



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

re:

MANITOBA HYDRO

2023/24 and 2024/25

GENERAL RATE APPLICATION

Pre-Hearing No. 2

Before Board Panel:

Robert Gabor, KC - Board Chairperson

Marilyn Kapitany - Board Vice Chair

Carol Bellringer - Board Member

(by TEAMS)

Hamath Sy (np) - Board Member

George Bass, KC - Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

April 6th, 2023

Pages 1 to 113

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List of Exhibits

Exhibit No.	Description	Page No.
MH-18	Written submission by Manitoba Hydro.	8
MIPUG-7	Written submission by MIPUG.	8

1 --- Upon commencing at 9:04 a.m.

2

3 OPENING COMMENTS BY THE CHAIR:

4 THE CHAIRPERSON: Good morning,
5 everyone. I now call this public hearing to order.
6 Welcome to the Public Utilities Board's second pre-
7 hearing conference in respect of Manitoba Hydro's
8 2023/2024 and 2024/'25 General Rate Application.

9 My name is Robert Gabor, and I'm the
10 Chair of the Public Utilities Board. I am also the
11 Chair of this Panel that will be hearing Manitoba
12 Hydro's Application.

13 Joining me on the Panel here in the
14 hearing room are Vice-Chairman Marilyn Kapitany and
15 Member George Bass. Panel Member Carol Bellringer
16 will be -- is attending virtually, and Panel Member
17 Hamath Sy is unable to attend.

18 We acknowledge at the outset that the
19 Treaty 1 lands on which we now gather for this hearing
20 and the Treaty 2, 3, 4, and 5 lands included in
21 Manitoba Hydro's service territories are the
22 traditional territories of the Anishinaabe Cree, Oji-
23 Cree, Dakota, and Dene people, as well as the homeland
24 of the Metis Nation.

25 The purpose of this pre-hearing

1 conference is to establish a schedule for the oral
2 portion of the hearing in May and June of this year
3 and to determine whether there is any benefit to
4 streamlining the hearing (a) either by moving certain
5 issues out of scope or (b) by limiting certain issues
6 to written evidence or written submissions.

7 This follows a letter the Board issued
8 on March 9, 2023, seeking submissions from the
9 parties. Board counsel previously circulated a draft
10 schedule under which the hearing starts on Monday, May
11 15th, 2023.

12 The Board is sitting four (4) days a
13 week until June 8th, 2023. There are two (2)
14 additional hearing days the week of June 12th, 2023,
15 and submissions take place during the last two (2)
16 weeks of June. The draft schedule also kept Fridays
17 as overflow days.

18 While it is the Panel's intention to
19 finish within the planned hearing schedule, the Panel
20 is prepared to sit longer or to adjourn a portion of
21 the hearing if it should be necessary to do so.

22 Today's scoping exercise should help
23 the Panel finalize the schedule and hopefully reduce
24 the risk of an extension or adjournment being
25 required.

1 I will turn the microphone over to
2 Board counsel to discuss the matter and to set out the
3 process for today. Mr. Homback...?

4

5 OPENING COMMENTS BY BOARD COUNSEL:

6 MR. SVEN HOMBACK: Thank you, Mr.
7 Chair, and good morning, Members of the Panel and
8 everybody else in attendance in the hearing room and
9 virtually.

10 As you mentioned, the purpose of
11 today's pre-hearing conference is to establish a
12 hearing schedule and to perform issues scoping.

13 And on March 9th, the Board sent a
14 letter to all of the parties involved seeking
15 submissions on several issues: first of all, a list
16 of what the parties see as the key issues in the GRA;
17 then whether or not the Board should specifically make
18 any ruling on in-scope and out-of-scope issues;
19 whether any issues should be restricted to written
20 evidence or, for that matter, to written submissions;
21 and also a number of procedural matters, namely, who's
22 on each party's witness list, the proposed panel
23 structure principally by Manitoba Hydro, and how much
24 time each party anticipates needing.

25 The purpose of today is to allow the

1 Board to issue a procedural Order hopefully sometime
2 next week that provides adequate clarity for the
3 parties on how the hearing is to unfold. And this may
4 include streamlining the process or this may include
5 certain issues to be out of scope or to be limited to
6 written evidence or written submissions.

7 I will acknowledge at this point in
8 time that the Board received written submissions in
9 advance of today's pre-hearing conference from
10 Manitoba Hydro and from counsel for MIPUG. Those have
11 been entered as Manitoba Hydro Exhibit 18 and MIPUG
12 Exhibit 7, respectively.

13

14 --- EXHIBIT NO. MH-18: Written submission by
15 Manitoba Hydro.

16

17 --- EXHIBIT NO. MIPUG-7: Written submission by
18 MIPUG.

19

20 MR. SVEN HOMBACK: By way of reminder,
21 to date there's only been one (1) ruling as to scope
22 in the GRA, and that was made in the first procedural
23 Order. That Order ruled the draft Integrated Resource
24 Plan, or IRP, out of scope.

25

The purpose for today is, as set out in

1 the Board's letter to the parties dated March 9th:
2 Manitoba Hydro will make submissions first, followed
3 by counsel for the Board's independent expert
4 consultants Daymark. The Interveners will then follow
5 in alphabetical order, and Manitoba Hydro will have an
6 opportunity to reply.

7 Under the schedule, each party will be
8 limited to twenty (20) minutes, and the cautiously
9 optimistic plan is to be finished by noon.

10 As I indicated, the Board will attempt
11 to issue a procedural Order by the middle of next
12 week, recognizing that the parties are eager to start
13 preparing for the hearing.

14 And with that, Mr. Chair, I would
15 invite you to call upon Manitoba Hydro to begin its
16 submissions.

17 THE CHAIRPERSON: Thank you. Mr.
18 Czarnecki...?

19

20 SUBMISSIONS BY MANITOBA HYDRO:

21 MR. BRENT CZARNECKI: Thank you, Mr.
22 Chair, and good morning, Panel Vice-Chair Kapitany,
23 Member Bass, and Member Bellringer by live stream.

24 To my left is co-counsel Odette
25 Fernandes who will be assisting through the -- this

1 Application on behalf of Manitoba Hydro.

2 To my immediate right is Aurel Tess who
3 is Hydro's Chief Financial Officer, and to his right
4 is Shannon Gregorashuk, who is the Director of Rates
5 and Regula -- Regulatory Affairs. She plays a very
6 significant role in the Application.

7 For the record, my name is Brent
8 Czarnecki, which is C-Z-A-R-N-E-C-K-I. I'll start off
9 by saying we're personally very, very excited to see
10 everyone in this room. It's nice to see familiar
11 faces. There's been a lot of letter writing, the
12 Application filed, and some emails back and forth, but
13 it is truly good to be in this room and see such
14 familiar faces.

15 Second, I would say that it would have
16 been much better of a morning had our Winnipeg Jets
17 defeated those pesky Calgary Flames last night and
18 cemented a playoff spot, but alas, they didn't and on
19 to more important business.

20 As Mr. Homback alluded to, we took the
21 opportunity to file a letter yesterday that set out
22 Manitoba Hydro's positions in response to the Board's
23 invitation for this pre-hearing conference.

24 And it may appear to be a little bit
25 different than the questions that were posed in the

1 Board's letter, but I think we get to the same spot.
2 I'll just reviewed quickly that, from Hydro's
3 perspective, and we heard from other parties, that the
4 evidentiary record is very extensive and very robust.

5 I can't imagine us sort of bearing the
6 soul of Manitoba Hydro any more than we have in this
7 Application. If anyone would be interested in any
8 aspect of Hydro's business, financial and otherwise,
9 it's in the Application, of course, subject to the
10 confidential information that -- that the
11 (INDISCERNIBLE) has been ruled out of scope and some
12 of which is being considered by Daymark.

13 So, that's our starting point. And
14 instead of guessing as to what issues are in scope, we
15 do believe we've covered the waterfront. And our
16 objective is for you to have the necessary information
17 that you have in making the only -- the -- the
18 ultimate decision in this case is -- that being
19 whether or not the Application produces just and
20 reasonable results -- or rates, pardon me, and is in
21 the public interest.

22 And that's where we need to learn from
23 previous practice where we would outline a, you know,
24 comprehensive list of issues and structure our panels
25 and assign people to them. And the (INDISCERNIBLE) in

1 a sense that we're now seeking some of your guidance
2 by way of your next procedural Order.

3 And I guess our challenge for you and
4 the feedback we're receiving is, after reviewing the
5 very robust evidentiary written record before you,
6 where is the Panel seeing the gaps in the evidence?
7 Where is it seeing the need for any additional
8 evidence? Where is it seeing the need for
9 clarification on the waterfront material we've put in
10 front of you?

11 And I think most importantly for the
12 hearing, where are you seeing the need for witness --
13 witnesses to appear before you to supplement the --
14 the written evidentiary record that's before you?

15 Once we do that, and as set out in our
16 letter, we are standing by Manitoba Hydro to assign
17 the right people, folks, panel, sequencing of that to
18 best achieve that. And I -- and I think once that's
19 in place, we will have some discussions with our
20 learned friends as to how best we can structure that.

21 And I think it -- it starts with --
22 with a regulatory proceeding that covers the
23 waterfront. And we're hoping it funnels down to the
24 essence for you to make the decisions on the topics
25 you see most relevant to this Application. So, your

1 guidance would be very much appreciated in that
2 respect.

3 Now, having said that, we -- we did
4 also put together a list of -- it's on page 2 of our
5 letter, it's the usual panels that Manitoba Hydro
6 would -- would put forward and address the GRA issues.

7 You know, to be brief, there's the
8 revenue requirement. There's a panel on depreciation;
9 another panel addressing load forecast scenario,
10 energy supply, plan in drought operations, export
11 revenue, et cetera. A fourth panel being capital plan
12 and asset management issues, and a fifth being cost of
13 service.

14 So, that's the way we normally would
15 proceed. And -- and I guess our wish is that we can
16 be more concise, efficient and effective or, to use
17 your word, Mr. Chair, to streamline this oral hearing,
18 again, so you get the essence of what you need to make
19 your determination.

20 We will respond. My instructions are
21 this morning to advise you that, once we have that,
22 Manitoba Hydro will respond accordingly and arm panels
23 so that you can arm yourself with the information to
24 make your decision.

25 Next, in the letter, we just did speak

1 of some issues that we did think or saw immediately
2 that could be dealt with in written evidence; in
3 addition to any that you determine.

4 They are proposed changes to the
5 Curtailable Rate Program and Surplus Energy Program,
6 the 2024 Lighting Cost of Service Study, and diesel
7 zone rates. To date, we -- we see them as being
8 important issues, but capable of being adequately
9 dealt with in writing only.

10 Daymark, it's really premature for
11 Hydro to put forward or submit to you whether or not
12 we actually need Daymark to appear before you. We
13 remain cautiously optimistic but there will -- once we
14 receive their report, we will review it.

15 It may be that Hydro is able to
16 respond, and favourably, to whatever finding Daymark
17 may make. They are an independent consultant and we
18 may be able to streamline that further to a written
19 process. But again, it's too premature.

20 So what we've proposed is to advise you
21 after we receive the Daymark report next week to let
22 you know our position on that.

23 Again, we are cautiously optimistic
24 that if the report is clear and concise, and there's
25 some consensus on the recommendations, they may not be

1 necessary to testify. And -- and in our letter, we
2 did note that we're hopeful in that regard because,
3 obviously, their work that they have completed is
4 underpinned by the most confidential information of
5 Manitoba Hydro.

6 The next issue I'll address very
7 quickly is we are still in the stages of digesting all
8 of the Intervener evidence with our various subject
9 matter expert teams at Manitoba Hydro.

10 But the Morrison Park evidence really
11 stuck out to folks that were reading it in Manitoba
12 Hydro. Some may say it's an interesting manifesto
13 read. But we struggled with the relevance of the
14 Morrison Park manifesto, if I can call it that.

15 In particular, the troubling aspect we
16 had of it was some of the assertions or speculation
17 with respect to the impact of Bill 36 to the Province
18 of Manitoba's finances.

19 Hydro is not in a position to further
20 speculate on that. However, it may be interesting
21 speculation to some, it's not relevant or germane to
22 our application.

23 The reality is that Bill 36 has passed.
24 We all know, in this room, that it will take effect as
25 it relates to matters before this Board as -- as of

1 April 1st, 2025, as this Board has articulated in
2 previous Orders.

3 We all get that. But to have someone
4 come in and speculate on, you know, the impact of that
5 Bill on the long-term finances of the Province of
6 Manitoba is far-fetched and, again, most importantly,
7 not relevant or germane to this Application.

8 So in that regard, we have asked, in
9 our letter -- made the respectful request that that
10 portion be ruled out of scope.

11 The remainder of Mr. Colaiacovo's
12 evidence on behalf of Morrison Park appears to be very
13 duplicative of Mr. Rainkie. The same conclusions are
14 reached and drawn in a very general way. And, at this
15 moment, if Mr. Colaiacovo appeared before you, Hydro
16 doesn't anticipate it would have many questions for
17 him and we -- we think that if you were to find that
18 his evidence is required, that whatever he raises to
19 you could be dealt with in -- adequately dealt with in
20 writing based on the nature of his report.

21 And in that regard too, we also must
22 say that there would be some cost savings there as it
23 relates particularly to Morrison Park's fees in this -
24 - this Application, which, of course, are subject to
25 your discretion on award.

1 The one -- before I turn to, sort of,
2 the procedural or process steps that we've recommended
3 to make this Hearing more effective and efficient,
4 what wasn't in the letter and which we had some very
5 preliminary discussions with at Manitoba Hydro
6 yesterday was on the issue of depreciation.

7 And it really centred around how could
8 this Board and how could everyone in this room best
9 present that evidence for you in a very sensible and
10 practical way given how technical and professional
11 opinionated that evidence is. And we, I think, were
12 very, very encouraged by the letter with Mr. -- my
13 friend Mr. Hacault yesterday, where he seemed to see
14 the same thing, like, is there a different way that,
15 collectively, we can deal with this issue of
16 depreciation.

17 And our preliminary discussions landed
18 us in a slightly different place than what Mr. Hacault
19 was suggesting by way of technical conference. We
20 were envisioning and maybe, again, cautiously
21 optimistic that, perhaps, we could have a more
22 collaborative process with the experts, being the Mani
23 -- the internal Manitoba Hydro experts, Mr. Madsen,
24 Mr. Bowman, and Mr. Rainkie and, perhaps, other
25 experts, to see if there is some common ground or

1 consensus, where we could agree.

