



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

re:

MANITOBA HYDRO

2023/24 and 2024/25

GENERAL RATE APPLICATION

Hearing

Before Board Panel:

Robert Gabor, KC - Board Chairperson

Marilyn Kapitany - Board Vice Chair

Carol Bellringer - Board Member

Hamath Sy - Board Member

George Bass, KC - Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

June 22nd, 2023

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1 --- Upon commencing at 9:01 a.m.

2

3 THE CHAIRPERSON: Good morning,
4 everyone. Mr. Hombach...?

5 MR. SVEN HOMBACH: Yes, good morning,
6 Chair. And good morning, members of the Panel. Today
7 is reserved for submissions from Interveners in the
8 GRA. It is a fairly busy schedule. We've circulated
9 a schedule with time estimates for everybody. And I
10 understand that your plan is to -- to hold people to
11 that time.

12 The first party on the agenda is the
13 Assembly of Manitoba Chiefs. They are attending
14 remotely by Teams, so I would ask Mr. Schubert to open
15 the Teams link and turn it over to Ms. Fox.

16 THE CHAIRPERSON: Before you start,
17 Ms. Fox, I'd just like to tell everybody the -- the
18 time frame are not estimates, they're -- those --
19 that's how long you've got, and -- and it's going to
20 be watched carefully. And -- and for those who have
21 longer times, there'll be a count down because,
22 otherwise, we're going to be here past five o'clock.

23 So, anyways, sorry, Ms. Fox...?

24

25 FINAL SUBMISSIONS BY ASSEMBLY OF MANITOBA CHIEFS:

1 MS. CARLY FOX (by TEAMS): Thank you,
2 Mr. Chair. My name is Carly Fox. I'm also here with
3 Emily Guglielmin. And we're counsel for the Assembly
4 of Manitoba Chiefs. And before I begin, I'd just like
5 to say good morning to the Board Chair, Vice-chair
6 Kapitany, and Board members.

7 Is -- can you hear me okay?

8 THE CHAIRPERSON: We can hear you just
9 fine.

10 MS. CARLY FOX (by TEAMS): Okay.
11 Perfect. Our final written submissions were
12 circulated earlier this morning, and they are marked
13 as AMC Exhibit number 9.

14

15 --- EXHIBIT NO. AMC-9: AMC Closing written
16 submission - June 22, 2023

17

18 MS. CARLY FOX (by TEAMS): On behalf of
19 my client, we'd like to thank everyone who has taken
20 part in this Hearing: Manitoba Hydro, experts,
21 Interveners, counsel for all parties, and public
22 presenters.

23 As Manitoba Hydro is a Crown
24 corporation with its operations impacting the lands
25 and waters of First Nations in Manitoba, the AMC's

1 interest in this Hearing is to advocate for honouring
2 the spirit and intent of treaties and seeking to
3 uphold the principle of reconciliation.

4 We submit that equitable consideration
5 and treatment of First Nations and their citizens is a
6 tenet of reconciliation. The AMC is concerned with
7 the impacts of rate increases for all First Nations
8 customers of Manitoba Hydro.

9 First Nations customers encompass both
10 residential, electric, and general service customers.
11 General service customers -- or general service
12 accounts on First Nations reserves range from 4.8
13 percent to 29.6 percent of Hydro accounts on reserve
14 and can be broken into industrial, commercial, health
15 facilities.

16 Sorry, my child is texting me.

17 THE CHAIRPERSON: Can you hold on for
18 -- sorry, can you hold on for a second.

19 MS. CARLY FOX (by TEAMS): Sure.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Anyways --

24 MS. CARLY FOX: Okay.

25 THE CHAIRPERSON: -- sorry. Why don't

1 you resume.

2 MS. CARLY FOX: General service
3 accounts on First Nations reserves range from 4.8
4 percent to 29.6 percent of hydro accounts on reserve,
5 and they can be broken into industrial, commercial,
6 health facilities, offices, and recreational accounts.

7 First Nations' electricity customers
8 live both on and off reserve. AMC's member First
9 Nations are concerned with rate impacts for First
10 Nations customers that live off reserve, though,
11 because Hydro only tracks First Nations on-reserve
12 customers that tends to be the focus of AMC's
13 intervention.

14 The AMC and its member First Nations
15 are extremely concerned with the rates of energy
16 poverty faced by First Nations, particularly, those
17 living on reserve, and these concerns weigh heavily in
18 AMC's submissions.

19 We are here today in relation to
20 Manitoba Hydro's 2023/'24 and '24/'25 General Rate
21 Application. This Application proposes a rate
22 increase aimed at improving the utility's financial
23 health. However, this plan carries a significant cost
24 for Hydro's most vulnerable customers.

25 An interim general revenue increase of

1 3.6 percent was implemented in January 2022 in
2 anticipation of the drought's impact. Yet the
3 drought's severity and the value of Manitoba Hydro's
4 exported proj -- or products were less detrimental
5 than they initially projected.

6 Despite these more favourable
7 circumstances, Manitoba Hydro seeks to make this
8 interim increase permanent and impose additional
9 increases.

10 Hydro proposes an additional 2 percent
11 increase from September 1st, 2023, and another 2
12 percent increase from April 1st, 2024. These
13 increases are based on the twenty (20) year forecast
14 designed to achieve the financial targets in Bill 36
15 which are not yet in force.

16 On behalf of the AMC, we request that
17 the Public Utilities Board consider our following
18 recommendations:

19 First, that Manitoba Hydro undertake
20 serious efforts in future applications to comprehend
21 the unique characteristics of First Nations customers.
22 This should include a thorough understanding of the
23 effects of rate increases on these customers and
24 improved direct engagement with First Nations
25 governments.

1 Second, that Manitoba Hydro, along with
2 the provincial and federal governments, work with
3 First Nations governments to develop significant
4 solutions for First Nations energy poverty.

5 Third, that the provincial government
6 use collected water rental fees to fund bill
7 affordability programs with a particular focus on
8 First Nations customers.

