009 NSCA 17](#), paragraphs 33, 39, 42-44.

1 **3. General Service Large 0 to 30 kV Billing Demand Definition**

2
3 In closing argument, Mr. Hacault on behalf of MIPUG, recommends that the proposed
4 change to the definition of billing demand for the GSL 30-100 kV and GSL 100kV rate
5 classes should also be applied to some of the GSL 0-30kV customers who are of sufficient
6 size and have appropriate metering.⁶

7
8 Manitoba Hydro is proposing to only apply the billing demand definition change to the
9 30-100 kV and >100 kV classes. MIPUG appears to acknowledge in its argument that not
10 all customers in the 0-30 kV class have the appropriate metering in order to have this
11 change applied to the entire customer class. Although there has been no evidence in this
12 proceeding regarding applying the billing demand definition change to the GSL 0-30 kV
13 class or the revenue deficiency that would arise from this change, doing so would likely
14 require an additional adjustment to the demand charge which has not been tested in the
15 current GRA. It would also be inappropriate to apply a different billing demand definition
16 to some customers in a class and not others (as a result of not having the necessary
17 metering). Manitoba Hydro submits that the update to the billing demand definition be
18 applied, as proposed by Manitoba Hydro, to only the 30-100 kV and >100 kV classes.

19
20 **4. Updated National Bank Analysis**

21
22 In closing argument, Mr. Williams on behalf of the Consumers Coalition, asserts that
23 Manitoba Hydro mistakenly alleged that the National Bank model did not take into
24 account debt maturity in its analysis and that National Bank did so as indicated at page 31
25 of its report by assuming a WATM of 15 years for the purposes of its technical analysis.
26 Manitoba Hydro submits this is an incorrect conclusion. In response to Coalition/MH I-44,
27 Manitoba Hydro provided a copy of the National Bank Financial (“NBF”) - Independent
28 Assessment of Corporate Policy Fixed versus Floating Debt, dated July 16, 2009. At section
29 9.4, page 42, the National Bank specifically acknowledges:

30
31 **9.4. ASSUMPTIONS AND LIMITATIONS**

32 *Given that Manitoba Hydro’s debt is issued and guaranteed by the Province of*

⁶ MIPUG-23, MIPUG Final Written Submissions, June 22, 2023, pages 4 and 41 (Recommendation 12).

1 *Manitoba, Manitoba Hydro’s cost of debt is dependent on the Province of*
2 *Manitoba’s credit rating. NBF’s assessment is therefore premised on the*
3 *maintenance of the current credit rating of the Province of Manitoba. In*
4 *addition, in order to strictly adhere to the mandate of providing an*
5 *independent assessment of Manitoba Hydro’s fixed vs. floating rate debt mix,*
6 ***NBF’s assessment has not included an evaluation of Manitoba Hydro’s***
7 ***choice of debt maturities or the proportion of US Dollar denominated debt.***
8 *It is important to note that these factors can impact the results of an optimal*
9 *debt policy. [emphasis added]*

11 5. Treasury Board Review of Capital Plans

12
13 In closing argument, Mr. Williams on behalf of the Consumers Coalition, suggests that the
14 PUB is not bound by “Treasury Board rubberstamp of capital projects.”⁷ Manitoba Hydro’s
15 witnesses were clear during oral testimony that Manitoba Hydro provides Treasury Board
16 with details on business operations capital projects on a five-year horizon in the form of
17 a budget proposal with recommendations and Treasury Board provides a very detailed
18 report containing analysis on the corporation’s proposal back to Manitoba Hydro.⁸
19 Clearly, this does not constitute a “rubberstamp” of Manitoba Hydro’s capital plans as
20 suggested by Mr. Williams.

22 6. Depreciation

24 ***Adverse Inference***

25 In closing argument, Mr. Hacault on behalf of MIPUG, asserts that an adverse inference
26 should be drawn from the fact that Manitoba Hydro did not call its accountants or
27 auditors to refute Mr. Madsen’s evidence that Manitoba Hydro’s accountants and
28 auditors would not support Manitoba Hydro’s arguments and that Manitoba Hydro
29 management discretion should be based on appropriate accounting advice. MIPUG
30 submits that Mr. Madsen has provided independent advice.⁹

⁷ CC-33, Closing Submission Presentation, June 22, 2023, slide 19.