2 Ideally, we would agree on everything
3 and come together with a joint recommendation for this
4 Panel to accept. The next idea would be, again, to
5 streamline what really are the issues that are
6 contentious.

7 Again, I'm going to say that, you know,
8 we could have those discussions without prejudice to
9 see -- to try and move this issue forward for you in a
10 sensible way but, again, there -- these are very
11 preliminary thoughts and I think I'd like to hear from
12 other Intervener counsels -- counsel on that idea
13 today. I think Mr. Hacault would be supportive, based
14 on his letter. And, then, we'd like to hear from you,
15 if that's a path that you think would be worthwhile of
16 our time.

17 The one (1) caveat on that is we are
18 short of time. Our hearing is starting, so it would
19 have to happen very quickly. Our power folks are
20 prepared, I think, next week to reach out to others,
21 to see if there's a will and a determination to -- to
22 discover what could be possible. Otherwise, we will
23 need to figure out how we're going to deal with
24 depreciation.

25 I am going -- just the -- the length of

1 time I -- we did also provide some very, I'll say,
2 pointed suggestions as to how we can all be more
3 efficient and effective with whatever oral hearing you
4 determine is necessary and, at that end of my letter,
5 they're not new to you, I won't review them but I'm
6 sure that -- and, frankly, I think we're very much in
7 line with the Board on making those recommendations
8 from previous procedural Orders.

9 So, with that, I will stop and answer
10 any questions or comments that you may have, Mr.
11 Chair.

12 THE CHAIRPERSON: Thank you.

13 VICE-CHAIR KAPITANY: Thank you, Mr.
14 Chair. Yeah. I have two (2) questions. I heard you
15 say, twice, during your presentation, once you
16 referred to if there's consensus on the
17 recommendations from Daymark, and, then, when you were
18 speaking about (INDISCERNIBLE) depreciation, you said
19 that there could, potentially, be a joint
20 recommendation.

21 So, I'm taking from what you've said,
22 that, only places where there is agreement of the
23 parties should we be going to written evidence.

24 Is that what you're saying?

25 MR. BRENT CZARNECKI: Not exactly.

1 We're envisioning from Daymark there'd be a re -- a
2 review of everything and, of course, we met
3 intensively with Daymark and that they may have
4 certain recommendations or processing improvements,
5 whatever it might be.

6 And, of course, Hydro will have to
7 digest that, but it's possible we may say, we agree --
8 we agree or we agree on 9 to 10, there's maybe one
9 other. So -- so, to that end, I don't think there's
10 much -- would be much of an argument because they're
11 the independent consultant. So, parties could weigh
12 in, with writing, as to what they felt but, in
13 essence, you have an independent consultant and Hydro
14 agreeing to whatever they recommend. We think that's
15 very powerful. So, I think it could move to a written
16 process.

17 With respect to depreciation, yes, if -
18 - again, I think it would be very, very powerful if
19 there was some consensus amongst all of us on issues
20 to bring forward to you and you can further examine
21 them but at least we have a -- a collective starting
22 point for -- that should give you some comfort too
23 because we have the Intervener stakeholders in the
24 room.

25 On all other matters, it's up to you.

1 I -- I think that, from our perspective, the arguments
2 to date and, again, we're still digesting them, are
3 pretty clear. They're pretty evident right now and
4 even though there may be agreement or -- or
5 disagreement, it may be that Party A argues black and
6 we argue white and that there may not be more benefit
7 for you to gain by analysing it further and having
8 appear before you.

9 You may look at it and go, this is
10 ready for argument, or just written evidence. And
11 there may be other issues where there's disagreement
12 and you say, we're not interested in that. We want to
13 hear from Hydro and Intervener experts.

14 And -- and perhaps this is similar to
15 my experience before judges in -- in court where --
16 when you appear before the last pre-hearing conference
17 before a trial or a mediation, they will say, we've
18 read your materials, we've -- your positions are well
19 articulated. We've read your briefs, but we'd really
20 like you to address is topic A, B, and C. The rest we
21 understand the arguments clearly.

22 And I do think if you look at the
23 arguments and the evidence itself, there is an
24 opportunity for you to do that here. And -- and
25 that's maybe the divergence of process that I'm

1 talking about as to how we've historically done
2 everything and covered the waterfront but we need you
3 and we're inviting you to tell us that. And we do
4 think it will lead to efficiencies and a more
5 effective process which will ultimately make your
6 decision, your determination easier, more effective,
7 you have what you need.

8 So, that's why we're here more or less
9 with open hands, Madam Chair. I hope that's clear.

10 VICE-CHAIR KAPITANY: Yeah, that
11 helps. Thank you. My other question was about the
12 Morrison Park evidence. And I think I heard you say
13 that the impact of Bill 36 on Manitoba's finances are
14 not in scope in this hearing, or not something we
15 should be discussing.

16 But on your letter -- your Manitoba
17 Hydro 18 exhibit, on page 3 and 4, there's a quote in
18 there that talks about at a minimum, (INDISCERNIBLE),
19 I wish to consider commenting on the government's
20 choice of financial targets and it goes on from there.

21 You didn't refer to that in your
22 presentation. You talked about, you -- you know, if
23 there's some -- there -- there may be some evidence
24 that's -- that is in scope but that you felt was
25 duplicative of Mr. Rainkie's testimony.

1 But I was -- I -- I'm just curious
2 about that specific quote, whether that's what you're
3 talking about should be out of scope, or whether
4 you're talking broadly about the Morrison Park
5 evidence.

6 MR. BRENT CZARNECKI: Thank you for
7 the question. If I could have Ms. Schubert pull up, I
8 think it's page 26 or 28 of the Morrison Park evidence
9 where -- it's a summary of Mr. Colaiacovo's
10 observations, he calls them.

11

12 (BRIEF PAUSE)

13

14 MR. BRENT CZARNECKI: Right there. So
15 -- if you'd scroll down, please, to line 18. Thank
16 you. This section here is what we're speaking of that
17 we think is out of scope.

18 It's, from our perspective, the Bill
19 has been passed by the Province. We don't need
20 addition -- we're not interested in the context of how
21 that came to be or whether the government made right
22 or wrong policy choices, or the impact on the finances
23 to the Province.

24 We're not in a position to address
25 that. We never addressed it. We were asked to

1 addressed it in some IRs and we refused as being out
2 of scope. So frankly, we see this as being a waste of
3 time, because it's an out-of-spoke issue.

4 The law is the law and we have to
5 follow it collectively. So -- and I think that the
6 court in -- in my letter, where it says:

7 "At a minimum, the PUB may wish to
8 consider it."

9 You can consider that if you want. You
10 don't need Mr. Colaiacovo's evidence to do that, in
11 our submission. You don't need him to show up here
12 and -- and make that. That's a determination for you
13 to make.

14 Hydro certainly won't be making a
15 submission in that regard. It -- it's nothing to do
16 with our Application, per se, the context and where we
17 landed.

18 Now, if you scroll up to the top of
19 this summary of observation, this -- why I say it's
20 duplicative. If you look at these observations,
21 (INDISCERNIBLE) a matter of fact, they're the same
22 ones that Mr. Rainkie makes, like the first one,

23 "There is no certainty that Hydro
24 will actually apply for a 2 percent
25 rate -- rate increases in the

1 future. Moreover, there is no
2 guarantee that the legislative and
3 regulatory regime would require the
4 PUB to make decisions with such a
5 rate path."

6 We agree. That -- that's a matter of
7 fact. And -- and if you keep reading down I wrote,
8 there are like that -- except for 14, line 14 where he
9 says,

10 "The Application includes no
11 compelling arguments absent the
12 legislation that support aggressive
13 reduction in the debt-to-
14 capitalization ratio."

15 That's what Mr. Rainkie also says. We
16 don't agree. We think we have a very compelling
17 Application before you, but we don't need Mr.
18 Colaiacovo to come and repeat that there's no
19 compelling evidence. That's argument.

20 So what's (INDISCERNIBLE) evidence,
21 and, you know, we think it is more Mr. Colaiacovo's
22 manifesto or his own argument. It's an interesting
23 read, but it is what it is is what I'm saying.

24 And -- and I think it would be a waste
25 of Hydro's taxpayer -- or ratepayers' customers' money

1 to have him show up and fully elaborate on this. So
2 I'd encourage you to take a closer read of it to make
3 your own determination whether you feel the same or
4 agree with Hydro's position.

5 VICE-CHAIR KAPITANY: Thank you.

6 THE CHAIRPERSON: Thank you, Mr.
7 Czarnecki. I've got a couple of questions.

8 In -- in relation to this concept of
9 the collaborative effort on depreciation, as Mr.
10 Hacault referred to it hot-tubbing, which I understand
11 it's different than that, but having the -- the
12 parties get together.

13 Is it -- is it your view that this
14 would have to be something where it would have to be
15 finalized prior to the hearing starting, or, depending
16 on what Oliver says, that's the breakdown between oral
17 and written, the sense -- where we should be building
18 time into the hearing schedule?

19 MR. BRENT CZARNECKI: I'll start by
20 saying that Hydro desires finality with this issue in
21 this Application, and I think that gets me back to my
22 concern, Mr. Chairman, about the timing from -- from
23 now until the hearing commences.

24 I think we have a very short window of
25 opportunity to canvass other parties and experts to

1 see, is there a will on certain issues to reach a
2 consensus. And, you know, if -- if it is and we -- we
3 feel that we're getting traction, I think we'd have to
4 keep you informed on that.

5 But if it fails or we just say, there's
6 no possible way, then I think we're into deciding how
7 we're going to deal with it in this hearing room via
8 hot-tub. I don't like the imagery of that, but it is
9 what it is.

10 THE CHAIRPERSON: Yeah.

11 MR. BRENT CZARNECKI: And so -- but I
12 will also say that we have taken a very close look at
13 Mr. Madsen's evidence, and I'm not going to pretend to
14 be the expert, but some of our folks are seeing a
15 potential area where we could potentially meet some
16 consensus.

17 But there is a number of practical
18 issues, including our auditors, that may need to be
19 involved, but we're willing to take that on because we
20 think the payoff, or the potential payoff, of some
21 consensus is better than the alternative of being in
22 this hearing room debating it and -- and, frankly,
23 losing most of us who don't have that expertise.

24 THE CHAIRPERSON: And -- and Mr.
25 Czarnecki, I mean, you know, of course the Panel

1 wouldn't be involved, but who would you see
2 facilitating the discussion?

3 MR. BRENT CZARNECKI: I think Hydro
4 would be maybe not the facilitator, but the initiator
5 of it. And I -- I see the experts from the
6 Interveners. I hate to say this against my own
7 profession, but at the time being, maybe leave the
8 lawyers out of the room and see if the accountants and
9 the experts can determine a path, and then maybe
10 involve the lawyers to -- to formalize it and to bring
11 it to you.

12 It's experience in -- in TransCanada
13 PipeLines matters, it happens quite frequently where
14 the experts collaborate on these things to find an
15 industry solution, and then they present it to the
16 NEB, or the CER now, and it's very powerful.

17 So I -- I think we're -- we're really
18 interested to give it an attempt given -- even given
19 the very short time frame. And it may end up being
20 fruitless, Mr. Chairman, but at least we've tried.

21 THE CHAIRPERSON: Mr. Czarnecki, and I
22 would assume then you'd agree that if -- if the -- the
23 Panel agrees to this and the Panel moves to written
24 submissions on certain issues, that if there are any
25 questions, that we can bring the parties back for all

1 questions on specific issues arising.

2 MR. BRENT CZARNECKI: Yes, indeed, Mr.
3 Chair. You're the master of your process.

4 THE CHAIRPERSON: Finally, I just want
5 to say I noticed one (1) of the issues -- and this --
6 this isn't a question -- one (1) of the issues you
7 indicate is Ms. Grewal's availability on May 15th, and
8 I understand how busy she is.

9 But the one (1) thing I would say to
10 you is that, if at the end of her presentation we run
11 out of time for questions, either from Interveners or
12 the Board, then we're going to have to find an
13 alternative date for her to -- to come back.

14 So I just -- thought I'd just put that
15 on the record for it, but those are my questions.

16 MR. BRENT CZARNECKI: Mr. Chair, thank
17 you for flagging that, and -- and it may be a
18 practical suggestion, given her limited availability,
19 is perhaps we can think about bypassing on the initial
20 morning opening comments from Interveners and get
21 right into the questions, if that's -- that would help
22 in terms of time. But it's just a suggestion.

23 THE CHAIRPERSON: Yeah. We'll --
24 we'll look at it when we finalize the schedule, but
25 certainly, you know, we appreciate her time

1 commitments, but at the same time we can't -- we can't
2 limit cross-examination, so.

3 MR. BRENT CZARNECKI: And I'll bring
4 that back to her then.

5 THE CHAIRPERSON: Thank you. Sorry.
6 Ms. Bellringer, do you have any questions?

7 BOARD MEMBER BELLRINGER (by TEAMS):
8 No. You know -- hang on one (1) sec. Sorry.

9

10 (BRIEF PAUSE)

11

12 BOARD MEMBER BELLRINGER (by TEAMS):
13 Basically, they've all been asked, and, yeah, I mean,
14 just to be -- it's a bit of a -- you know, the -- the
15 bottom-line issue for May is I don't know exactly what
16 I want to ask until after the hearing's over.

17 I know that's a -- a silly way to look
18 at it perhaps, but it's the reality of some of the --
19 so in considering some of the requests for leaving
20 some things out of the actual hearing process, I'm --
21 I'm looking at it from that -- I think it would help
22 to hear the question about -- it doesn't prohibit us,
23 if you will, from -- or eliminate the possibility that
24 we can still ask questions on something. If there's
25 been a pre-discussion with an agreement on one (1)

1 matter, we can still go into it.

2 The only thing I'd be looking for there
3 is whether -- if something's moved out of the hearing
4 process to any degree, to make sure that we still have
5 experts in the room in case the questions get into
6 something that would require their intervention.

7 I -- I know that was a statement rather
8 than a question, but I think you can read a question
9 into it.

10 THE CHAIRPERSON: Appreciate it.
11 Thank you. Anything else, Carol? Okay.

12 We'll move on now to the counsel for
13 independent expert consultant. Is anyone here for --

14 MR. SVEN HOMBACK: I've been advised
15 that they're attending virtually --

16 THE CHAIRPERSON: Okay.

17 MR. SVEN HOMBACK: -- just recently
18 during the pre-hearing conference. If they're ready
19 to speak now, we can call on them. If not, then
20 (INDISCERNIBLE) on the list.