9 We ask the Board to deny any rate
10 increase during the test years or, alternatively, to
11 allow a lower increase than the proposed 2 percent
12 each year. If any rate increase is awarded in the
13 test years, we suggest extending the period between
14 rate increases to at least one (1) year.

15 Additionally, if any increase is
16 awarded, we advocate for efforts to reduce the impact
17 on residential customers, and this can be achieved
18 through widening the zone of reasonableness or
19 extending the transition period for customer classes
20 in this zone.

21 I will be speaking today to our written
22 submissions. First, I'll discuss reconciliation and
23 bill affordability and why these are still relevant
24 considerations.

25 Then I'll discuss how energy poverty is

1 still persisting for First Nations customers.

2 Third, I'll discuss the need to ensure
3 that First Nations receive equitable benefits from
4 Manitoba Hydro.

5 I'll then discuss how Manitoba Hydro's
6 requested rate increases are not justified. And
7 finally, I will discuss cost of service.

8 I'll begin today with reconciliation
9 and bill affordability. For this matter, I'll show
10 how issues of bill affordability and reconciliation
11 are still relevant and request that Manitoba Hydro
12 should be directed to better consider and understand
13 the impacts of rate increases on First Nations
14 customers.

15 The Assembly of Manitoba Chiefs has
16 significant concerns about Manitoba Hydro's proposed
17 rate increases, especially their impacts on First
18 Nations customers.

19 For at least a decade, issues of bill
20 affordability and energy poverty have been central
21 concerns before this Board. Energy poverty, where a
22 household must make sacrifices deemed unacceptable by
23 most Manitobans to obtain sufficient energy, remains a
24 persistent and important issue.

25 The Manitoba Hydro Bill Affordability

1 Report highlighted that increased energy costs
2 disproportionately impact households already
3 dedicating a significant portion of their income on
4 energy.

5 Despite the findings of the report, the
6 situation remains largely unchanged for many,
7 particularly, First Nations citizens.

8 To underscore the gravity of the
9 situation, the Public Utilities Board previously
10 directed Manitoba Hydro to establish a First Nations
11 on-reserve residential customer class, recognizing the
12 high rates of energy poverty on reserve.

13 This direction was justified by the
14 compelling evidence of energy poverty among First
15 Nations residents.

16 While the Manitoba Court of Appeal has
17 overturned the creation of this class, no counter
18 evidence has ever been provided to dispute the facts
19 of widespread energy poverty. In fact, energy poverty
20 has been further exacerbated by the impacts of COVID-
21 19 and high levels of inflation.

22 The issues of bill affordability and
23 reconciliation remain important considerations for the
24 Public Utilities Board.

25 The Court of Appeal confirmed that the

1 Public Utilities Board can and should consider social
2 policy when reviewing rate applications as it directly
3 affects the interest of ratepayers and Hydro's
4 financial health.

5 The current legislative regime includes
6 Section 25(4) of the Crown Corporations Governance and
7 Accountability Act. Although this part will be
8 amended to become inapplicable on April 1st, 2025, the
9 AMC submits that the Board retains its jurisdiction to
10 consider issues of bill affordability and energy
11 poverty.

12 The Court of Appeal also confirmed that
13 the Public Utilities Board may consider the Path to
14 Reconciliation Act and we strongly urge the Board to
15 remain guided by the Act and the principles of
16 reconciliation.

17 The AMC urges the Board to direct
18 Manitoba Hydro to more thoroughly consider,
19 understand, and address the impacts of rate increases
20 on First Nations customers.

21 While Manitoba Hydro may cite debt-to-
22 equity ratios set out in Bill 36, we argue that it is
23 using this legislation, which has not yet been
24 proclaimed, as an excuse to overlook the unique status
25 and challenges faced by its First Nations customers.

1 We have noticed a concerning trend in
2 this Hearing. When questioned about these issues,
3 Manitoba Hydro representatives deflected with
4 references to Bill 36 and its prohibitions.

5 We understand Section 39.1(2), which
6 states that all residential grid customers are to
7 constitute a single class of customers and Section
8 39(5), which states that rates for different consumers
9 or classes of customers must not differ based on
10 affordability or other socio-economic factors.

11 But when asked about bill
12 affordability, energy poverty, and reconciliation, Ms.
13 Grewal repeatedly referred back to Bill -- Bill 36 and
14 its prohibition based on affordability or other socio-
15 economic factors.

16 When asked about reconciliation, in
17 particular, Ms. Grewal would only state that Bill 36
18 precludes Hydro from doing anything different for one
19 class or set of customers compared with another class.

20 In fact, the revenue requirement panel
21 was not able to answer crucial questions about the
22 higher electricity consumption by First Nations on
23 reserve customers.

24 This shows that Manitoba Hydro views
25 First Nations customers no differently than its

1 broader residential and general service customers.
2 Even though First Nations customers face unique socio-
3 economic conditions.

4 It was very disappointing to hear that
5 none of the panel members were familiar with the May
6 2018 Clean Environment Commission Report, which
7 documents the social impacts of Manitoba Hydro
8 development.

9 The ignorance of Manitoba Hydro's top
10 ranking employees regarding the unique status and
11 impacts of the actions, colonial policies, and
12 legislation on First Nations in Manitoba is very
13 troubling.

14 Despite Manitoba Hydro's proclaimed
15 efforts to strengthen relationships with Indigenous
16 communities, it falls notably short in understanding
17 First Nations as customers.

18 The impacts of rate increases on First
19 Nations customers seem to be largely ignored.

20 Manitoba Hydro's reluctance -- or
21 perhaps unwillingness -- to recognize and consider the
22 unique situation of its First Nations customers is a
23 concern for the Assembly of Manitoba Chiefs.

24 The First Nations unique socio-economic
25 conditions, particularly, for those living on reserves

1 must be adequately addressed, especially in the
2 context of rate increases.

3 Moving to my submissions on energy
4 poverty for First Nations customers, I will discuss
5 some of the evidence persisting -- some of the
6 evidence regarding persisting energy poverty and why
7 action on energy poverty is required.