⁸ Transcript May 29, 2023, pages 2148-2149; Transcript May 31, 2023, pages 2250-2251.

⁹ MIPUG-23, MIPUG Final Written Submissions, June 22, 2023, pages 36-37; Transcript June 22, 2023, pages 4473-4475.

1 Manitoba Hydro submits that the PUB should disregard MIPUG’s assertion that an
2 adverse inference should be drawn. As the PUB will recall, Mr. Alastair Fogg is a Chartered
3 Professional Accountant and is Manitoba Hydro’s Corporate Controller. Ms. Michelle
4 Hooper is also a Chartered Professional Accountant and is a Certified Depreciation
5 Professional. Both are intimately familiar with Manitoba Hydro’s business, systems and
6 assets. Ms. Hooper has also participated in several depreciation studies for Manitoba
7 Hydro. Conversely, Mr. Madsen cannot be seen as providing informed independent
8 advice as he has not conducted an actual depreciation study of a large electric utility or
9 performed detailed analysis with respect to Manitoba Hydro’s assets and
10 componentization.¹⁰

11
12 Manitoba Hydro submits that the PUB should be mindful of Mr. Madsen’s limited
13 individual experience with depreciation matters and extremely cautious in weighing his
14 evidence, his personal opinions and subjective interpretations, and in drawing any
15 conclusions from it. Mr. Madsen’s limited individual experience, and unfamiliarity with
16 Manitoba Hydro’s business, pales in comparison to the collective accounting and
17 depreciation expertise within Manitoba Hydro, together with the external perspectives
18 that have also been obtained in the past as outlined below, with respect to depreciation
19 matters and in interpreting IFRS, specific to Manitoba Hydro’s business.

20
21 As part of the record in this proceeding, Manitoba Hydro provided a history of the
22 independent expert opinions it has obtained since commencing analysis of the impacts of
23 conversion to IFRS. As indicated in response to GSS-GSM/MH I-1e), Manitoba Hydro
24 obtained the independent expert advice of KPMG and Gannett Fleming Inc. to provide
25 assistance with the interpretation and implementation of IFRS. The contributions of
26 Manitoba Hydro’s IFRS consultants are detailed in the IFRS Status Update Reports
27 referenced in response to GSS-GSM/MH I-1 parts e) and I). Manitoba Hydro’s IFRS
28 transitional financial statements were audited by Ernst & Young.

29
30 In addition, auditors cannot assess or opine on the reasonability of accounting policies or
31 potential accounting treatments prior to them being implemented. Auditors have rules

¹⁰ Transcript June 5, 2023, pages 3269-3270.

1 of professional conduct which prohibit an entity’s auditors from providing advice and
2 engaging in litigation support due to the requirement for the auditors to remain
3 independent.¹¹

4
5 As part of this GRA, Manitoba Hydro participated in the collaborative process with the
6 understanding that the parties were attempting to resolve the depreciation policy issues
7 on a good faith basis. To now suggest for the first time, as part of final submissions, that
8 an adverse inference should be drawn as a result of independent auditors not appearing
9 before the PUB as part of the depreciation panel is disingenuous and contrary to the spirit
10 and intent of a collaborative process. No adverse inference should be drawn by the PUB
11 as suggested by MIPUG.

12 13 ***Componentization and “Significance”***

14 Mr. Reimer, on behalf of GSS/GSM submitted in his closing submissions that “the only
15 evidence that the Board has with respect to the interpretation of significance” of
16 componentization is Mr. Madsen’s evidence (transcript page 4412) and that it was
17 unchallenged by Manitoba Hydro (written submission pages 30-31). In addition, Mr.
18 Reimer submitted that the only evidence on how the term “significance” should be
19 interpreted was provided by Mr. Madsen.

20
21 Contrary to Mr. Reimer’s assertions, at page 161 of its written final argument, Manitoba
22 Hydro clearly indicated that a \$35 million reduction in the ALG versus ELG annual
23 depreciation expense is considered to be “material”, or in other words “significant”,
24 which strongly supports the need for increased componentization. In addition, Manitoba
25 Hydro submits that these points were further addressed in its final written argument at
26 pages 156 and 163. In particular, Manitoba Hydro stated that any changes to
27 componentization should be based on significance/materiality and that all parties
28 concurred that Manitoba Hydro should continue to review its componentization.