21 THE CHAIRPERSON: Yeah, Mr. Haight
22 and Mr. McLellan...?

23 MR. BRADLEY MCLELLAN (by TEAMS): Yes.
24 I -- I apologize to the Board and -- and to all in
25 attendance about the -- the confusion on our end, and

1 there's a bit of an issue with (INDISCERNIBLE), and
2 again, I apologize for that.

3 Mr. Haight should be available very
4 shortly. If possible, I think it'd be beneficial if
5 he could speak, if -- if we could circle back.

6 MR. SVEN HOMBACK: Perhaps what I
7 would suggest, Mr. Chair, is that we deal with the
8 Interveners first --

9 THE CHAIRPERSON: Sure.

10 MR. SVEN HOMBACK: -- as well, and
11 move counsel for Daymark's down the list which would
12 give Mr. Haight some time.

13 THE CHAIRPERSON: Sure. Okay.

14 MR. BRADLEY MCLELLAN (by TEAMS):
15 Okay. I appreciate it.

16 THE CHAIRPERSON: So thank you. We'll
17 move to counsel for the Assembly of Manitoba Chiefs.

18

19 SUBMISSIONS BY ASSEMBLY OF MANITOBA CHIEFS:

20 MS. EMILY GUGLIELMIN (by TEAMS):
21 Thank you. Yes, we can proceed. Good morning. My
22 name is Emily Guglielmin, and I, along with my
23 colleague Carly Fox, represent the Assembly of
24 Manitoba Chiefs.

25 We'd like to thank Mr. Chair for

1 acknowledging the Treaty land that this hearing is
2 taking place on and the land of Manitoba Hydro's
3 service territories.

4 I would also like to acknowledge my
5 presence on Treaty 7 territory and thank the Board for
6 allowing us to attend remotely.

7 In terms of the key issues in the GRA,
8 the Assembly of Manitoba Chiefs will focus on how
9 rates impact First Nations and their services and the
10 justness and reasonableness of the requested rate
11 increases for First Nations customers.

12 In addition, and particularly because
13 Manitoba Hydro is a Crown Corporation, reconciliation
14 and the principles of respect, engagement,
15 understanding, and action as set out in the Path To
16 Reconciliation Act are important underlying issues for
17 the AMC.

18 Specific issues that the AMC finds to
19 be key to this Hearing are primarily those issues
20 reflected in the AMC's Information Requests, including
21 issues related to cost of service, rate design, and
22 customer impacts, in particular, the impacts of the
23 Application to finalize the interim rate increase and
24 the Application for further rate increases on First
25 Nations customers, including issues with customer

1 arrears and bad debt.

2 The AMC also hopes to address the
3 reasonableness of the proposed rate increases on First
4 Nations customers given results of engagement
5 initiatives with those customers.

6 As part of customer impacts, the AMC
7 hopes to also address the impact of distributed energy
8 on Manitoba Hydro's forecasts with a particular focus
9 on the potential and impact of adoption of distributed
10 energy resources by First Nations customers.

11 Another key issue is Manitoba Hydro's
12 load forecast, including the impact on domestic
13 revenue and changes on load forecast, as well as
14 issues of export revenues and underlying market
15 forecasts.

16 The AMC will also address the issue of
17 the rate path, an appropriate pacing, given the
18 uncertainty on long-term forecasting and, lastly, the
19 issue of operations, maintenance, and administrative
20 expenses as those expenses relate to impacts for First
21 Nations customers.

22 Regarding in-scope and out-of-scope
23 issues, the AMC submits that the Board should
24 endeavour not to limit the scope of the issues given
25 the magnitude of the Application.

1 And given the narrow subset of issues
2 that the AMC intends to focus on, it asks that the
3 issues of relevance for First Nations customers be
4 dealt with through the regular oral hearing process.

5 The AMC will not be providing any
6 direct evidence in this Hearing. It will participate
7 in the oral hearing through cross-examination of
8 Manitoba Hydro.

9 As a preliminary statement, the AMC may
10 ask questions of witnesses for Consumers' Association
11 and MIPUG, but we're still in the process of reviewing
12 the reports that were submitted and intend to narrow
13 the scope as much as we can and may wish to cross-
14 examine Daymark.

15 Thank you. And subject to any
16 questions, those are our submissions.

17 THE CHAIRPERSON: Ms. Kapitany...?

18 VICE-CHAIR KAPITANY: Thank you. Do
19 you have any comment on the issue that we discussed
20 previously with Manitoba Hydro in terms of consensus
21 or agreement on issues then going to written argument
22 as opposed to it is consensus, then having an oral
23 portion of a hearing?

24 MS. EMILY GUGLIELMIN (by TEAMS):

25 Where there is consensus, we would agree to that

1 approach. I think primarily Manitoba Hydro was
2 talking about the depreciation issues. The AMC does
3 not intend to intervene on that issue but will --
4 would like to be kept in the loop on it. I don't know
5 if that answers the question.

6 VICE-CHAIR KAPITANY: And what about
7 issues other than depreciation? Just, in general, do
8 you have a comment on written versus oral?

9 MS. EMILY GUGLIELMIN (by TEAMS):
10 Where all the parties in -- in agreement, we would
11 agree that written evidence would make the most sense.

12 VICE-CHAIR KAPITANY: Thank you.

13 THE CHAIRPERSON: Ms. Bellringer, any
14 questions?

15 BOARD MEMBER BELLRINGER (by TEAMS):
16 No, not at this point. I have -- I have the same
17 question about -- I mean, because really what we're
18 grappling with is what to bring into the Hearing and
19 what to resolve outside of it.

20 Is there any particular topic you can
21 raise at this point that you'd say be very comfortable
22 to remove or it's still you're awaiting further
23 information on that?

24 MS. EMILY GUGLIELMIN (by TEAMS): At
25 this time, I don't think we have anything in mind.

1 The list of issues that I focussed on in my oral
2 submissions, those are the ones that we think are most
3 appropriate for an oral hearing.

4 Certain issues we -- we left out and
5 the AMC does not intend intervening on, so we have no
6 comment about those.

7 BOARD MEMBER BELLRINGER (by TEAMS):

8 Thank you.

9 THE CHAIRPERSON: Thank you very much.
10 The next counsel we ask is Consumer's Coalition.

11

12 SUBMISSIONS BY CONSUMERS COALITION:

13 DR. BYRON WILLIAMS: Good morning,
14 members of the Panel. And welcome to new members of
15 the Public Utilities Board, as well as to new members
16 of the -- of the Hydro Panel. And welcome back to our
17 -- our stand-bys or -- or the ones who've had a chance
18 to see us more on a number of occasions.

19 My name is Byron Williams, appearing on
20 behalf of the Consumers Coalition. And to my right is
21 my colleague Christopher Klassen, Chris Klassen. In
22 the third row, we've brought our own back bench, and
23 that is Miguel Sokolowski (phonetic). He's a third-
24 year law student who's interning with the Public
25 Interest Law Centre and no doubt learning really

1 impressive things.

2 In terms of issue 1, what are the key
3 issues in the GRA, at a high level, we -- we rely on
4 the Board's test for just and reasonable rates under -
5 - under the -- its decision in Order 5-12 where we'll
6 be examining the reliability of forecasts; the
7 prudence and necessity of expenditures; the reasonable
8 revenue needs in context of the overall corporate
9 health taking into account risks and opportunities;
10 issues related to cost allocation; and, ultimately,
11 issues related to rate design, the ultimate just and
12 reasonable rate that might flow from the Board's
13 deliberations.

14 The areas that our clients will
15 particularly focus on definitely relate to prudence
16 and reasonableness of expenditure in terms of the
17 growth and operating maintenance and administration
18 costs are longstanding concerns with the challenges of
19 Manitoba Hydro in addressing business operation
20 capital and managing its capital asset program
21 generally.

22 Certain key issues in terms of the rate
23 path go to risk assessment, where our clients take
24 odds with the perspective of Manitoba Hydro. And,
25 ultimately, we'll be focussing a lot on the financial

1 health of the Corporation and the ratepayers,
2 including issues related to debt management and
3 financial targets.

4 Obviously, with residential ratepayers
5 bearing a disproportionate load in Hydro's proposal of
6 this rate increase, issues of cost of service and rate
7 design will be a great interest.

8 Two (2) issues that may not be -- that
9 our clients will be interested in that may not appear
10 in our evidence, one (1) relates to depreciation.
11 We'll certainly let our friends from MIPUG take the
12 lead on that. I'll have some comments about process a
13 bit later in the conversation.

14 And we obviously look forward to the
15 independent evidence of Daymark on issues related to
16 export revenues. And we certainly appreciate the
17 Board taking the lead in -- in making sure that
18 evidence was -- was brought forward given the
19 challenges with confidentiality.

20 I want to now turn to issues 2 to 4 of
21 the Board's letters in terms of -- are -- are the
22 matters that should be ruled in-scope of out-of-scope
23 should any issues be restricted to written evidence
24 and -- and/or written submissions.

25 And I want to respond to my learned

1 from Mr. Czarnecki's comments about Morrison Park.
2 And I'll certainly ask the PUB to pull up the
3 executive summary from the Morrison Par evidence --
4 Morrison Park evidence. And we'll -- we can just
5 focus on lines 10 to 19 for a second.

6 But I am going to distract from those
7 lines for just a second because for the new board
8 members or those who have not sat on -- sat on Hydro
9 Panels before, it's important to realize who Morrison
10 Park is.

11 When you go back to the Need For and
12 Alternatives hearing back in 2014, their evidence in
13 terms of risk, opportunities, and financial targets
14 was critical and heavily relied upon by the Board.

15 Similarly, in -- in PUB decision
16 59/'18, when Manitoba Hydro brought in its much malign
17 7.9 percent rate increase, the independent evidence of
18 Morrison Park was heavily relied upon by the Manitoba
19 Hydro Public Utilities Board in -- in rejecting that -
20 - that rate path.

21 And we -- for those reasons, we
22 certainly understand why Manitoba Hydro would not be
23 keen to have Morrison Park appear as witnesses. We
24 were actually quite puzzled by their -- their letter
25 in terms of suggesting that Morrison Park was

1 duplicative of Mr. Rainkie.

2 Their conclusions may be similar, but
3 the path they get there are very different and -- and,
4 in fact, we had anticipated that Manitoba Hydro, at
5 some point in time, might be pointing to potential or
6 alleged dichotomies in the analytical path of Morrison
7 Park and Mr. Rainkie. We didn't see them as
8 dichotomies, but they are following a very different
9 path.

10 The reputation of Morrison Park and --
11 and its insight into matters that are relevant to rate
12 setting is on question -- I've just highlighted, from
13 the executive summary, the questions that -- some of
14 the questions that they're addressing in lines twelve
15 (12) through nineteen (19). And really addressing,
16 and in a different way, and -- and from a different
17 perspective than Mr. Rainkie.

18 My learned friend did draw your
19 attention to page 28 of Morrison Park's evidence. I'm
20 not going to take you there, but we always have to be
21 careful in these proceedings about cherry-picking.

22 And he -- he drew your attention to a
23 few lines. If you went down a couple lines more, page
24 -- line 131, for example, you would see Mr. Colaiacovo
25 pulling it all together and explaining why it's

1 relevant to rate setting.

2 So while we understand the temptation
3 of Manitoba Hydro to avoid a witness who has been
4 fundamentally helpful to this Board, who is addressing
5 key issues relating to the financial health, financial
6 targets of this Board, and is addressing existential
7 questions about how Bill 36 comes into play.

8 We understand why that's tempting for
9 them to try and exclude that evidence, but we think
10 when the Board reviews Mr. Colaiacovo's evidence in
11 its totality, they will find it going right to the
12 heart of its rate-setting questions. And in
13 particular, that issue of the overall health of the
14 Corporation, bullet 3, in terms of the Board's test
15 for just and reasonable rates.

16 There's been a lot of discussion about
17 Bill 36. I wish I could be really eloquent on it.
18 But I think the letter of MIPUG at page 3 and 4 and
19 their commentary on Bill 36 and about the different
20 views of parties, we can't say it any better than they
21 have. And we appreciate the insight that they have
22 provided on this point.

23 And if the Board has any more doubts
24 about Mr. Colaiacovo's evidence, we would certainly
25 encourage you to turn your attention there. It -- it

1 says it in a way that -- that I can't.

2 Just on conclusion on Morrison Park,
3 they obviously -- from our clients' perspective --
4 provide a necessary perspective to assist the Board in
5 assessing Hydro's financial health and financial
6 targets. And that goes to the core of the rate-
7 setting exercise.

8 And their experience in financial
9 markets, they're unique in this Hearing, with that
10 unique expertise.

11 And -- and also, one (1) last point I
12 guess I do want to make. This Board has always
13 focused on implications for Manitoba Hydro and its
14 financial health. But it's been a question before
15 this Board always, the health of Manitoba is
16 intimately tied with this.

17 And if you go back to Board
18 deliberations over the last twenty (20) years, that
19 interplay -- like, our focus is on rate setting, but
20 when the Board was looking at these considerations, be
21 mindful that what happens at Hydro does have
22 implications for -- for the Province as well.

23 I think that addresses Morrison Park to
24 the best of my abilities.

25 In terms of potential matters that

1 might go to a written process, whether in terms of
2 evidence or in terms of evidence in written
3 submissions, our client does quibble a little bit for
4 efficiency reasons and learning reasons with the focus
5 on written evidence.

6 We know -- we're all familiar with the
7 literature about how people learn in regulatory
8 proceedings, and it is an iterative exercise involving
9 written and oral.

10 And so, that is generally how, I think,
11 the literature suggests people learn in these
12 processes.

13 And we will also say that we're not
14 sure there's much cost savings that comes from making
15 us write more. But that will be up to the Board.

16 But in terms of matters where our
17 clients are sympathetic to the submissions of Hydro, I
18 can indicate that we will not be focusing very much on
19 issues such as Curtailable Rate Programs, Surplus
20 Energy, the 2024 Lighting Cost of Service, or diesel
21 zone rates. Those aren't the areas of emphasis for
22 us. I can just indicate that to the Board.

23 So if it's thinking that -- that there
24 is some value in -- in moving them to a written
25 process, those will not -- we're not going to be

1 protesting very loudly if the Board makes that
2 decision.

3 Our clients is quite intrigued with the
4 depreciation discussion. Our clients are working on a
5 very -- I guess, to the best of our knowledge, what it
6 sounds like Manitoba Hydro and MIPUG may have been
7 talking about is some sort of process where we try to
8 narrow the issues prior to the Hearing, perhaps
9 through an agreed statement of positions. I could be
10 wrong on that. And then, an exercise -- I won't use
11 the term 'hot-tubbing' -- but an exercise where
12 experts might appear jointly.