8 As First Nations customers continue to
9 face persisting energy policy, the AMC makes three (3)
10 submissions:

11 First, the AMC supports the MKO's
12 position for the Board to recommend the reinstatement
13 of the First Nations on Reserve Residential Customer
14 Class to the provincial government. This would be a
15 crucial initial step towards addressing energy poverty
16 among First Nations customers.

17 Second, we request that the Board
18 encourage Manitoba Hydro, along with the provincial
19 government to collaborate with First Nations
20 governments and the federal government to address the
21 issues of energy poverty.

22 Finally, as the provincial government
23 will continue to receive 50 percent of water rental
24 fees from Manitoba Hydro, we propose that the Board
25 recommend that the provincial government use these

1 proceeds to fund initiatives designed to alleviate
2 energy poverty and improve bill affordability for
3 First Nations and other vulnerable customers.

4 First Nations Residential Customers on
5 Reserve totaled nineteen-thousand five hundred and
6 ninety three (19,593) customers, of which eighteen
7 thousand nine hundred and thirty (18,930) receive
8 electrical heating service from Manitoba Hydro's grid
9 and do not rely on diesel energy.

10 First Nations on Reserve Residential
11 Customers comprise 3.67 percent of all Manitoba Hydro
12 residential customers. High electricity consumption
13 of First Nations on Reserve Residential Customers
14 continues to persist.

15 Most on reserve residential customers
16 use over two thousand (2,000) kilowatt hours of
17 electricity per month, with a substantial majority
18 using that amount over the winter months.

19 The higher the electricity consumption,
20 the larger impact on the customer bill. Impacts of
21 increasing rates are even more pronounced for
22 households that spend a significant portion of their
23 total income on energy.

24 This is why First Nations Residential
25 Customers on Reserve, are more impacted by rate

1 increases, than the average residential customer.

2 Even though First Nations Residential
3 Customers on Reserve only account for 3.67 percent of
4 Hydro's residential customers, they're
5 disproportionately impacted by bill arrears,
6 uncollectible accounts and disconnected accounts.

7 First Nations on Reserve Residential
8 Customer accounts make up 16.36 percent of all
9 residential disconnected customer accounts and 22
10 percent of residential late payment charges.

11 The number of disconnected accounts for
12 First Nations on reserve are rising back to pre-
13 pandemic levels. Despite this increase, Manitoba
14 Hydro does not factor levels of disconnected accounts
15 to bill unaffordability in its long -term forecast.

16 There has been considerable discussion
17 in previous hearings about the impact of federal
18 funding for social assistance recipients on bill
19 payments on reserve.

20 In reply, the AMC would like to note
21 that not all First Nations customers receive social
22 assistance from the federal government, just as not
23 all general residential customers receive social
24 assistance from the province.

25 In fact, Manitoba Hydro was unable to

1 advise whether or how many First Nations on Reserve
2 Residential Customers have bill arrears paid for by a
3 third party; such as an income administrator through
4 social assistance.

5 While we appreciate Manitoba Hydro's
6 efforts in providing Equal Payment Plan, Energy
7 Finance Plan, and the Neighbors Helping Neighbors
8 Program, these initiatives are not sufficiently --
9 these initiatives have not sufficiently alleviated the
10 hardships faced by First Nations customers.

11 A stark indication of their inadequacy
12 is the low participation rate of First Nations
13 customers. For the Customer Arrears Program, 1.43
14 percent of the total participants are First Nations.

15 For the Neighbors Helping Neighbors
16 Program, less than 1 percent, or 0.96 percent of the
17 total participants are First Nations and for the Equal
18 Payment Plan, 0.49 percent of the total participants
19 are First Nations.

20 In Order 59/18, the Board stated that,
21 given Hydro's expertise regarding customer billing and
22 affordability, Hydro should take the initiative to
23 work with the Provincial Government and other
24 stakeholders to develop a comprehensive program based
25 on bill affordability, but it appears that neither

1 Manitoba Hydro nor the Province have taken any action
2 on this recommendation.

3 Further, in Order 59/18, the Board
4 recommended that the Provincial Government consider
5 applying capital tax and water rental payments from
6 Hydro to funding energy affordability programs
7 targeted at vulnerable customers. Although the
8 Province reduced water rental fees and Provincial
9 guarantee fees by 50 percent, these savings have been
10 applied to reduce debt, minimize new debt, and result
11 in an overall reduction in the requested rate
12 increase.

13 Ms. Grewal confirmed that Hydro did not
14 have any conversations with the Provincial Government
15 about reducing the burden for low income customers,
16 only about lowering the overall rate increase request.

17 As the Provincial Government will still
18 continue to receive 50 percent of the water rental
19 fees, the AMC requests that this Board recommend that
20 the Provincial Government use the proceeds of water
21 rental fees to fund initiatives that will assist First
22 Nations and other customers with bill affordability.

23 My third submission today is that First
24 Nations needs to receive equitable benefits. I'll
25 begin by discussing the relevant principles of equity,

1 the continuing inequities regarding provision of and
2 access to Hydro's services, employment equity,
3 equitable reliability in service, and access to rate-
4 mitigating measures.

5 Manitoba's Hydro -- Manitoba Hydro's
6 future projections show a consistent pattern of
7 increasing rates for the next two (2) decades. As
8 First Nations customers have the disproportionate
9 burden of rate increases, more must be done to ensure
10 that First Nations equitably benefit from the services
11 and operations made possible by such rates. If First
12 Nations do not equitably benefit from rate increases,
13 then the proposed rates are not fair or reasonable.

14 The AMC wishes to emphasize that
15 Manitoba Hydro, a Crown Corporation, is positioned on
16 the ancestral and unceded territories of First
17 Nations. The creation and maintenance of Manitoba
18 Hydro's assets on these lands have historically led to
19 significant damage to First Nations, while the major -
20 - while the major share of economic gains has been
21 directed to southern settler communities.

22 The original intention of the treaties
23 was to establish relationships for land sharing, but
24 the continued suffering of First Nations, due to
25 unfulfilled treaty promises highlights the urgent need

1 for equitable benefits to be considered and addressed
2 by Manitoba Hydro.