29 30 ***2019 Depreciation Study***

31 On June 22, 2023, Vice-Chair Kapitan asked both Mr. Williams on behalf of the
32 Consumers Coalition and Mr. Reimer on behalf of GSS/GSM whether the 2019

¹¹ [CPA Guide to Canadian Independence Standard](#), Section 3.1, paragraphs 8 & 9, page 7 (pdf page 11).

1 Depreciation Study could be implemented as is. While parties have opined that in their
2 views, the 2019 Depreciation Study could be implemented as is, it is the responsibility of
3 Manitoba Hydro’s management to determine the appropriate level of componentization
4 to ensure IFRS compliance for financial reporting purposes.

5
6 As stated in Manitoba Hydro’s 2022 Annual Report at page 52, financial statements are
7 “prepared by management of the Manitoba Hydro-Electric Board (the corporation), who
8 are responsible for the integrity, consistency and reliability of the information presented.
9 The consolidated financial statements have been prepared in accordance with
10 International Financial Reporting Standards. The preparation of the consolidated financial
11 statements necessarily involves the use of estimates and assumptions based on
12 management’s judgments”.

13
14 As discussed at page 160 of Manitoba Hydro’s final written argument, it is the collective
15 view of Manitoba Hydro management that the existing level of componentization in the
16 2019 ALG Depreciation Study is insufficient to meet the requirements of IFRS, thereby
17 necessitating a regulatory deferral account. In addition, as indicated at page 1-1 of the
18 2019 Depreciation Study (MFR 95) and discussed at page 161 of Manitoba Hydro’s final
19 written argument, the author of this study explicitly states that the included ALG results
20 are not in accordance with IFRS. Following receipt of the PUB’s Order in this proceeding,
21 Manitoba Hydro will advise its auditor regarding the conclusions reached by the PUB
22 provide Manitoba Hydro’s plans for implementation and discuss implications for
23 Manitoba Hydro’s financial statements. Any changes resulting from the PUB Order will be
24 reviewed by the auditor in the future, as part of the regular year-end audit following
25 implementation.

26
27 **7. Consumers Coalition Transcript References**

28
29 Manitoba Hydro strongly cautions the PUB on simply relying upon the selected portions
30 of the transcript as they appear through-out the Consumers Coalition Presentation
31 (Exhibit CC-33) and encourages the PUB to review the entire transcript for additional
32 important context both before, and after, the selective and incomplete quotes used by
33 the Coalition in its (mis)characterization of the evidence of Manitoba Hydro.

1 By way of one example, slide 59 asserts that Manitoba Hydro agreed that “CORE UMS
2 Concerns are Still Unresolved”. Upon review of the transcript¹², during Mr. Williams cross
3 examination of Ms. Halayko, he only asked Ms. Halayko if one of the concerns expressed
4 by UMS (in their 2016 report) was whether “most asset management efforts are focussed
5 on capital spending with minimal attention given to optimizing, operating and
6 maintenance spending which, of course, is a key part of the asset life cycle.” The next
7 quote on slide 59 again was in the context of confirming that UMS raised a concern in
8 their 2016 report. Simply confirming that UMS raised certain concerns in its Report in
9 2016 does not equate to an admission by Ms. Halayko or Manitoba Hydro that those
10 concerns are still existent today as the Coalition inappropriately concluded.

11
12 Another example is slide 52, which again is selective and leaves out the important context
13 provided by Ms. Halayko and Mr. Pawluk on transcript pages 1440-1441, which Mr.
14 Williams acknowledges within his response during oral testimony “I thank you both for
15 that context” but failed to include within his final submission.

16 17 **8. Consumers Coalition New FTE Comparison**

18
19 In closing argument, Mr. Williams on behalf of the Consumers Coalition, explains that on
20 slide 76 of the Consumers Coalition Presentation (Exhibit CC-33) the FTEs associated with
21 Major Capital construction were removed from PUB/MH I-64a-e to enable appropriate
22 comparison between 2016/17 and the present. This analysis was first presented in final
23 argument. Manitoba Hydro submits that this is a misleading comparison and does not
24 support the Coalition’s assertion that Manitoba Hydro is not committed to maintaining
25 the 15% reduction in FTEs, post VDP, as Manitoba Hydro witnesses repeatedly testified
26 to.