13 We're not opposed to that, if that's
14 the way the Board feels is more prudent to go.

15 We do want to make sure that -- because
16 our clients have deferred some of these deprecation
17 issues to our friends from MIPUG, we still will have
18 questions that we will probably want to put through
19 cross-examination. We certainly want to make sure
20 that depreciation, which we think is very important,
21 does get heard orally before this Board. We're
22 agnostic on the format that it comes in on.

23 So we're not -- so we're certainly not
24 opposed to some collaborative efforts in that regard.

25 The other caution we would have is

1 we're on a tight schedule. Our clients, as you'll
2 hear, have carefully planned out our next five (5)
3 weeks. So we have to be careful about sidetracking
4 necessary Hearing preparation on that -- on a
5 depreciation experiment.

6 So if we can have confidence that it
7 will move efficiently, certainly we're happy to
8 participate. But we just want to be careful because
9 our time is limited and -- and we've got a pretty
10 careful plan already set out.

11 In terms of questions 5 and 6, we
12 anticipate calling four (4) witnesses. Mr. Darren
13 Rainkie on overall issues related to the revenue
14 requirement. Ms. Kelly Derkson on issues related to
15 costs of service and rate design.

16 The witnesses from Midguard actually
17 will be two (2); Chris Oakley and Mr. Peter Helland.
18 And they'll be on capital asset management.

19 And we certainly -- so this is five (5)
20 witnesses -- anticipate calling Mr. Colaiacovo on
21 Manitoba Hydro's financial health and potentially
22 issues related to debt management and -- and its
23 implications for its financial health.

24 We do anticipate -- not because they're
25 a duplicative but because we think they're very

1 complementary, that it may be possible that Mr.
2 Rainkie and Mr. Colaiacovo appear together. That is
3 one thing that we've been contemplating because we
4 think they bring divergent perspectives that are --
5 but that are quite complementary.

6 In terms of question 7, how much time
7 does each party need for direct examination, we expect
8 the examination of Mr. Rainkie will take about two (2)
9 hours. For Morrison Park, a bit less than an hour.
10 For Ms. Derkson, in the range of an hour-and-a-half.
11 And for Midguard, in the range of an hour-and-a-half.

12 In terms of cross-examination, again,
13 this depends on the Board's issues list and what --
14 what it chooses to do. But we do have a tentative
15 time budget, recognizing we've not seen Daymark's
16 evidence.

17 For the Hydro panel in its totality, we
18 estimate between eight (8) and ten (10) hours.
19 Currently, our best guess is, for capital asset
20 management, one-point-five (1.5) hours. For cost of
21 service, one-point-five (1.5) hours. For operating,
22 maintenance, and administration expenses, one-point-
23 five (1.5) hours. For issues related to risk, in the
24 range of two (2) hours.

25 For the CEO -- if this gives any

1 comfort to Manitoba Hydro -- less than fifteen (15)
2 minutes. We don't find examination at that kind of
3 level that helpful. So we wouldn't expect to have
4 many questions for the CEO.

5 In terms of experts for Manitoba Hydro,
6 currently in the range of thirty (30) to forty-five
7 (45) minutes. But we would anticipate longer for
8 Daymark, in the range of an hour.

9 For the witnesses brought forth by the
10 General Service Medium, we have to be careful. We
11 haven't had a chance to go through that evidence and
12 to the extent that it points in the same direction as
13 our clients, we will not be doing friendly cross.

14 So we would just say that, currently,
15 we estimate 30 minutes but that might be subject to
16 change.

17 For our friends from MIPUG, currently,
18 we have in the range of an hour to an hour-and-a-half.

19 So that, I hope, is, from our clients'
20 perspective, a response to your questions and we
21 certainly invite any additional questions from the
22 Panel. Thank you.

23 THE CHAIRPERSON: Ms. Kapitany...?

24 VICE-CHAIR KAPITANY: Thank you, Mr.
25 Williams. I have a question about -- you said, in

1 terms of Mr. Colaiacovo and Mr. Rainkie. You said
2 their conclusions are similar but the paths they took
3 to get there are different.

4 Could you elaborate on why that doesn't
5 constitute duplication?

6 DR. BYRON WILLIAMS: Because it's --
7 it's -- it's different. To us, the -- frankly, the
8 least important evidence from a witness is the rec --
9 recog -- their recommendations. To us, the key issue
10 is their critical analysis of -- of the -- of the
11 Board's -- of the issues before the Board.

12 And when I said that, I just want to be
13 clear, Mr. Colaiacovo is saying, from a -- his
14 conclusions are very narrow. He's saying from a
15 narrow financial perspective -- financial health of
16 the Corporation, there is no basis for a rate
17 increase. It is a more narrow one but that's --
18 that's to the extent that it's similar to Mr. -- Mr.
19 Rainkie.

20 But the analysis, in a way, they're --
21 they're complementary because they're addressing
22 different critical ways to look at the Application
23 and, obviously, Morrison Park's expertise is on access
24 to the financial matters, access -- issues of risk and
25 that is their core expertise and they're pre-eminent

1 in that field and -- and he's looking at issues such
2 as rate stability, the financial health of the
3 Corporation, and -- and the impacts on -- on the
4 Corporation's overall health over the short, medium,
5 and long term, in a way that is unique in this
6 hearing.

7 So, the lat -- his prism is quite
8 unique, even if the ultimate conclusion, albeit
9 narrower, is analogous to Mr. Rainkie's.

10 VICE-CHAIR KAPITANY: Thank you. That
11 helps.

12 DR. BYRON WILLIAMS: Thank you.

13 VICE-CHAIR KAPITANY: My other
14 question was on depreciation and I confess I got a bit
15 lost in the discussion there because, at one point,
16 you said that CAC would still have questions, even if
17 there is agreement on the issues but, then, I thought
18 I heard you say, at another point --

19 DR. BYRON WILLIAMS: Okay.

20 VICE-CHAIR KAPITANY: -- that, if
21 there is agreement on the issues, that we could go to
22 written arguments.

23 DR. BYRON WILLIAMS: No. Sorry, and I
24 probably got a little lost myself, so that's -- here's
25 what -- here's -- the core witnesses on depreciation

1 are coming from Hydro and from our friends at the
2 Manitoba Industrial Power Users Group.

3 Even if they reach consensus, we're
4 probably going to have some questions. In fact, if
5 they do have consensus, we're more likely to have
6 questions -- more questions.

7 All I was simply trying to say, and I
8 apologize for my imprecision, is I'm imagining we've
9 done this, like our friends, Mr. Czarnecki, but, prior
10 to a high -- a hearing, there may be an agreed
11 Statement of Facts or there may be an agreed Statement
12 of Conclusions, so that we -- and to -- to that
13 extent, you would submit that prior to the hearing,
14 that might turn what looks like a 20 -- 20-subject-
15 matter opus on depreciation, into five (5) core
16 issues, if that makes any -- if that makes any sense,
17 and I apologize for my imprecision.

18 VICE-CHAIR KAPITANY: I apologize for
19 not understanding --

20 DR. BYRON WILLIAMS: No. I didn't say
21 it very well. Thank you.

22 THE CHAIRPERSON: I get the feeling I
23 should be apologizing for something but -- Yeah, it's
24 (INDISCERNIBLE). Mr. Bass...? Ms. Bellringer...?

25 BOARD MEMBER BELLRINGER (by TEAMS):

1 Sorry. Sorry. I have to play around with sound on
2 this.

3 I was struck by the comment about not
4 much cost savings by writing more and, then, I'm also
5 struck by -- we have a lot of data before us and
6 needing to move it into decision points.

7 Are there areas where you don't think
8 there's enough information on the record or -- I mean,
9 and I also appreciate that may have just been, you
10 know, it's one of those, if I had more time, I'd give
11 you less -- I'd give you less written information.

12 Is there any one (1) area where you'd
13 say, yeah, there isn't enough information at this
14 point to make a decision on a written -- from a
15 written perspective?

16 DR. BYRON WILLIAMS: I can think of
17 three (3), and thank you for the question right off
18 the top.

19 Definitely Manitoba Hydro's cap --
20 Capital Asset Management Plan has been opaque in 2-0-8
21 (sic), 2012, 2016, 2020, 2019, so definitely there.
22 There we'll be running on the fly in -- in that area
23 because it is really hard to understand what the
24 Corporation is doing and -- and, certainly, we know
25 what good practice public utilities do every -- we

1 can't see that here and, so, we're still struggling to
2 understand that.

3 We fully expect on operating,
4 maintenance and administrative costs, that we will
5 have a vigorous cross-examination on that -- and how
6 the meter -- meteoric rise since 2019 is actually
7 revealing itself in -- in key performance in --
8 indicators.

9 How, if at all, it's delivering value,
10 for sure we'll be -- we'll be looking at that, and --
11 and, certainly, we think in terms of financial risk.
12 There is a wide -- a wi -- and -- and how the corp --
13 circumstances of the Corporation have changed, there
14 is a wide divergence of a -- appearance, and, in that
15 area, we expect to have some helpful analysis in terms
16 of trying -- trying to explore that.

17 So, those are three (3) right off the
18 bat but are -- that -- that I -- I can -- and you can
19 see that reflected in the relative time estimates that
20 we've identified for -- for those three (3).

21 Board Member Bellringer, the -- the
22 other thing I'll say is that, on issues of cost of
23 service, there are profound differences of perspective
24 and, so, it is: Will you be testing those differences
25 in perspective? So, you know, assertions are made and

1 -- and we certainly anticipate challenging a number of
2 those assertions.

3 So, I think the areas where our clients
4 feel -- as you can see we've given the pre-refined
5 estimates for cross-examination. We're pretty, you
6 know, we'll be ready to go in three (3) weeks, from
7 our perspective, on those areas, and those are the
8 areas that we have identified. Thank you.

9 THE CHAIRPERSON: Board Member
10 Bellringer, anything further?

11 BOARD MEMBER BELLRINGER (by TEAMS):
12 No. That's good. Thank you.

13 THE CHAIRPERSON: Yeah. Mr. Williams,
14 I have -- I have not read Morrison Park material yet
15 but I will do so in leading towards writing a
16 decision.

17 Is it -- is it your position that the
18 PUB is or is not bound by the provisions of Bill 36?

19 DR. BYRON WILLIAMS: The -- from --
20 you're asking the legal pro -- the legal --

21 THE CHAIRPERSON: -- the statutory
22 provisions.

23 DR. BYRON WILLIAMS: The -- the
24 Manitoba Legislature made a conscious choice, when
25 Bill 36 was passed, and Bill 36 comes into effect on

1 April 1st of 2025.

2 THE CHAIRPERSON: Correct.

3 DR. BYRON WILLIAMS: This, from our
4 client's perspective, this rate-setting ex -- exercise
5 is the -- the applicable regulatory framework is the
6 existing statutory framework that we have already.

7 THE CHAIRPERSON: Right.

8 DR. BYRON WILLIAMS: In the Board's
9 deliberations, and we certainly think anticipatory
10 rate increases that are not just and reasonable today
11 to meet some -- some -- some target, many years down
12 the line, are -- are highly questionable, whether
13 those are appropriate.

14 Bill 36 does exist, though, and -- and
15 certainly, you know, that's part of the -- the
16 dialogue, but our -- our clients' view is you're bound
17 by the existing rate-setting frame -- framework, which
18 will exist up to April -- April 1st, 2025.

19 THE CHAIRPERSON: Right. We -- we are
20 bound by what has been proclaimed. Sorry, by what has
21 passed -- by Part 1 that was passed by Royal Assent
22 but not the parts that have not been proclaimed.

23 DR. BYRON WILLIAMS: Agreed.

24 THE CHAIRPERSON: Okay. You made the
25 comment about the need to read the statements that

1 Manitoba Hydro put in context of what Morrison Park
2 wrote and that's why I want to read Morrison Park.

3 I guess the question is in relation to
4 the specific statement that Hydro wrote on page 3:

5 "At a minimum, the PUB may wish to
6 consider commenting on the
7 government's choice of financial
8 targets and the lack of support for
9 the same Bill arises from regulatory
10 principles."

11 Is it your view that it's appropriate
12 for a tribunal to comment on the choice the government
13 made and its targets for legislation?

14 MR. BYRON WILLIAMS: Perhaps -- Mr.
15 Colaiacovo was a very good writer, perhaps not his
16 best choice of words there. What I interpret him to
17 be saying there, is that in terms of the Public
18 Utilities Board assessment under the -- the test for
19 the overall health of the Corporation.

20 And one (1) of the key issues we have
21 for financial targets is -- is those sort of -- the
22 financial targets are important as indicia of the
23 Corporation's ability to access affordable capital and
24 debt in -- in the marketplace.

25 And what I think he was referring to

1 there is not a judgment -- not a commentary on the
2 political judgment, but in terms of the Board's
3 deliberations, making a finding that for assessing,
4 like in -- in looking at the overall health of the
5 Corporation, those financial targets of seventy
6 (70)/thirty (30), or -- or seventy-five (75)/twenty-
7 five (25) are not necessary or primary determinance of
8 the Board's -- of Manitoba Hydro's ability to access
9 affordable capital.

10 I'm don't know if I'm helping on that.

11 THE CHAIRPERSON: Well, we'll have to
12 -- I will assume we would read what he -- read what he
13 wrote.

14 MR. BYRON WILLIAMS: Yeah, like what -
15 - what I interpret him trying to say is that the Board
16 has -- has been on a pathway in terms of an analysis
17 and what Manitoba Hydro needs to get affordable access
18 to the financial markets.

19 You've -- you had a -- a very helpful
20 decision in 59/'18 and -- and to the extent that the
21 targets that Manitoba Hydro is aspiring for, such as
22 seventy (70)/thirty (30), those aren't necessary to --
23 to get affordable access to the financial market.
24 That's what I understand that he's saying.

25 THE CHAIRPERSON: Okay. Thank you.

1 (BRIEF PAUSE)

2

3 MR. SVEN HOMBACH: Counsel for the
4 GSS/GSM representative.

5 THE CHAIRPERSON: Yeah, well, I was
6 just going to call on him, thank you.

7

8 (BRIEF PAUSE)

9

10 SUBMISSIONS BY GSS/GSM:

11 MR. THOMAS REIMER: I was going to
12 start by saying that it's my first appearance at the
13 PUB. I don't think I need to do that anymore, but --
14 so, Thomas Reimer, appearing on behalf of the GSS/GSM
15 Group. With me is my colleague Robert Walichnowski.
16 And I started -- I suppose I should put it on the
17 record by saying good morning, Mr. Chair, and members
18 of the panel.