3 In this current Application, Manitoba
4 Hydro has incorporated a buffer into its proposed
5 rates and financial predictions, owing to strict
6 adherence to financial metrics established in Bill 30
7 -- Bill 36 and a cautious export forecast.

8 This suggests that there is potential
9 to lower the proposed rate hikes. Such a reduction
10 would be fair and reasonable, given the persisting
11 energy poverty metrics for First Nations on Reserve
12 Residential Customers and based on evidence that these
13 customers might -- might not be receiving equitable
14 benefits from Manitoba Hydro's services and
15 operations.

16 This Board, in its capacity as an
17 administrative decision-maker, makes decisions that
18 align with its statutory discretion and the principles
19 embodied in the Path to Reconciliation Act and the
20 Charter of Rights and Freedoms.

21 A decision aligns with Charter values
22 when it strikes a proportionate balance between the
23 statutory objectives that the administrative decision-
24 maker operates under and the Charter values affected
25 by their decision. In the context of this

1 Application, the existing legislative framework
2 remains applicable to the Public Utilities Board's
3 decision-making process.

4 Part 4 of the Crown Corporations
5 Governance and Accountability Act outlines the Public
6 Utility Board's jurisdiction to approve rates, which
7 expressly allows the Board to consider other
8 compelling factors.

9 We submit that the Public Utilities
10 Board must continue considering Charter values under
11 the new legislation, once enforced, in line with its
12 jurisdiction to determine fair and reasonable rates,
13 and to balance Manitoba Hydro's financial well-being
14 with its customers interests.

15 First Nations living on reserve are
16 protected under section 15(1) of the Charter on the
17 grounds of their race and ethnic origin, as well as
18 their residence on reserve.

19 Assessing whether a policy or decision
20 compromises equality is a contextual matter. Taking
21 into account the real outcomes of the policy or
22 decision on members of a protected group in the
23 context of social and economic circumstances.

24 Our concern is whether First Nations
25 citizens in Manitoba, while being disproportionately

1 susceptible to the impacts of rate increases, are
2 receiving equitable benefits from Manitoba Hydro
3 services and operations.

4 When evaluating if First Nations
5 customers are equitably benefiting from rate
6 increases, the Board focussed on econom -- or on
7 substantive equality rather than formal equality.
8 This involves a comparative analysis.

9 First, identifying if a distinction has
10 been created based on an enumerated or analogous
11 ground, and if so, whether this distinction imposes
12 burdens or denies a benefit in a way that re-enforces,
13 perpetuates or exacerbates disadvantage.

14 The Path to Reconciliation Act further
15 advocates for considering equity as a principle of
16 reconciliation.

17 Existing metrics clearly indicate a
18 continued struggle with energy poverty among First
19 Nations On Reserve Residential Customers compared to
20 the broader residential class.

21 Similar concerns around substantive
22 equality were raised by the AMC in the 2017, 2018, and
23 2019, 2020 General Rate Application. And these issues
24 continue to persist.

25 In those written final submissions of

1 the AMC, evidence was shown that just two (2) of the
2 sixty-three (63) First Nations in Manitoba have Hydro
3 gas lines extended to them, despite the fact that many
4 are not remotely located and could greatly benefit
5 from alternative energy sources to cut energy costs.

6 By contrast, a significant 82.8 percent
7 of Manitoba households have access to natural gas as
8 an energy source.

9 First Nations bear an unequal share of
10 the costs for providing Hydro services. Hydro
11 services are -- or Hydro infrastructure, sorry, is
12 located on the ancestral and traditional First Nations
13 lands and waters throughout Manitoba, often without
14 their input or consent.

15 And this has impacted their protected
16 treaty rights to hunt and gather. Consequently,
17 impairing their ability to sustain their livelihoods.
18 It's vital to acknowledge that members of First
19 Nations in Manitoba have paid and continue to pay a
20 significant price for electricity.

21 Manitoba Hydro's major portion of
22 operations and administration costs, nearly 70 to 75
23 percent, are attributed to wages, salaries, overtime,
24 and benefits, accounting for 20 percent of total
25 expenses. These costs are projected to rise by

1 approximately 11.6 percent in the first year and an
2 additional 4.6 percent in the second year.

3 Despite Manitoba Hydro's commitment to
4 equitable Indigenous representation, there is a
5 noticeable, under representation, of First Nations
6 employees.

7 The Company's broader pan-Indigenous
8 approach to employment policies fails to consider the
9 unique status of First Nation citizens. A review of
10 employment data, as indicated in Exhibit AMC-28(a)
11 shows a confusion of First Nations under
12 representation in the workforce.

13 Out of the total staff, 20.21 percent
14 self-identify as Indigenous. However, per Exhibit
15 AMC-3-7, only three hundred and thirty-four (334) out
16 of one thousand and twenty-nine (1,029) Indigenous
17 employees are First Nations, representing a meagre 6
18 percent of the workforce.

19 This is concerning considering the
20 registered population of First Nations citizens in
21 Manitoba is approximately 12 percent per the 2021
22 census data.

23 Further, Manitoba Hydro lacks specific
24 targets for First Nations employment, setting broad
25 Indigenous employment goals even for management and

1 professional positions. This fails to acknowledge the
2 importance of the Crown First Nations treaty
3 relationship and the unique identify of First Nations
4 citizens in Manitoba.

5 We consi -- we encourage Manitoba Hydro
6 to consider job training programs for First Nations'
7 candidates in areas like management and professional
8 positions, and not just for trade programs.

9 Finally, a concern lies in the future
10 of First Nations' contractors as major capital
11 projects like Keeyask wind down. Despite this Project
12 exceeding employment and contracting targets with four
13 (4) Keeyask First Nations partners, there is
14 uncertainty regarding the continuity of these economic
15 benefits. Notably, half of the employees hired for
16 Keeyask left as the Project -- left the project as
17 their terms ended, further complicating the situation.