27
28 The FTEs associated with Major Capital construction were not solely dedicated project
29 staff. Manitoba Hydro had employees across the Corporation working on and charging
30 time to the major projects. This was elaborated further in Figure 6.25 of Tab 6 with specific
31 reference to the hours charged to the Keeyask project. As such, major capital projects
32 FTEs identified in PUB/MH I-64a-e would be reflective of all of the time worked by all

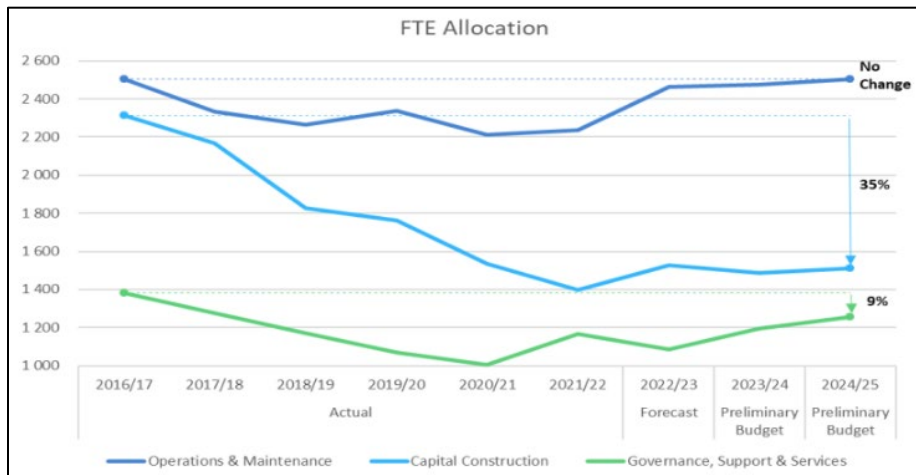
¹² Transcript May 24, 2023, pages 1408-1409.

1 existing, permanent Manitoba Hydro employees on those projects (and all major capital
2 projects).

3
4 In addition, some of the term employees working on the major projects were already
5 existing Manitoba Hydro employees who accepted the term position and remained at
6 Manitoba Hydro either by returning to their base position or bidding into vacant or new
7 positions within Manitoba Hydro.

8
9 As can be seen from the Figure below¹³, the FTEs associated with operations and
10 maintenance were reduced during Major Capital construction, which is consistent with
11 Manitoba Hydro's evidence during the proceeding.
12

Figure 1



13
14
15 Manitoba Hydro submits that the Consumers Coalition slide 76 is an inappropriate
16 comparison. As submitted and supported by the evidence, Manitoba Hydro is honoring
17 the 15% post-VDP reduction in FTEs.
18

¹³ MH-42, Revenue Requirement Direct Presentation, May 29, 2023, slide 28.

1 **9. Consumers Coalition Suggestion that Manitoba Hydro is “Adding Back Layers” of**
2 **Management Positions Is Incorrect**

3
4 During final argument, Mr. Williams suggested that Manitoba Hydro is “adding back layers
5 of executive and senior management that were de-layered during the VDP.”¹⁴

6
7 A comparison of FTEs from 2016/17 through 2022/23 split by Senior Management,
8 Management and Employees illustrates that Manitoba Hydro has a reduction of
9 management positions in that time period equivalent to 23%¹⁵.

10 **Figure 2**

	FY 16/17 Pre-VDP	FY 17/18 VDP Start	FY 18/19 VDP Complete	FY 19/20 Pre-Pandemic	FY 20/21 Pandemic/Cost Savings	FY 21/22 Forecast	FY 22/23 Proposed Budgeted
Senior Management	41	36	34	35	36	37	39
Management	149	130	111	105	99	102	107
Employees	6,221	5,832	5,330	5,253	4,819	4,883	5,029
Total FTE Count	6,411	5,998	5,475	5,393	4,954	5,022	5,175^(a)

11
12
13 The suggestion by Mr. Williams that Manitoba Hydro is “adding back layers of
14 executive and senior management” is baseless and simply false.

¹⁴ Transcript June 22, 2023, page 4334.

¹⁵ = 190-146/190 (41 Senior Management + 149 Management = 190 total management in 2016/17 compared to 39 Senior Management + 107 Management = 146 total management in 2022/23).