19 I know that this is a unique legal
20 ecosystem and it's my intention and hope that I will
21 approach it with the appropriate measure of humility.
22 But I do hope that you'll bear with me if I make
23 missteps this morning or during the process, and I
24 welcome informal comments or kicks under the table, as
25 necessary, if I step out of line with the Board's

1 customary practice.

2 I'm going to start addressing the seven
3 (7) questions in a little bit of a different order,
4 and just by starting with number 5, the witness list.

5 Barring something unforeseen and
6 unexpected in the evidence that is yet to be filed, we
7 will be fil -- we will be calling only one (1)
8 witness, that is Mr. Dustin Madsen. You have his
9 report. He's been referred to a few times and -- and
10 so, it's -- I just want, sir, to have that out there
11 at the beginning.

12 We've asked Mr. Madsen to be available
13 on potentially two (2) separate occasions. He'll be
14 coming from out of province, but we had thought there
15 might be a panel on depreciation.

16 And then separately, we would call him
17 for his other evidence. And I'll -- I'll get to the
18 issues about collaboration in a moment.

19 Now, in terms of the key issues that
20 we'll be filing -- or addressing in our evidence, Mr.
21 Madsen has identified four (4) key issues and he's
22 provided substantive evidence on -- on three (3) of
23 them. And then -- and then on the fourth he has,
24 essentially, said that he believes that -- on rate
25 design, which is the fourth issue that he identifies,

1 he believes that Manitoba Hydro has proposed something
2 that is, at least, directionally reasonable and he
3 doesn't gainsay it or -- or propose to put evidence
4 that -- that contradicts it.

5 Now, with that said, given the evidence
6 that's been filed by MIPUG and by the Coalition on
7 this point, we expect we will be dealing with rate
8 design issues through cross-examination and through --
9 through submissions.

10 Now, in terms of the other three (3)
11 issues that Mr. Madsen has filed evidence on, they are
12 depreciation, and that comprises probably about two-
13 thirds (2/3) of his report.

14 He -- he has also dealt with operating
15 and administration costs, and IT issues, particularly,
16 relating to cloud computing upgrades that have been
17 proposed. There was one (1) point of clarification
18 that I just wanted to draw the Panel's attention to
19 following Mr. Hacault's letter last night.

20 And this is that, we do not want to
21 give the -- the impression, and certainly Mr. Madsen
22 does not want to give the impression that he's
23 recommending any cuts to costs, if -- if there's going
24 to be compromises to reliability.

25 So, I don't know if that was clear in -

1 - in his report, but certainly that's not his
2 position, and I just wanted to make sure that that was
3 clarified this morning.

4 Now, I'll perhaps touch on scope. One
5 thing that -- this -- this may have been -- pardon me.
6 As a general proposition, and I think the other
7 Interveners have -- have commented to this effect as
8 well, you know, there are very good reasons why this
9 hearing should have a broad scope, and particularly
10 the oral hearing.

11 And -- and I found very useful, and
12 perhaps by my status as a rookie made it more useful
13 to me than to others, but Mr. Bowman provided some
14 historical context in which I think the -- the context
15 for this GRA is -- is very usefully considered in
16 terms of what the scope of the oral hearings should be
17 here.

18 And -- and obviously, you will read it,
19 but I -- I commend it. So, in terms of scope, we
20 don't take issues with anything that Mr. Czarnecki
21 said in his letter or Mr. Hacault in his letter, or
22 frankly, the -- the submissions of Mr. Williams this
23 morning.

24 As I say, we think as a default it
25 should be broad in scope, given the context in which

1 the GRA comes around this time. And I don't think
2 that there's really any dispute about whether the
3 issues that we've identified in our evidence is within
4 scope.

5 In terms of -- and -- and this may be -
6 - in the context of addressing questions 3 and 4, this
7 may be a good opportunity to talk about the
8 collaborative approach that's been needed in terms of
9 depreciation.

10 Certainly, we would be interested, and
11 Mr. Madsen would be interested, in having a discussion
12 with Manitoba Hydro's -- Manitoba Hydro's experts.
13 And I -- I agree with Mr. Czarnecki about lawyers
14 probably not being much value added.

15 I, myself, am an English major. So, I
16 -- I would probably be on the low end of the value add
17 there. But, Mr. Madsen, you know, as you will tell
18 when you get to his evidence, is -- is very good on
19 this evidence and -- and has a very good
20 understanding.

21 And -- and I know that he would be
22 prepared to have a conversation with Manitoba Hydro
23 about this. And -- and certainly, we would not be
24 opposed to dealing with the issue by way of some joint
25 recommendation.

1 And if that means that we don't need a
2 week or however many days of evidence on the issue,
3 that would be fine with us. To a certain extent, I --
4 I bow to my more experienced colleagues in this forum.

5 And -- and if they feel that there is,
6 even in -- in the face of a joint recommendation some
7 benefit to having the Board hear evidence about
8 depreciation, it is a very dense topic, one that I'm -
9 - I'm still very much wrapping my own head around.

10 But, you know, if the Board feels that
11 it would be helpful, even in the face of a joint
12 recommendation to hear evidence, we'd be open to that.
13 By the same token, if, you know, if -- if there are
14 major efficiencies to be gained by dealing with it in
15 writing, if there is an agreement, of course, then
16 that's something that we would be prepared to go along
17 with as well.

18 So, I -- I suppose I'm -- I'm not
19 giving you a firm position on that, but I think it is
20 worthwhile to see how those conversations unfold and
21 then we can go from there.

22 I think the only other issue that I
23 need to address is time for direct and cross. Mr.
24 Madsen is probably a bit more optimistic than I am
25 about how long he needs. He suggested he could get

1 done his direct in an -- in an hour total.

2 I think if you're going to hear
3 evidence from him on depreciation, my druthers would
4 be to have a little bit of a longer presentation on
5 that issue if it's needed because, as I say, and --
6 and I don't probably have to say it to -- to any of
7 you, it is a very dense issue and -- and I think it
8 will just need some more time as a result of that.

9 So I would say, you know, probably
10 between one (1) and two (2) hours total for his
11 direct, and -- and then I don't know how long my
12 friends would be intending to cross-examine him.
13 Again, it sounds somewhat hopeful that -- that it --
14 it may not be too controversial of an issue as it
15 turns out.

16 In terms of my own cross-examinations,
17 I cannot provide you with as detailed an outline of my
18 time budgets as Mr. Williams did. Suffice it to say,
19 my hope would be that I would be fairly economical
20 with whatever time is -- is provided to me.

21 And -- and certainly I have spoken to
22 Mr. Hacault and Mr. Williams about, you know,
23 coordinating with Intervener counsel in terms of not
24 duplicating cross-examinations and, you know, where --
25 where it makes sense for one (1) of us to take the

1 lead, you know, I would certainly be prepared to -- to
2 do that in order to streamline that process.

3 So, I don't know that that's helpful in
4 terms of budgeting time, but certainly I would not be
5 looking to have lengthy cross-examinations; that
6 wouldn't be my style. And I hope that provides at
7 least some information about what you can expect from
8 me.

9 I believe I've addressed all seven (7)
10 issues on the -- on the letter, so I will just pause
11 for -- oh, there is one (1) other -- there is one (1)
12 other point that I wanted to raise in anticipation of
13 perhaps my friend Mr. Hacault's presentation which is
14 to follow mine.

15 He made a comment about the Conawapa
16 issue and -- and whether there should be a write-down.
17 And I can advise the Board that -- that we don't take
18 a position on that point so, you know, we're in the
19 hands of the Board. And -- and I'm sure you'll hear
20 from Mr. Hacault on that issue. I believe there is
21 some time sensitivity.

22 So I just wanted to raise that now. So
23 subject to your questions, those are my remarks this
24 morning. Thank you.

25 THE CHAIRPERSON: Thank you, Mr.

1 Reimer. Ms. Kapitany...?

2 VICE-CHAIR KAPITANY: Thank you, Mr.

3 Reimer. (INDISCERNIBLE) lost again on depreciation,
4 so this clearly is not my area of specialty. But if
5 there is a consensus on depreciation or, as Mr.
6 Williams had said, in an agreed statement of fact, is
7 it still your intention to have Mr. Madsen present
8 evidence?

9 MR. THOMAS REIMER: I think -- I hope
10 it's a satisfactory response for me to say I would be
11 in your hands and Mr. Madsen would be in your hands.

12 If -- if you feel that it would be
13 helpful to you to present -- to have him come and
14 present, certainly, he is very knowledgeable and can
15 provide answers to the questions that might be given
16 to him by the Panel, by -- by Board counsel, or by --
17 by the other lawyers.

18 So it would be our intention simply to
19 follow the directive of the Board, and -- and I think
20 Mr. Czarnecki indicated that, you know, to a certain
21 extent, we are looking to you to -- to give us some
22 direction on this, and I would just affirm that.

23 I -- I know I'm -- I'm not quite
24 answering the question, but -- but we are agreeable to
25 making this as efficient as -- as possible without

1 sort of shortcutting anything that -- you know, where
2 you feel you need evidence to -- to help you make a
3 decision on a particular point.

4 I hope that answers the question, at
5 least somewhat.

6 VICE-CHAIR KAPITANY: It helps, but
7 are you certain you're -- you're an English major and
8 not an economist? Because we certainly like to say
9 'on one hand, but on the other hand', so.

10 MR. THOMAS REIMER: Yeah. Well, I
11 think that's a lawyerly --

12 VICE-CHAIR KAPITANY: It depends.

13 MR. THOMAS REIMER: -- thing to do as
14 well.

15 VICE-CHAIR KAPITANY: My other
16 question was: You had said the hearing should be
17 broad in scope, but you also said you didn't agree --
18 you -- you didn't have any disagreement with Manitoba
19 Hydro's letter. So I was not quite sure on that
20 point.

21 MR. THOMAS REIMER: Fair point. Now,
22 I think my friend Mr. Czarnecki starts his letter, or
23 maybe it's in the second page, where he sets out a
24 number of themes. I think his -- his phrase this
25 morning was 'covering the waterfront'.

1 And -- and as I understood it, and --
2 and I -- if I've misunderstood it, I apologize -- as I
3 understood it, he was saying these are things that we
4 see as being within scope. He doesn't say that, but
5 that's my interpretation.

6 And so, you know, that being the case,
7 I don't think there's any controversy certainly from
8 our perspective about things that we want to address
9 being within the scope of the hearing. And we don't
10 take a position in terms of the things that he's
11 asking the Board to declare out of scope.

12 And -- and we also don't take a
13 position and we haven't filed evidence with respect to
14 the three (3) bullets where he's identifying things
15 that can be addressed in writing.

16 So, the short answer to your question
17 is, in terms of having something ruled out of scope --
18 like, if you were ruling depreciation -- or if you --
19 you were being asked to rule depreciation out of
20 scope, I would certainly have something to say about
21 that.

22 But as I understand it, the things we
23 want to address, everybody seems to be in agreement
24 that -- that they should be within the scope of the
25 hearing.

1 VICE-CHAIR KAPITANY: And be addressed
2 either in oral argument or in written argument?

3 MR. THOMAS REIMER: Yeah, and -- and
4 on that front again, I -- I -- you know, I may not be
5 as agreeable throughout the process, but certainly I'm
6 agree -- I'm -- I -- I understand I'm a newcomer here.
7 I -- I want to fit in to a certain extent, and I don't
8 have a strong perspective on what the procedure should
9 be.

10 And so I'm in your hands, and -- and I
11 certainly take on board -- my more experienced learned
12 friends here in terms of what they think is -- is
13 necessary or -- or use -- useful for you.

14 VICE-CHAIR KAPITANY: Thank you.

15 THE CHAIRPERSON: Ms. Bellringer, do
16 you have any questions?

17 BOARD MEMBER BELLRINGER (by TEAMS):
18 Sorry. I lost the internet for quite a while there,
19 so I -- no, I don't have any questions at this point.
20 Sorry about that.

21 THE CHAIRPERSON: Okay. Mr. Reimer,
22 I'd just point out, the paragraph you're looking at on
23 page 2 is the one with the five (5) bullets?

24 MR. THOMAS REIMER: Yes.

25 THE CHAIRPERSON: Okay. As I

1 understand that paragraph, that paragraph is not
2 focussed on scoping, it's focussed on the Board Panel
3 may require oral evidence to supplement the written
4 evidence if there should be issues.

5 MR. THOMAS REIMER: Yeah, I -- I
6 agree. Mr. Chair, I agree, and -- and as I say, I
7 don't -- I didn't understand -- he wasn't saying what
8 I said, but that was my interpretation was that he was
9 -- and -- and I think, if I understood him correctly
10 this morning, you know, he was sort of referring to
11 these are the things that we would ordinarily do. I
12 understand the -- the clarification you're -- you're
13 asking. I don't disagree with you.

14 THE CHAIRPERSON: Yeah. So I would
15 say to my colleague that the economist's default
16 position is 'on the one hand or on the other hand'.
17 And the default position for lawyers is 'it depends'.
18 So having said that, it depends.

19 We're going to take the morning break
20 now and -- and reconvene at 10:40. Thank you.

21 MR. THOMAS REIMER: Thank you.

22

23 --- Upon recessing at 10:27 a.m.

24 --- Upon resuming at 10:44 a.m.

25

1 THE CHAIRPERSON: Okay. If we could
2 continue, I will call upon counsel for MIPUG.

3

4

5 SUBMISSIONS BY MIPUG:

6 MR. ANTOINE HACAULT: Bonjour, Mr.
7 Chair, Madam Vice-chair, Board members, Board counsel,
8 Hydro counsel, Hydro representatives, all Intervenors.
9 As Mr. Czarnecki said, good to see everybody. My
10 name's Antoine Hacault of Thompson Dorfman Sweatman. I
11 act on behalf of Manitoba Industrial Power Users
12 Group.

13 With me today to my left are Patrick
14 Bowman and to my right --

15 MS. RACHEL McMILLIN: Sorry, Mr.
16 Hacault, can I interrupt for a second? The live
17 stream is not working.

18 THE CHAIRPERSON: Just wait for a
19 second. Thank you.

20

21 (BRIEF PAUSE)

22

23 MR. SVEN HOMBACH: We're still having
24 difficulty with the live stream. What I would suggest
25 is that we'll proceed with the meeting since the Panel

1 members are all on TEAMS and TEAMS is working.

2 If any of the parties have someone
3 following on the live stream, we could add them to the
4 TEAMS call and Ms. Schubert could send out an
5 invitation.