18 Manitoba Hydro aims to ensure safe,
19 clean, reliable energy at the lowest possible cost for
20 all Manitobans, but the Company does not track
21 reliability metrics specifically for First Nations'
22 customers. It also has not analyzed the reliability
23 of assets on First Nations reserve.

24 Consequently, we can't accurately
25 ascertain the extent to which First Nations customers,

1 particularly those on reserves, have benefited from
2 capital spending related improvements.

3 The AMC appreciates Manitoba Hydro's
4 efforts to enhance the distribution grid in remote
5 northern communities and areas with extended response
6 times, especially considering the significant impact
7 of environmental events causing prolonged outages that
8 require evacuation or backup generation which are a
9 major concern for First Nations.

10 But the Asset Management Plan presented
11 in the current Application doesn't provide adequate
12 details to convince us that First Nations customers
13 are reaping equitable benefits from reliable services.
14 Only two (2) projects were evented (sic) that directly
15 benefit First Nations customers.

16 Manitoba Hydro emphasizes balancing low
17 predictable rates with ensure, exist and reliability
18 based on direct customer feedback. But the Company
19 doesn't specifically track data or complaints from
20 First Nations customers about reliability and hasn't
21 provided evidence of engaging with them on these
22 issues despite having a dedicated accounts and
23 administrative group for these customers.

24 Manitoba Hydro's evidence on
25 residential customer preferences derived from customer

1 satisfaction tracking study and the 2019 customer
2 perception study fails to sufficiently represent First
3 Nations customers due to very small sample sizes and
4 the inability to distinguish between concerns related
5 to weather events and regular reliability issues.

6 The AMC notes that the advanced
7 metering infrastructure Manitoba Hydro is considering
8 will allow for detailed tracking of outages for First
9 Nations customers, and we would appreciate such
10 evidence brought forward in future applications.

11 Access to rate mitigating measures
12 appears to be worse for First Nations customers on
13 reserve compared with other customers. Manitoba Hydro
14 does not consider accessibility for First Nations
15 customers in relation to continuous improvement
16 initiatives.

17 Out of the one thousand one hundred and
18 seventy-one (1,171) behind-the-meter renewable energy
19 installations in Manitoba, of which 99 percent are
20 solar, there are only five (5) solar installations
21 found on three (3) First Nations reserves.

22 My fourth submission this morning is
23 that Manitoba Hydro's requested rate increases are not
24 justified. I will submit that a shorter term rate
25 path should be considered more persuasive for this

1 Application.

2 I'll discuss the export revenue
3 forecasts and opportunities to reduce asset management
4 and operation spending.

5 The AMC submits that the proposed
6 general rate increase in the test years is neither
7 just, nor reasonable. We support a zero percent rate
8 increase as Manitoba Hydro hasn't provided sufficient
9 proof that its -- as revenue requirement is necessary
10 beyond the debt-to-equity ratios in Bill -- Bill 36
11 which aren't applicable in the current application.

12 The Board must consider the impact of
13 rate increases on customers, particularly those who
14 are low income and living on reserves, while
15 evaluating Manitoba Hydro's financial needs.

16 The primary justification for the
17 proposed 2 percent increase is based on a twenty (20)
18 year forecast aimed at achieving the debt-to-equity
19 ratio targets in Bill -- Bill 36 which, until
20 proclaimed, are arbitrary and untested.

21 The strategy of Manitoba Hydro to build
22 a significant cushion to mitigate its financial risk
23 comes at the expense of vulnerable customers. This
24 strategy needs to be balanced against the fact that
25 higher rates will impose additional hardship on First

1 Nations customers.

2 Energy poverty issues and bill impacts
3 do not warrant a rate increase based on a twenty (20)
4 year target to meet arbitrary debt-to-equity ratios,
5 especially considering the dyer situation of On
6 Reserve First Nations Residential Customers.

7 The AMC supports the analytical
8 perspective number 3 proposed by Mr. Rainkie which
9 points out that ratepayers have been paying 3 percent
10 average rate increases yearly over the past twelve
11 (12) years while not reaping the benefits of major
12 capital projects.

13 With improved cost control, pausing the
14 rate in the test year should not lead to higher rate
15 increases in the future. Our rate pause
16 recommendation is not retroactive; rather, we are
17 asking the Board to acknowledge that Manitoba Hydro,
18 after receiving higher than inflation rate increases
19 over the past decade, should now enforce better cost
20 control.

21 If the Board decides that Bill 36
22 targets should be considered, the proposed 2 percent
23 general revenue increase is unwarranted and a lower
24 increase is justified.

25 Any approved increase should be under

1 1.4 percent per test year, which still should enable
2 Hydro to meet its debt-to-equity ratio target by 2035.

3 This recommendation is further
4 justified by the uncertainty, lack of long-term
5 forecast information, conservative export assumptions,
6 and export evidence suggesting opportunities for
7 Manitoba Hydro to reduce its cost forecasts.

8 Finally, the AMC has concerns about the
9 impact of the rate increase awarded in the interim
10 rate application and supports any action to reduce its
11 impact on First Nations customers.

12 Given the acknowledged uncertainty of
13 forecast beyond the short-term by Manitoba Hydro, it's
14 imprudent to set rates based on a forecast that will
15 unvariably require adjustments.

16 It's unnecessary to enforce a 2 percent
17 rate increase today to match long-term forecasts at a
18 time when the energy sector is undergoing
19 transformative change potentially to Manitoba Hydro's
20 benefit.

21 It's an accepted fact that financial
22 forecasts carry inherent risks, and these risks are
23 amplified when forecasts extend further into the
24 future. Manitoba Hydro has admitted to this risk in
25 this proceeding, including that its long-term forecast

1 is directional and does not necessarily represent
2 future required rates.

3 Given the incomplete elements in this
4 Application, the uncertainties are even more
5 pronounced. More weight should be given to shorter-
6 term financial forecasting in this Application.

7 This Application is primarily based on
8 a twenty (20) year financial forecast and rate path
9 proposed by Manitoba Hydro to meet legislated debt-to-
10 equity targets set out in Bill 36 which are not yet in
11 effect.