6 Is there any else that Manitoba Hydro
7 or the Interveners would needed added?

8

9 (BRIEF PAUSE)

10

11 MR. SVEN HOMBACH: So -- so, maybe
12 let's take a break of a few minutes or so.

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: I understand that we
17 have Manitoba Hydro on (INDISCERNIBLE) and will
18 endeavour to get onto the live stream. But, Mr.
19 Hacault, if you can continue, please.

20 MR. ANTOINE HACAULT: I'll try and
21 reintroduce myself. Bonjour, Chair, Madam Vice-chair,
22 Board members, Board counsel, including somebody who
23 now calls himself counsel and who we regularly saw
24 here and whom we really appreciated the presence of,
25 is Mr. Bob Peters, counsel to Manitoba Hydro, Manitoba

1 Hydro representatives, all Interveners.

2 To my left is Patrick Bowman and to my
3 right Dale Freisen. My name's Antoine Hacault, of
4 Thompson Dorfman Sweatman. And we act on behalf of
5 Manitoba Power Industrial Users Group.

6 You have our letter of April 5, 2023.
7 I'm not going to repeat it, but there's some points I
8 might emphasize and some points that were made in the
9 presentations of others and the questions of this
10 Panel which hopefully I could address.

11 I'll start by addressing the legal
12 question that the Chair asked with respect to the
13 impact of Bill 36. In my respectful submission, the
14 Board may want to consider if it's going to want to
15 make a pre ruling on that, to have formal written
16 submissions.

17 It is a fairly technical point. We
18 haven't dealt with it extensively as legal counsel,
19 either Manitoba Hydro or Mr. Williams. And if it --
20 the Board feels it needs to be dealt with earlier
21 rather than sooner, I would suggest that there be a
22 motion day for that. Otherwise, normally, we would
23 deal with that in our final submissions, and -- and
24 that would be part of our legal argument.

25 We appreciate as counsel having the

1 opportunity to make written submissions. For example,
2 there was a ruling by this Board on expert testimony.
3 And with all due respect, if some of us had had an
4 opportunity to set out the full interpretation of the
5 law the way we see it, I think it would have been
6 useful information for the Board to have in -- in
7 making its decision.

8 And I'll now proceed to general
9 comments. There were some questions with respect
10 generally to what should be oral and in writing.
11 (INDISCERNIBLE) have always viewed it to try and
12 assist the Board.

13 Ultimately, it is the decision maker
14 irrespective of recommendations being made by parties.
15 It has the jurisdiction and the role to determine just
16 and fair rates so that, while we hope that our
17 recommendations, if they are joint recommendations, be
18 considered and given appropriate weight by the Board,
19 ultimately it makes the decision.

20 A general comment on scope. We've got
21 a long history in the last years of trying to get
22 information and trying to get a complete application
23 which we thank Hydro for having done in this Hearing,
24 but there's been a long time period in which there
25 hasn't been a full analysis of all the areas and to

1 unduly limit scope and -- as part of this Hearing may
2 not assist in giving the Board all the information it
3 needs and to be able to make its decision.

4 Now, with respect to the oral Hearing,
5 generally, we appreciate -- and it hasn't been
6 mentioned yet -- but Board counsel cross-examination.
7 In my experience, I've ended up striking out about
8 half of my questions because Board counsel has asked
9 them. Doesn't mean that we didn't prepare, but that's
10 always a useful thing.

11 In the past and, unfortunately, we
12 haven't been able to do that here. We were able to
13 get together as counsel to have a better idea of what
14 the scoping was and what we thought the scoping was
15 and to provide some suggestions to the Board on
16 appropriate scheduling.

17 And -- and Byron's done the best he
18 could to give estimates, but -- and I could try doing
19 the same thing, but we always understand that we're
20 limited in that, and we try to be as focussed as we
21 can.

22 And between counsel, we speak to each
23 other to determine who's going to take a lead role.
24 For example, in cross-examinations, there's two (2)
25 distinct issues, as I see them, IFRS, what does it

1 really require, and then the whole policy mechanics
2 and method of depreciation period and how that relates
3 to setting just and fair rates.

4 So, I fully expect that there would be
5 collaboration between counsel as to who would take
6 lead roles on that.

7 And while I'm on that subject, I know
8 it was just before the Hearing, but we've reached out
9 to Manitoba Hydro to see whether or not in the next
10 week it would make sense to try and have our experts
11 deal with that.

12 I'm mindful that it is very tough
13 slogging if we're going to get into some technical
14 things. And -- and it's my sincere hope that we can
15 get some of the more technical things out of the way
16 and perhaps have some kind of better focus on the
17 evidence on the policy issues and -- and the rate
18 setting issues that this Board needs to take into
19 consideration. Whether that could be accomplished or
20 not remains to be seen, but we'd certainly like to
21 have the opportunity to try and see whether we can do
22 that.

23 As to who gets involved, it may be that
24 the Board decides that it would be useful to have one
25 (1) of its advisors, Mr. Cathcart participate in that.

1 We'll leave that to the Board. Otherwise, we'd be
2 more than willing to try and undertake that lead in
3 that discussion ourselves.

4 With respect to the joint panel of
5 experts that might evolve depending on what we can
6 agree to here or not agree to, it seemed to make sense
7 to me. It worked fairly well on a very discrete issue
8 on a prior hearing because then this Board is not
9 faced with having depreciation evidence by Manitoba
10 Hydro's witnesses one week, and then a week and a half
11 later, having the evidence of Interveners, and then a
12 week later, having the rebuttal, if any, of Manitoba
13 Hydro, but we can deal with everything at once.

14 And then have -- if the Board has
15 questions, they can actually say, well, then what do
16 you think about what so and so said instead of --
17 otherwise, they may have asked that question. As a
18 Board member, you may have asked that question during
19 the -- the examination of Manitoba Hydro witnesses but
20 the -- the questions arise when you hear the evidence
21 in further detail by the witnesses.

22 On the issue of presentations, it's up
23 to the Board again to have some direction. We try in
24 our presentations to be as helpful to the Board as
25 possible. I know the evidence, for example, of Mr.

1 Bowman is some sixty (60) odd pages of presentation.

2 If it is going to address those, what
3 we think is the more important issues, I think we're
4 going to need, like, about an hour in depreciation and
5 an hour on the other subjects. I may be wrong on
6 that, but I think we could provide useful narrative to
7 this Board, and explanations.

8 And by that time, we will have received
9 the Daymark evidence which we think is very important,
10 also, so we may have some comments on that. It's hard
11 to anticipate that but, you know, the forecasting on
12 export revenue and all this is -- is a fundamental
13 part of what this Application is about.

14 So I've dealt with, in a very broad
15 way, the depreciation issues and what hopefully we can
16 achieve.

17 I've been a little bit evasive on
18 providing specific estimates on cross-examination
19 times. But frankly, it's -- it's a challenge to do
20 that not knowing exactly who Hydro's going to put up
21 as a Panel, to what extent it affects our position or
22 we want to address it. And we can say we would work
23 collaboratively and in an expedited way if we were
24 given the opportunity as counsel to try and ensure
25 that the Hearing schedule is focused and provides the

1 most benefit to this Panel.

2 And so, it -- if we set a schedule, I
3 would hope that there's some flexibility that would be
4 included to counsel to provide recommendations or
5 adapt, as necessary, if we're providing preliminary
6 sections on different issues.

7 I'm now going through some very
8 discrete points. One point at the end of our letter -
9 - and it's page 5 -- deals with what we perceive to be
10 some issues as probably needing immediate attention or
11 attention sooner rather than later.

12 Nobody has commented on -- on this.
13 But Mr. Bowman made some recommendations to address
14 four (4) approvals, which, to our understanding -- we
15 don't know exactly what that -- that in time line.
16 But to our understanding, if it's going to have an
17 immediate implication on what Hydro does needs to be
18 addressed sooner than the formal Hearing, then we've
19 identified that issue at the bottom of page 5. And we
20 suggest the Board address that issue.

21 With respect to Daymark -- and here,
22 I'm addressing what we think needs to have oral -- an
23 oral part. I hope that if there's sufficient public
24 information that's made it variable, that we could
25 have a meaningful discussion and have an opportunity

1 to -- to test and explore the publically available
2 evidence by Daymark because it's pretty foundational,
3 I think. It needs to be more than -- than just in
4 writing.

5 With respect to the things that could
6 be in writing, we agree with the suggestions of
7 Manitoba Hydro and the three (3) subjects that they've
8 identified at the bottom of page 2, going into page 3.

9 In addition to that, at page 5 of our
10 submission, we've identified other discreet areas
11 which we believe that's under the heading 'Cost of
12 Service and Differential Rate Increases'. You'll see
13 the first paragraph concludes that we believe that
14 subject is well-suited to written evidence.

15 The second paragraph, identifies also
16 the rate design proposals. We believe that also is
17 well suited to written.

18 With respect to the next paragraph of
19 re-design of large industrial rates, we believe either
20 can be done.

21 Again, if it's not a really important
22 issue and (INDISCERNIBLE) probably parties aren't
23 going to be spending time on it anyways because
24 they're going to have to prioritize their cross-
25 examinations and -- and their direct examinations on

1 issues that are really important to them.

2 So on some of these issues, you're
3 probably not seeing a lot of oral Hearing time because
4 people probably won't spend much time on them -- if at
5 all -- in the Hearing.

6 With respect to the other aspects, we
7 believed that cross-examination was wider than what
8 has been suggested by Mr. Czarnecki (INDISCERNIBLE)
9 Sopinka on evidence will give three (3) different
10 functions of cross-examination that not of which the
11 least is to point weaknesses in the other side's
12 evidence.

13 So just having black and white
14 sometimes you -- you try and okay, well, what are the
15 weaknesses in white, or what are the weaknesses in
16 black? So there's a role for cross-examination and
17 when we set out our -- how we're going to prove our
18 case, some of -- some of the points need to be proven
19 by cross-examination. They're not things that we have
20 in our knowledge. They are not things that could --
21 or were extensively explored in an IR in a way that
22 you might in cross-examination, which allows for
23 sequential questioning.

24 So there's a role and that's helping
25 this Board understand why the positions might be weak

1 or stronger through cross-examination. So, we see a
2 wider role than -- than what has been suggested by
3 Hydro in the cross-examinations.

4 Also, given the limited time that we're
5 usually given on cross-examinations, I would encourage
6 the Board not to limit Interveners too much in their
7 scope. Let them decide in the limited time they have.
8 If we're going to have an hour-and-a-half or two (2)
9 hours, it goes by really quick. And to -- to start
10 precluding in advance and judging in advance what we
11 should be asking questions on and not questions on
12 might not be something that would ultimately assist
13 the Board in making its decisions.

14 With respect to witnesses, we've
15 identified Mr. Bowman. I've identified the -- the
16 time that I think would be useful for him to provide
17 explanations for two (2) hours. But as in the past,
18 we also expect to have presentations. Although it's
19 not part of the evidentiary Hearing as such in the
20 form of cross-examinations, pre-filed evidence, we
21 expect that we're going to have presentations by
22 members by MIPUG as we have in the past.

23 So we'll be in contact with Board staff
24 to find out when it's best suited in the schedule that
25 the Board has to have those presentations being made.

1 I'm not going to review any other
2 things that are in our letter based on some of the
3 comments, the Board has already read it, so I'm open
4 to questions on any other issues that you might have.

5 THE CHAIRPERSON: Thank you. Vice-
6 Chair Kapitany...?

7 VICE-CHAIR KAPITANY: Thank you. So
8 two (2) questions, Mr. Hacault.

9 I just wanted to go back to the very
10 beginning of your presentation where you were speaking
11 about Bill 36 and you were commenting on the legal
12 position. And so -- but there needed to be formal
13 written positions and potentially a motion day to deal
14 with this issue.

15 Or was I misunderstanding what you were
16 saying?

17 MR. ANTOINE HACAULT: So my primary
18 position and view is that counsel be allowed --
19 because there appear to be different legal positions
20 and interpretations of the legislation in how to
21 approach the legislation -- and that's the legislative
22 interpretation -- is that we have all the factual
23 basis, so the full Hearing, and all of the evidence.
24 And then, have the positions of the parties on the
25 impact of Bill 36, if any, at the end in final

1 submissions.

2 If the Board's preference is to try and
3 deal with that ahead of time, then it's our respectful
4 submission that, I mean, the parties that have the
5 chance -- and it would probably take form of a motion
6 -- a motion day to present their legal positions. And
7 then, have the Board have the benefit of those legal
8 positions prior to making a pre-Hearing determination.

9 VICE-CHAIR KAPITANY: Okay. Thank
10 you. My other question is on page 5 of your written -
11 - part 7, where you talk about the redesign of large
12 industrial so. The Board should engage on questions
13 of customer impact and that there are going to be
14 presentations by industrial customers.

15 My recollection is that, at least one
16 time in the past, we -- we did have the ability to
17 question the customers who came forward. But you're
18 saying, this time, that you're -- that this would not
19 be a matter of evidence that we could cross-examine?

20 MR. ANTOINE HACAULT: No, the -- well,
21 I always -- and perhaps I was ineloquent in -- in
22 discussing this.

23 There is also -- in my perception,
24 there was always a different distinction between
25 people who filed evidence that were subject to IRs,

1 two (2) rounds, and then subject of responding
2 evidence, and finally, rebuttal compared to the
3 evidence given in presentations where there was --
4 cross-examinations, if any, were very limited and the
5 questions of the Board were very limited 'cause we had
6 I think it was ten (10) minute presentations with
7 maybe five (5) or maybe extended a little bit more
8 than that on questions.

9 But, it certainly was a different level
10 of evidence than the type of filing that Hydro has
11 done, which is now all expert evidence and -- and the
12 type of filing that experts do in this hearing.

13 VICE-CHAIR KAPITANY: Okay. Well, you
14 -- I am a simple economist, as you know, and -- and so
15 I just view evidence as evidence, but Mr. Hombach may
16 be able to straighten me out on that at some point.
17 But thank you for the clarification.

18 But then you said that this could be
19 addressed either written or orally. So, the
20 presentations from the -- the Manitoba Hydro customers
21 would be oral evidence, but then you're saying that
22 any comment on that could either be written or oral?
23 I got confused on your point there.

24 MR. ANTOINE HACAULT: Yeah. So I
25 wasn't precise enough in -- in my letter. Firstly,

1 information would be a combination of in writing and
2 in oral evidence.

3 And then there's the second issue is
4 the written argument that follows later on based on
5 that evidence.

6 And generally, I don't have a -- or we
7 don't have a strong view on that. We believe that in
8 the past there was benefit to the Board to have oral
9 submissions, and it can be limited at the end on
10 various things even though we had provided written
11 submissions to the Board.

12 At least in my personal experience,
13 often I was asked questions on some of the oral
14 presentation that was summarizing but not repeating
15 our written submissions. So we believe that there
16 would -- in most instances, if the Board felt it was
17 useful, that there would be merit in having oral
18 submissions at the end of the hearing.

19 And even though we do written
20 submissions in advance, it'll be up to the Board to
21 decide we're on that, Antoine, don't bore us, don't
22 talk about it, we think we have enough with your
23 written submission.

24 VICE-CHAIR KAPITANY: Thank you.

25 THE CHAIRPERSON: Carol, do you have a

1 question?

2 BOARD MEMBER BELLRINGER (by TEAMS):

3 No, thanks. I -- I mean, I guess I -- and then I'd
4 say I picked up through what you've said the answer to
5 this question, but maybe I'll ask it directly.

6 And if something is dealt with pre-
7 hearing, like there's a -- there's a consensus on
8 something -- and let's take depreciation as an example
9 -- what would be happening in a pre-hearing that could
10 not happen in a hearing?

11 MR. ANTOINE HACAULT: I'm not too sure
12 I understand the extent of the question. I'll try to
13 answer it briefly and then --

14 BOARD MEMBER BELLRINGER (by TEAMS):
15 Well, I'll ask it briefly if you like, just to -- to
16 clarify what I'm looking -- I'm trying to analyse what
17 you see as -- let's assume it's a discussion on
18 depreciation.

19 If that discussion takes place outside
20 of the hearing, how -- would it be the same
21 conversation, just held in a different place? Or is
22 this conversation somehow different if you're dealing
23 with it outside the hearing?

24 MR. ANTOINE HACAULT: I think I
25 understand your question, so I'll try and address it.

1 The purpose of having a without
2 prejudice discussion between the depreciation experts
3 is to see if we can narrow the focus of what would be
4 presented to the Panel and how it would be presented.

5 There may be a purely adversarial
6 proceeding. Everybody will have set out their
7 positions -- respective positions and there won't be a
8 discussion to try and see if there's commonality.

9 And if there's commonality -- and I
10 think there is -- on -- on weighting the evidence on
11 some issues, we may be then able to streamline and
12 make the hearing more efficient.

13 If we can't do that, I'm really
14 concerned that, for the Board to fully understand all
15 the technical aspects, I need to dig into the weeds.
16 And if we can avoid that by a without prejudice pre-
17 hearing discussion next week, I'd really like to be
18 able to do that.

19 So I don't know if that helps. The --
20 the purpose of the discussion next week, assuming that
21 -- that we have it and it's something that the Board
22 is willing to allow us to do, would be to try and see
23 if we can narrow issues.

24 Usually we'd have a meeting between
25 counsel to try and schedule things and see if we can

1 have commonality and -- and discuss further on scope
2 before a formal pre-hearing like this. Unfortunately,
3 with the schedule and the things that have happened
4 and the filings, we weren't in a position to do that.

5 So there are really -- there would be
6 two (2) functions. There will be evidence, what we're
7 discussing next week. It'll just be a without
8 prejudice conversation to try and see when we do
9 present the evidence, what will be presented, and how
10 we're suggesting. Ultimately, it's for the Board to
11 decide whether they think that makes sense.

12 THE CHAIRPERSON: I don't want to get
13 ahead of our counsel, but I would suggest that the
14 lawyers in the room may want to hang back a little
15 after -- after this hearing has concluded because I
16 believe Mr. Hombach's going to have some comments in
17 relation to that kind of meeting.

18 Carol, do you have any other questions?

19 BOARD MEMBER BELLRINGER (by TEAMS):
20 No, that's good. I -- I -- just on the technical
21 issue of depreciation, it's probably unbiased 'cause
22 it's the least complex for me personally.

23 THE CHAIRPERSON: Yeah. That coming
24 from the former auditor general.

25 I -- I just want to put a question in a

1 very simple format because I am a very simple lawyer
2 (INDISCERNIBLE). You're planning to bring people to
3 present. MIPUG will have MIPUG members present it.

4 MR. ANTOINE HACAULT: Correct.

5 THE CHAIRPERSON: Correct. Okay.

6 Thank you. Thank you very much.

7 We're going to go next to counsel for
8 Manitoba Keewatinowi Okimakanak. Mr. Buchart...?

9

10 PRESENTATION BY MANITOBA KEEWATINOWI OKIMAKANAK:

11 MR. MARCUS BUCHART: Good morning,
12 members of the Panel. My name is Marcus Buchart. I
13 am lawyer for Manitoba Keewatinowi Okimakanak which is
14 conveniently referred to as MKO. I'm going to
15 slavishly stick to the seven (7) point list that
16 Associate Secretary McMillin distributed last month.

17 So one (1) of the key issues in the GRA
18 from -- from our client's point of view, the key issue
19 really is is energy poverty and the effect of rates on
20 -- on our target audience, which is the -- the
21 Northern First Nations people in Manitoba.

22 Regarding other issues, we would just
23 defer to what other comments counsel for the
24 Consumers' Coalition identified as the issues.

25 Second point, should the Board make a

1 ruling as to in-scope and out-of-scope issues, we
2 don't oppose the Board making any ruling -- rulings on
3 in or out of scope. It's already done, so regarding
4 the -- the diesel agreement, that's within the Board's
5 jurisdiction.

6 Third question is: Should any issues
7 be restricted to written evidence? We don't have a
8 strong position on that, but as it is, we are not
9 submitting any evidence. So, for -- for what it's
10 worth, we don't have any position on that for the
11 other parties.

12 Fourth question in Associate Secretary
13 McMillin's letter is: Should any issues be restricted
14 to written evidence on written submissions? Again, we
15 don't have any evidence, so -- written or whatever.

16 I don't mind being limited to just
17 written submissions. I guess it takes away the
18 opportunity for the Panel Members to ask questions, if
19 there are questions, but I don't object to just
20 written submissions. Regarding written evidence, I
21 have no position on that.

22 Fifth point is: Who is on each party's
23 witness list? Well, we don't have a witness, so
24 that's easy.

25 Sixth question is also not relevant

1 because we're not calling witnesses as a panel.

2 And finally, the seventh question: How
3 much time does MKO require for direct examination and
4 cross-examination? Well, since there's no witnesses,
5 we don't require any time for direct.

6 But cross-examination, I anticipate
7 examining some witnesses fifteen (15) to thirty (30)
8 minutes, but I will likely be at the shorter end of
9 that. So in terms of budgeting for time, we don't
10 require huge amounts of time for cross-examination.
11 We -- we don't think it's going to be very
12 antagonistic. It's going to be sort of more
13 exploratory, the questions that we're going to ask.

14 So, finally, there was the other
15 question that arose regarding how to treat the -- the
16 new legislation -- the -- the Bill 36. I -- I agree
17 with counsel for MIPUG's suggestions of how it should
18 be dealt with and I would -- I -- I -- I'd add my
19 voice to that and that, subject to questions,
20 concludes our submission.

21 THE CHAIRPERSON: Carol, any
22 questions?

23 BOARD MEMBER BELLRINGER (by TEAMS):
24 No, thank you. Thanks very much.

25 THE CHAIRPERSON: Thank you. Thank

1 you, Ms. Bellringer.

2 All right. We're going to go back now
3 for Mr. Haight and Mr. McLellan, counsel for the
4 independent expert consultants. Are they on line?

5

6 SUBMISSIONS BY INDEPENDENT EXPERT CONSULTANT:

7 MR. BILL HAIGHT (by TEAMS): I am
8 here, Mr. Chair. It's Bill Haight. Thank you very
9 much for this belated opportunity. I -- I would like
10 to -- in keeping with the theme of this hearing,
11 before the morning break, apologize for being late
12 this morning. There was an organizational snufu at
13 our office that resulted in that and, in any event, I
14 am here now and, with my apologizes, as I say to all,
15 to make a few comments on behalf of Daymark, the
16 independent expert consultant.

17 So, as an independent expert consultant
18 to the Board and this hearing, and as the process laid
19 out and were prescribed by the Board requires exchange
20 of information, which assists Daymark with its role, I
21 have no comment on behalf -- or no submission to make
22 on behalf of Daymark regarding the process issues,
23 with the one (1) exception relating to the issue of
24 whether Daymark should -- evidence should be given
25 orally or in written form, and I appreciate Manitoba

1 Hydro has not provided a firm position on that. It --
2 it - it has given notice that that's something that,
3 perhaps, the Board should consider at a future point
4 in time, and -- and, so, I will, you know, reserve the
5 right to make any significant submission on that point
6 if, in fact, that issue is raised.

7 The only thing I will say is that,
8 having -- this is my third time around acting for
9 independent expert consultants for the Board. I have
10 found that the cross-examination of the experts led to
11 -- to greater insight and -- and greater understanding
12 of the independent experts' positions. I think there
13 is value there.

14 It is the only thing that I will say,
15 and I would be concerned about that value be take --
16 being taken away, should there be a limitation on that
17 but, as I say, I'll reserve the right to -- to comment
18 -- comment on that further, should Manitoba Hydro
19 pursue that avenue or process.

20 It is not intended, you know, as I've
21 said in the past, in these hearings that, generally,
22 there is no intention on behalf of couns -- of the
23 independent expert consultant to have its counsel
24 cross-examine any -- any witnesses.

25 I have, in the past, and will do so

1 again, today, reserve the right that, in some
2 instances, where experts are being called by the
3 parties, if -- if Daymark feels that it could gain and
4 -- and, therefore, the Board could gain, more
5 knowledge by me asking a few issues of clarif --
6 questions of clarification, that may occur and I may
7 request that ability to do so at that time and, so,
8 just giving notice that that may occur. I don't
9 expect it to but, again, just letting you know that
10 that request may be made, depending upon what we see
11 in terms of the expert reports.

12 In terms of answering questions 5 and
13 6, the -- it's expected that there will be a two (2)
14 and, possibly, a three-person panel from Daymark, and,
15 at present, there hasn't been a complete determination
16 as to whether it will be two (2) or three (3).

17 Douglas Smith was certainly lined up to
18 be a witness, as is Jeffrey Bower. We -- still a
19 determination will need to be made by Daymark and,
20 through its counsel, as to whether John Athas also
21 attends to -- to give evidence but we will let the
22 parties know that at or about the time that we are --
23 I imagine it'll be next week, when the expert report
24 is provided to Hydro and, then, later, to the parties.

25 It's difficult to make a determination

1 on time and, of course, that's still a matter up in
2 the air, based upon the oral versus written evidence
3 issue. In the past, a day was set aside, usually, for
4 -- for Daymark's evidence, and I heard counsel for the
5 Consumer Coalition indicating that they were
6 requesting an hour in cross-examination and it would
7 seem to me that -- that, when scheduling occurs, that
8 there is a -- a day that would be required.

9 Doug Smith has another obligation to
10 testify before another Board in another jurisdiction
11 and I am going to be speaking with counsel to the
12 Board about that. I don't think it's something that
13 needs to be placed on the record or dealt with the
14 Board directly. It's a scheduling issue and I think
15 it can be dealt with through counsel, but I just
16 wanted to alert everybody to -- to that, and that is
17 the submission I have to make on behalf of Daymark.
18 Thank you.

19 THE CHAIRPERSON: Thank you. Ms.
20 Kapitany...?

21 VICE-CHAIR KAPITANY: Mr. Haight, just
22 a clarification. I think I heard you saying you
23 typically you wouldn't cross-examine but, in this
24 case, you may want to cross-examine some witnesses.

25 So, could you just expand on that a

1 little?

2 MR. BILL HAIGHT (by TEAMS): Really
3 what I'm doing is just reserving the right to make a
4 request, should there -- the need arise. I don't
5 anticipate that there would be a need for cross-
6 examination, typically, there has not, and -- but just
7 reserving the right that should -- an example being an
8 expert called on behalf of one (1) of the parties has
9 a position on Issue X.

10 Daymark feels that it would be helpful
11 to have clarification of that issue, if, after
12 listening to all of the parties cross-examine, I feel
13 that -- that that point has still not been clarified,
14 I would, then, make that request, and, so -- so, not
15 saying I will, just indicating that there may be a
16 scenario in which that request may be made. Unlikely,
17 but possible.

18 VICE-CHAIR KAPITANY: That could be on
19 the issue of export revenue or on some other issue is
20 what you're saying?

21 MR. BILL HAIGHT (by TEAMS): I -- I --
22 I can't pigeonhole it to an issue, it just -- just an
23 issue may arise.

24 VICE-CHAIR KAPITANY: Okay. Thank
25 you.

1 MR. BILL HAIGHT (by TEAMS): Okay.

2

3 (BRIEF PAUSE)

4 BOARD MEMBER BELLRINGER (by TEAMS):

5 May I jump in?

6 THE CHAIRPERSON: Yes. Please do.

7 BOARD MEMBER BELLRINGER (by TEAMS):

8 Thanks. Well I -- but one -- just one of the
9 questions on -- you mentioned something about we --
10 we've seen it in the past that there would be like a
11 full day, for example, of time.

12 If we were to separate issue -- we have
13 issues dealt with in separate points in time, does
14 that -- is that a -- a different con -- like, is that
15 a problem?

16 MR. BILL HAIGHT (by TEAMS): I don't
17 think it would be, Madam Bellringer. I -- I -- my --
18 it -- it -- it may be just a bit of a schedule issue
19 for our office, in terms of being present at the
20 appropriate time to hear the evidence of certain
21 witnesses but, from Daymark's perspective, it wouldn't
22 because it -- by the -- it -- the only caveat I would
23 put on that is that, you know, we have to give some
24 thought, that is counsel to the Board, and I, would
25 have to give some thought as to when is the

1 appropriate time to schedule Daymark in, based upon if
2 -- if -- if there is a -- a truncation or a separation
3 of issues.

4 BOARD MEMBER BELLRINGER (by TEAMS):

5 Thanks.

6 THE CHAIRPERSON: Mr. Haight, it's the
7 intention of Daymark if they testify to do so in
8 person?

9 MR. BILL HAIGHT (by TEAMS): They do
10 not have a -- a -- a strong position, one way or the
11 other. In the past, Mr. Chair, they have attended, as
12 you know.

13 I always found that it's -- it's an
14 easier process, this morning's example being but
15 another one of sometimes technology doesn't really
16 support the process in in-person and, particularly,
17 with large documentation, and that needs to be
18 reviewed and addressed or presented in cross-
19 examination.