12 The uncertainty underlying the long-
13 term financial forecast means that the rate path
14 cannot reliably be used for this current Application.

15 An integral missing component from the
16 current Application is an integrated resource plan.
17 This integrated resource plan would offer a more
18 detailed assessment regarding the optimal mix of
19 energy and capacity resources required over the next
20 twenty (20) years. It would also provide a more
21 robust analysis on the cost of energy and supply over
22 the next two (2) decades.

23 The current long-term forecast does not
24 factor in the clean electricity investment tax credit
25 which was introduced in the federal budget in 2023.

1 As Manitoba Hydro is eligible for this tax credit,
2 customers should expect savings from this tax credit
3 in future applications, potentially reducing future
4 rate increases.

5 Key financial metrics with a zero
6 percent rate increase approved for 2023/'24 and
7 2024/'25 years indicate that a debt-to-ratio -- a
8 debt-to-equity ratio will hit 80 percent by 2035, the
9 date potentially legislated by Bill 36. With higher-
10 than-average waterflow or increased electricity price
11 forecasts, this target could be achieved earlier.

12 The AMC observes that the conservative
13 nature of Manitoba Hydro's export forecast impacts
14 customers. There seems to be an element of double
15 counting and having a conservative export revenue
16 forecast, while also factoring in residual risk into
17 rate increases to build up financial reserves.

18 Instead of preemptively accounting for
19 potential risks, AMC argues that risk should only be
20 considered when it materializes. Manitoba Hydro's
21 export activity -- activities significantly influence
22 rate increases.

23 When its export capabilities are under-
24 representative, it results in a higher rate for -- for
25 domestic customers, particularly for First Nations

1 customers with higher overall consumption.

2 While Manitoba Hydro's existing export
3 contracts provide value and need no further
4 optimization, further opportunities were not analyzed
5 despite forming a key factor in determining future
6 rate increases.

7 In the long-term forecast, Manitoba
8 Hydro hasn't assumed any new capacity contracts post-
9 expiry of current ones. They also do not estimate any
10 capacity revenue from annual capacity auctions in MISO
11 or Ontario markets which could potentially provide
12 summer capacity. Daymark's analysis reveals a
13 forecasted need for summer capacity in both the MISO
14 and Ontario markets.

15 With the retirement of fossil fuel
16 resources and the addition of renewables that provide
17 less dependable capacity, Manitoba Hydro's surplus
18 capacity and energy could become highly valuable.

19 The long-term export market value of
20 Manitoba Hydro is underestimated by relying solely on
21 declining energy costs. And this neglects the value
22 of its capacity, ultimately, increasing forecasted
23 costs for domestic customers.

24 As the MISO market continues to add
25 renewable resources, the relative contribution of

1 Manitoba Hydro's assets should increase, resulting in
2 higher capacity revenues. Also, targeting sales
3 during peak pricing periods will extract maximum value
4 from short-term energy markets.

5 Risks identified by Daymark and
6 Manitoba Hydro could impact Manitoba Hydro's future
7 export possibilities, with the MISO market becoming
8 winter peaking as being one. But the most recent MISO
9 load forecast does not predict a winter peak in the
10 near future. This mitigates the perceived risk for
11 Manitoba Hydro.

12 In the context of seasonal capacity
13 options, Manitoba Hydro doesn't predict a monetary
14 value for potential new products, but doesn't assume
15 that they won't sell. This approach could defer the
16 need for additional capacity resources for years.

17 The expected capacity shortfall in MISO
18 presents an opportunity to sell Manitoba Hydro's
19 summer surplus capacity. Further, market evolution
20 could create new or expanded opportunities for
21 Manitoba Hydro products which are actively sought
22 after.

23 The AMC suggests that the conservative
24 forecast for Manitoba Hydro may negatively impact its
25 customers. Despite the uncertainty around valuing

1 Manitoba Hydro's energy or capacity, it remains a
2 clean, reliable, and dispatchable resource, and its
3 value should increase in future grid prioritizing
4 decarbonization.

5 The AMC believes that Manitoba Hydro
6 should proactively improve its systems to reduce
7 costs, especially considering the current economic
8 climate. This could balance the Utility's financial
9 health with customer interests.

10 Manitoba Hydro has prioritized customer
11 demands for a balance between low rates and improved
12 reliability, planning an \$18 billion investment over
13 the next twenty (20) years, with 90 percent of this
14 cost going into business operations capital to
15 maintain system reliability.

16 Midgard criticized Manitoba Hydro's
17 Asset and Capital Management Plan, suggesting its
18 assessment tools could be better developed. They
19 recommended a 10 percent reduction in the business
20 operations capital budget until Manitoba Hydro can
21 prove that its asset decision making is supported by
22 quality data and frameworks.

23 The AMC is concerned about Manitoba
24 Hydro's history of cost overruns which, ultimately,
25 burden the customers. Continued overruns could lead

1 to necessary projects being neglected which would
2 escalate cost pressures and adversely impact systems, d
3 system reliability, and rates.

4 Manitoba Hydro could also consider
5 cost-saving alternatives for its Asset Management and
6 Capital Plan.

7 For instance, non-wire alternatives
8 could be more of a cost-effective solution to mitigate
9 future weather and natural disaster impacts, and tax
10 credits could be garnered from capital investments in
11 wind, solar, or batteries under Federal Budget 2023.
12 Manitoba Hydro has agreed to explore this issue to
13 keep costs low for Manitobans.

14 Manitoba Hydro predicts increased
15 operations and administrative costs. Implementing Mr.
16 Rainkie's recommendations for cost containment in
17 these areas could reduce rate burdens for customers.

18 The AMC advocates for minimizing the
19 impact of any rate increase on residential customers,
20 for instance, by enforcing an equal rate increase
21 across all customers classes or broadening the zone of
22 reasonableness.

23 Currently, Manitoba Hydro's Application
24 suggests a 2.4 percent rate increase for residential
25 customers, which is more significant than the rate

1 increase proposed for the other classes.