20 My advice to them, I can tell you, on
21 the record, would be is that they attend in person.

22 THE CHAIRPERSON: Okay. Thank you.
23 Okay. Thank you very much for your participation.

24 MR. BILL HAIGHT (by TEAMS): Good luck
25 and thank you for moving me down the line.

1 THE CHAIRPERSON: Thank you. Before
2 we go to reply, I just want to -- I -- I note -- noted
3 one thing during the morning session and in reviewing
4 my comments.

5 I just want to make it very clear, the
6 one thing missing from the comments, I -- I note here
7 it says,

8 "Pre-hearing Conference in respect
9 to Manitoba Hydro's '23/'24 and
10 '24/'25 General Rate Application."

11 But as part of the process, we are
12 reviewing the interim rate. I just want to put that
13 right on the record. I -- I suspect all the parties
14 know that and knew it all along. I just realized that
15 the opening comments didn't refer to it though.

16 But, Mr. Czarnecki, would you have
17 reply, please?

18

19 REPLY BY MANITOBA HYDRO:

20 MR. BRENT CZARNECKI: We do and it
21 will be brief, Mr. Chairman. To start off, maybe just
22 to answer My Friend Mr. Hacault's question on -- on
23 Mr. Bowman's recommendation number 4.

24 I'm advised that the very latest date
25 for Manitoba Hydro to implement that, if you were to

1 so choose, would be June the 7th. And obviously, the
2 sooner -- the more time we could have on that would be
3 beneficial, but that is the drop-dead date.

4

5

(BRIEF PAUSE)

6

7 MR. BRENT CZARNECKI: In terms of
8 reply, I'm going to wade back into the depreciation
9 process, maybe by way more of suggestion. As I'm
10 sitting here and thinking, had we not brought up the
11 opportunity to, you know, canvass consensus or middle
12 ground, what likely would have happened is you would
13 have walked away hugging your procedural Order.

14

Here's the policy issues as we think
15 are most important to be determined as part of the
16 hearing, because clearly it's a in-scope issue.

17

So, what I'm going to suggest, I think,
18 is that we shouldn't sidetrack that because time is of
19 the essence. So, we can have two (2) parallel tracks
20 running.

21

So, if we receive your Order next week
22 as we're anticipating, that track is alive. Everyone
23 is on notice. Meanwhile, as I dream big on having,
24 you know, either refining, as my friends are referring
25 to by way of a statement of facts, or maybe overall

1 consensus on an approach.

2 That track can happen with consultants,
3 as I suggested earlier, and I'm very -- I mean, Hydro
4 is very thankful that parties here are willing to at
5 least engage or participate in that, whatever that may
6 look like.

7 Now, with counsel or with consultants
8 and it may be that there's consensus. It may be that
9 we look at your policy issues that you've identified
10 and, say, where's agreement on 1, or 2, or 3 of those.

11 What's really left is this -- Mr.
12 Williams' suggestion too about cross-examination and
13 reserving his right. I -- I understand that. And if
14 -- if, as part of this process, it so happens to be
15 that him -- his consultant or his client, or anyone,
16 for that matter, is an outlier to whatever consensus
17 may be, then they should have their voice heard and
18 they -- they should cross-examine the parties that
19 have reached a whatever agreement.

20 So, I -- I think that's just the -- the
21 normal course. I hope it would be that there would be
22 overall consensus, but if that's not the case, he
23 should do so. And -- and I think as -- what Tom had
24 replied on -- on the record is that we would be --
25 we'd be in your hands as well.

1 That this Panel could appear together.
2 You could have a morning to further understand
3 whatever concerns. We need to just navigate through
4 this so we can refine the scope.

5 So, if I leave it at that and I think
6 to have further discussions with Mr. Hombach and My
7 Learned friends as to how this all could happen. But,
8 I'm thinking the first step would be for Hydro to
9 reach out to the consultants next week.

10 Hearing some of the -- the times for
11 direct evidence from the Coalition, in particular, I -
12 - I heard Darren Rainkie would require two (2) hours
13 for direct-examination, Midguard an hour-and-a-half.

14 And in reply, I would like to just drop
15 back to our letter of yesterday where we do make the
16 point on page 4, that after witnesses have been
17 introduced and duly sworn, opportunity for direct
18 evidence should be restricted to a brief overview of
19 the pre-filed evidence and time limited.

20 We have Mr. Rainkie's written evidence.
21 It's going to say primarily argument versus as
22 evidence. And I find it hard to believe if we keep
23 him to his pre-filed evidence, that it would require
24 two (2) hours for him to go through it.

25 And so, I'll -- I'll mention here, and

1 I'm -- I'm being very careful, and I do not mean to be
2 disrespectful to this process at all, Mr. Chairman,
3 but just by way of comparison, through my experience
4 that the Canada energy regulator, they have no direct
5 -- direct evidence.

6 Your pre-filed evidence is what it is.
7 You're immediately open for cross-examination. And I
8 think part of the logic is procedural fairness. So
9 you don't have the chance to add new topics because we
10 spend an extensive amount of time upfront in this
11 period to test and understand positions.

12 I'm not suggesting you go there, but
13 that's one (1) bookend. But when I hear Mr. Williams
14 today suggest that Mr. Rainkie and others require two
15 (2) hours of evid -- of oral direct, that has been
16 through pre-filed written evidence, that seems to be
17 on the other extreme of that and we here at Hydro,
18 again, have tried to be as disciplined as possible to
19 that. And I -- and I think we're probably aiming for
20 our panels to be anywhere from a half hour to one (1)
21 hour at the most.

22 The other part that I found -- that
23 caught my attention from Mr. Williams was, is the need
24 for cross-examination an extensive cross-examination.
25 It always falls back to, and I'm quoting,

1 "We will be testing the assertions."

2 We're now in April. This process
3 started in mid-November, and back to my letter, we
4 have an extensive record in front of you.

5 And I wanted -- I asked some of our
6 folks here to quantify the amount of IRs that Mr.
7 Williams has asked of (INDISCERNIBLE) thus far. Of
8 the approximate two-thousand (2,000) entire IRs that
9 have been posed to do, the Coalition has posed over a
10 thousand of those. Why are they asking IRs? They're
11 testing the assertions of Hydro within the
12 Application.

13 I think I fall more in the camp of My
14 Learned Friend Mr. Hacault where, yes, cross-
15 examination plays some role in these administrative
16 tribunals. We understand that.

17 But it ought to be proportionate so the
18 record that's already before you and the testing that
19 has been done. Noteworthy is his -- his experts have
20 filed very lengthy evidence after they have tested the
21 assertions of Hydro.

22 So, in my view, there can be some
23 efficiency gains to be made on the oral cross-
24 examination if the matters are spoke properly and
25 appropriate time limits are afforded. But just to say

1 you will be testing the assertions, that's not
2 efficient or effective, in Hydro's submission.

3 The last point I want to make, and I --
4 I think I just want to reiterate, but I think I said
5 to Board Member Vice-Chair Kapitaný earlier today, the
6 (INDISCERNIBLE) for writing that can be done -- with
7 writing, there's where there's consensus, I'll say,
8 are very easy. That's low-lying fruit.

9 What I didn't want to leave the
10 impression is that just because there's a difference
11 in opinion, that writing is out of the question.

12 It depends, again, on the issue that
13 you're looking at. It may be abundantly clear to you
14 as a Panel, that we don't need any more oral evidence
15 or cross-examination. We think we have the positions
16 fairly enough.

17 If -- if (INDISCERNIBLE) cross-
18 examination or you feel it's necessary, that's your
19 choice. And again, I repeat, we will respond to that
20 accordingly.

21 But the last reply/comment I will make
22 is, again, back to Morrison Park. It's not that
23 Manitoba Hydro is trying to avoid Mr. Colaiacovo to
24 come appear in this room.

25 And, Mr. Chair, I -- I do take your

1 comment that you've yet to have an opportunity to
2 review his evidence. But when we did, what we saw was
3 as if we were in 2017 and '18 again. We want to go
4 back and review the issues that Mr. Colaiacovo opined
5 on at that time.

6 And when I read the evidence, it was
7 almost like Bill 36 didn't exist. And I know that
8 it's not effective until April 1st, 2025, as it
9 pertains to this Board, but it's there.

10 Hydro has prudently planned this
11 Application upon it coming into effect. We're not
12 saying your traditional regulatory principles are
13 mutually exclusive to Bill 36 coming into effect.
14 We're saying it's on the horizon, we need to plan for
15 it, we need to have a rate path that complies with the
16 law that it is to take effect.

17 And so when I read Mr. Colaiacovo --
18 aside from the part of duplicating Mr. Rainkie and
19 aside from the part of, you know, wanting to be
20 engaged in a debate on Bill 36 all over again, it was,
21 like, but we don't need him to come and repeat what
22 he's already said in his evidence.

23 All (INDISCERNIBLE) saying, if this
24 Board sees the value in it, we're not suggesting you
25 should avoid it, we're here (INDISCERNIBLE) after

1 you've read his evidence, I hope you ask what is the
2 value of the twenty-five (25) pages of his
3 observations that he makes to this particular
4 Application. I hope I'm clear on that front.

5 Mr. Chair, that does conclude our reply
6 comments.

7 THE CHAIRPERSON: Carol, do you have
8 any questions?

9 BOARD MEMBER BELLRINGER (by TEAMS):
10 No. Thanks very much.

11 THE CHAIRPERSON: And this is for you,
12 Mr. Czarnecki, and just for any of the Interveners.
13 One (1) of the issues is to go by way of oral or
14 written for different aspects.

15 We don't have the Daymark report, but
16 are you expecting that we're going to make a decision
17 on that or do we need to wait to see the Daymark
18 report before we consider whether it should be --
19 whether that -- that their position should be oral or
20 parties should participate in an oral hearing on it or
21 written?

22 MR. BRENT CZARNECKI: Depends. But
23 it's --

24 THE CHAIRPERSON: Yeah, I've shared
25 my thoughts.

1 MR. BRENT CZARNECKI: I'll -- I'll
2 give you --

3 THE CHAIRPERSON: (INDISCERNIBLE).

4 MR. BRENT CZARNECKI: I'll give you a
5 (INDISCERNIBLE) out of the hearing. Maybe I
6 shouldn't. That would be inappropriate. Yeah, it
7 depends. I think that's your choice. I mean, I am --
8 I listened carefully to Mr. Haight, what he had to
9 say. I'm listening to my colleagues, that they think
10 there will be value in that, so you could make that
11 decision.

12 I do think it would be somewhat wise to
13 maybe wait and see what it says and receive Hydro's
14 position on that. And if the evidence is publically
15 released Wednesday, I think we will have a position to
16 you either on Thursday or Friday at the latest.

17 So, I don't know if that's working with
18 your timing, but if you want to wait, that's what we -
19 - when we would send the letter in.

20 THE CHAIRPERSON: The Panel hasn't
21 met, so I -- this is just me as an individual.

22 Are there any comments, Mr. Williams?

23 DR. BYRON WILLIAMS: Just from our
24 clients' perspective, and we see this as fundamental
25 evidence of importance to this Hearing. I'm not sure

1 what Hydro could say after they see it.

2 Our clients were relying upon it
3 because we don't have access to the Manitoba Hydro
4 information. So, it's almost inevitable that, because
5 we didn't have that access, that we would be
6 addressing this in -- in oral, at least from our
7 clients' perspective.

8 THE CHAIRPERSON: Mr. Hacault...?

9 MR. ANTOINE HACAULT: Yeah, I would
10 agree with Mr. Williams and what Mr. Haight has said.
11 I think it's very important and, I guess, important to
12 decide how much of it is tested in a CSI scenario --

13 THE CHAIRPERSON: Yeah.

14 MR. ANTOINE HACAULT: -- and how much
15 of it is public. But we believe and we've always
16 believed that that information is very important and
17 we need to better understand it. And I think that
18 needs to be attended at an oral hearing.

19 THE CHAIRPERSON: Mr. Reimer...?

20 MR. THOMAS REIMER: I have nothing to
21 add.

22 THE CHAIRPERSON: Mr. Buchart...?

23 Nothing? Okay. Thank you. Oh, sorry, sorry, sorry.
24 Yeah, AMC. I -- I apologize, yeah.

25 Ms. Guglielmin, do you have any

1 position on the issue in relation to Daymark?

2 MS. EMILY GUGLIELMIN (by TEAMS): I
3 think we agree with the Consumers' Coalition.

4 THE CHAIRPERSON: Thank you very much.
5 Just -- just a comment not a question, Mr. Czarnecki.

6 The -- the process that we have here,
7 and certainly, you know, I think we're sort of moving
8 to the territory where we can -- you know, we're
9 looking at more improvements and that, but you -- you
10 appointed to CER and, quite frankly, I've been doing a
11 lot of reading on what happens in BC in their process,
12 in Ontario in their process.

13 Part of the problem we run into here
14 is, those are jurisdictions that have a much larger
15 staff. BC has five (5) times as many people. We have
16 Rachel doing Energy; BC has departments. CER has --
17 is much larger. Ontario's got two hundred (200)
18 people. We have part-time commissioners. They have
19 full-time commissioners.

20 Part of the process here is that we
21 bring people together at the Hearing time and give
22 briefings at hearings and listen to the evidence and
23 certainly seek the -- the participation of Interveners
24 because it assists the Panel.

25 Looking at a process like CER, you

1 know, and I talked to their Chair, and they have
2 ongoing -- when they get materials everybody's getting
3 briefed as the materials are coming in throughout the
4 year.

5 In BC, their hearing process is much
6 shorter, but their overall process is much longer
7 because they have pre-hearing conferences and written
8 submissions, and then have exactly what you're talking
9 about, collaborative meetings. They've negotiated
10 settlements. So, their processes are completely
11 different.

12 That's just one (1) of the factors we
13 have to consider in moving forward. We try and do it
14 as efficiently as possible, but we -- we have to make
15 sure that the Board is comfortable with the evidence
16 coming in and the sufficiency of the evidence at -- at
17 the time that it's making a decision.

18 So, I just want to make that comment in
19 relation to your comment on CER. So, I guess that
20 falls under my closing comments.

21 I -- I want to thank everybody.
22 Hopefully, by the next time -- Manitoba Hydro may not
23 be happy -- but, hopefully, we won't have snow by the
24 time the Hearing starts. I thank everybody for their
25 participation in the room, online and that. And we

1 will adjourn. The Panel will start reading
2 immediately after, and we will get you an Order as
3 soon as we can. Thank you very much.

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5 --- Upon adjourning at 11:47 a.m.

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9 Certified Correct,

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14 Wendy Woodworth, Ms.

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