2 Manitoba Hydro acknowledges the
3 importance of affordability; a non-cost attribute that
4 can -- than can influence rate design but due to the
5 complexity of Manitoba Hydro's system, it's
6 challenging to accurately determine the cost of
7 serving each customer class.

8 The volatility of future export
9 revenues and its disproportionate impact between
10 industrial and residential classes further shows that
11 limiting the effect of differentiated rates on
12 residential customers should be considered.

13 One witness expressed uncertainty over
14 future export revenues remaining at current levels.
15 Export revenues --

16 THE CHAIRPERSON: Ms. -- Ms. Fox --
17 sorry. Ms. Fox, I just want to tell you you've got
18 fifteen (15) minutes left.

19 MS. CARLY FOX (by TEAMS): Okay.
20 Thank you.

21 THE CHAIRPERSON: Thank you.

22 MS. CARLY FOX (by TEAMS): Export
23 revenues decrease the total revenue requirement from
24 domestic customers. In its Application, Manitoba
25 Hydro stated that exports offset 35 percent of total

1 costs for the residential -- the residential class
2 compared to 38 percent for General Service Medium and
3 48 percent for General Service Small.

4 When queried about the disproportionate
5 benefit to GSL classes, Ms. Van Hussen suggested that
6 it might be reasonable to widen the zone of
7 reasonableness to 90 to 110 percent due to significant
8 export revenue. As export revenues decrease, all
9 classes could gradually move closer to the existing
10 zone of reasonableness.

11 For First Nations customers, the impact
12 of water rental fees is further magnified. First
13 Nations in Manitoba are required to pay
14 disproportionately high rates for the use of their own
15 waters.

16 The AMC urges the Board to minimize the
17 impact of differentiated rate increases on vulnerable
18 residential customers such as First Nations on-reserve
19 residential customers. This may include reconsidering
20 rate objections and policies to ensure a fair
21 distribution of revenue requirement resulting in just
22 and reasonable rates.

23 Ms. Gregorashuk confirmed that Manitoba
24 Hydro has considered bill affordability when designing
25 rates, but the impact of rate increases on vulnerable

1 customers like First Nations residential customers on
2 reserve are not moderate despite Manitoba Hydro's
3 claim of moderate rate (INDISCERNIBLE).

4 In conclusion, the AMC argues that no
5 rate increase in the test years is just and reasonable
6 and, alternatively, a lower rate increase would be
7 justified. And those are all my submissions today,
8 Mr. Chair.

9 THE CHAIRPERSON: Thank you very much,
10 Ms. Fox. I'm going to ask the Panel if they have any
11 questions. Ms. Kapitany...? No. Mr. Sy...? No.

12 I have a couple of questions. I just
13 want to go back to an opening comment, and I was
14 writing as quickly as I could, but not quite fast
15 enough.

16 In the opening, you said you were
17 concerned about rates for First Nation customers off
18 reserve as well. So the question I -- I have is:

19 Are you talking about a recommendation
20 for a separate class for First Nation customers on
21 reserve as well as off-reserve, or are you talking
22 about that -- that we would look at First Nation
23 customers off reserve simply as members of the
24 residential class so the issues of bill affordability
25 and things of that nature would then apply?

1 MS. CARLY FOX (by TEAMS): Yeah. So
2 what I -- what I meant to say -- or what I -- what I
3 was intending to say is that First Nations on reserve
4 customers, they have their own unique challenges that
5 may not be the case with First Nations off reserve.
6 But there's been no engagement with First Nations who
7 live off reserve.

8 And I think that's something that needs
9 to take place prior to any type of recommendation made
10 by the AMC.

11 THE CHAIRPERSON: Okay. Is -- I'm
12 just trying to remember from the evidence if there is
13 a way to even recognize for -- who First Nations off
14 reserve are.

15 MS. CARLY FOX (by TEAMS): I don't
16 think so, based on what Hydro has provided. I don't
17 think they track First Nations customers off reserve.
18 Is that right?

19 MS. EMILY GUGLIELMIN (by TEAMS):
20 Yeah, that's right. They don't track First Nations
21 off reserve.

22 There would be similar ways of
23 identifying these customers through, like, status
24 cards, for example. But it's not currently done.

25 THE CHAIRPERSON: Okay. And in terms

1 of the energy poverty portion -- and I'm -- this is
2 probably in your written submission, which we don't
3 have yet. We haven't received copies yet.

4 But when you talked about First Nations
5 customers at 3.67 percent, is that First Nations
6 customers on reserve or is that -- that's on reserve.
7 Okay.

8 MS. CARLY FOX (by TEAMS): That's --
9 yes.

10 THE CHAIRPERSON: Okay. Thank you.
11 I guess the -- the final question is when you're
12 proposing that the PUB should grant zero (0) and zero
13 (0) for the two (2) forthcoming years, are you going
14 on the basis of let's see if the -- if we hit 2025 and
15 the target and rate formula are still in effect? Or
16 is it even if they're in effect, those go zero (0) and
17 zero (0)?

18 MS. CARLY FOX (by TEAMS): Even if they
19 are in effect, I think zero (0) and zero (0).

20 THE CHAIRPERSON: Okay. And if -- if
21 that's the case, then we would be looking at higher
22 rates after 2025. Is there a problem -- I mean, this
23 is sort of rolling the dice, isn't it?

24 If they're zero (0) and zero (0), the
25 financial -- and the targets are there and the rate

1 formula is there, you're looking at a higher rate than
2 if you granted something, even if it was less than 2
3 percent now.

4 MS. EMILY GUGLIELMIN (by TEAMS): I
5 think our client is hopeful that the Provincial
6 Government and Manitoba Hydro will take the
7 recommendation to start engaging on bill affordability
8 issues so that that won't be an issue for its most
9 vulnerable customers.

10 I think they also are looking at the
11 long-term forecast and saying, you know, Given the
12 lack of an IRP, do we really know what those longer
13 terms forecasts are going to look like.

14 THE CHAIRPERSON: Yeah. Okay. Thank
15 you very much. I'd like to -- on behalf of the Panel,
16 thank you very much for your presentation this
17 morning.

18 MS. CARLY FOX (by TEAMS): Thank you.

19 THE CHAIRPERSON: Mr. Williams...?
20

21 CLOSING SUBMISSIONS BY DR. BYRON WILLIAMS:

22 DR. BYRON WILLIAMS: Yes. And I'll
23 ask Ms. Schubert to pull up page 2 of our PowerPoint,
24 'A Strange Paradox, Hydro and Captive Ratepayers'.

25 And good morning, Mr. Chair and members

1 of the panel. Sorry, Mr. Chair.

2

3

(BRIEF PAUSE)

4

5

THE CHAIRPERSON: Sorry,

6

administrative matters. Yes, we -- we have -- we just

7

handed these out, so. Thank you, Mr. Williams.

8

DR. BYRON WILLIAMS: And with that,

9

I'll start my own clock. And just for the Board's

10

reference, in the -- in the first twenty (20) minutes

11

or so, we hope to cover parts 1 through 4, including

12

forecasting.

13

We'll take another twenty (20) minutes

14

or so to talk about business operation capital. And

15

if the Board is feeling it needs a break at 10:40,

16

that might not be a bad time.

17

Again, we'll spend another twenty (20)

18

minutes on operating and administrative expenses,

19

parts 6 to 8.

20

Twenty (20) minutes on overall health

21

of the Corporation. Twenty (20) minutes on Cost of

22

Service. And then, hopefully get to our

23

recommendations at -- at -- with a few minutes left to

24

go.

25

And if we could turn to slide 4 now,

1 Ms. Schubert, just to remind this Panel, we're
2 honoured to represent Harvest Manitoba, the Aboriginal
3 Council of Winnipeg, and the Consumers Association.

4 Harvest Manitoba, obviously, has a
5 reach across the province sadly serving forty thousand
6 (40,000) Manitobans each month, numerous communities
7 throughout the province, through three-hundred-and-
8 sixty (360) food banks.

9 The Aboriginal Council of Winnipeg is
10 primarily urban focused.

11 And obviously, the Consumers
12 Association is a long-time member before --
13 participant before the -- the Public Utilities Board.

14 And in terms of our clients -- as we
15 move to slide 5 -- we just want to emphasize the
16 extensive consultation and research that goes into
17 their presentations.

18 They're guided by the lived experience
19 of the -- the people they serve through the insight to
20 their staff. They have benefited from two (2)
21 separate advisory panels in this proceeding; one
22 composed of stakeholder organizations, another of
23 academic experts and community members. And they do
24 regular primary research on relevant issues.

25 And we turn to slide 6, a key message

1 that -- that our clients want to share. And you heard
2 that message from our -- our friends from the AMC in
3 such an eloquent and powerful presentation is that
4 there is a real Keeyask burden.

5 Those major projects -- Keeyask and
6 Bipole III -- came in late and over budget. And for
7 the past decade, the important demarcation point,
8 cumulative residential rate increases have far
9 outstripped inflation.

10 And these, as we turn to slide 7, these
11 impacts have -- were compounded by the pandemic as --
12 as Manitoba Hydro candidly conceded in this quote
13 provided on slide 7.

14 Again, our friends from AMC talked
15 about the hard choices for folks on reserve. Those
16 hard choices are being felt by Manitobans in every
17 community, every day. And they're being felt by
18 people living in poverty, making those calls on food,
19 rent, or hydro. They're being felt by newcomers. And
20 we hear how 33 percent of -- of certain support
21 programs include people struggling with utility
22 arrears.

23 And there are a variety of
24 institutional barriers as well, including deposits and
25 some of those barriers were flagged by our friends at

1 the Assembly of Manitoba Chiefs.

2 We also note small business is sharing
3 the pain of residential customers. And our clients
4 were quite struck by the letter of the Canadian
5 Federation of Independent Business on behalf of its
6 four thousand (4,000) small business members, asking
7 the Province to cancel its plans to hike Manitoba
8 Hydro rates, noting the impacts on business and
9 residential customers. And we -- we thank them for
10 their -- for their submissions and for their thoughts.

11 Slide 10 flags the energy burden. This
12 is from the most recent Manitoba Hydro survey,
13 December of 2022. And it's staggering. This is from
14 their annual surveys that take place quarterly.

15 The proportion of residents reporting
16 their household is experiencing an energy burden rose
17 to 41 percent. And you can look at those surveys over
18 time, the range in the 2021 period was in the 30
19 percent range. Something is happening. People are
20 feeling it in their pocketbook. They're feeling it in
21 their daily choices, and our clients think that is
22 very important for the Board to take into account in
23 its deliberations.

24 There are limits to what the Board can
25 do. But we thought this advice from Amanda Leighton,

1 one of the participants, was wise.

2 How has the Board protected Manitoba
3 ratepayers in the past? The Board has done its job,
4 which is protecting Manitobans from higher than
5 necessary hydro rates. And Consumers have trusted
6 this Board for decades to do this work. And we trust
7 you, again, to hold this publicly owned Crown
8 corporation in check. And that will be a critical
9 message of our clients in this proceeding.

10 I don't know why we're quoting Winston
11 Churchill so much in this Hearing, but if we go to
12 slide 13, we use the word 'a strange paradox' because
13 this -- there has been a lot of dissidence in this
14 hearing. And we want to talk about that for a couple
15 -- a couple slides.

16 Manitoba Hydro is talking about how it
17 aspires to be consumer cautious -- conscience, nimble,
18 forward looking -- that's that Strategy 2040 vision,
19 but we see a fundamental disconnect between what is
20 happening in terms of evidence.

21 This allegedly nimble Corporation took
22 a business-as-usual approach to expenses during the
23 drought. It is by all definitions of the word
24 laggardly -- taking a laggardly approach to modern
25 asset management, optimization, pacing and

1 prioritization.

2 It's OM&A were -- operating and
3 maintenance and administrative budget projections,
4 appear largely untethered to prior Public Utilities
5 Board guidance; and to those essential baselines set
6 out by organizations such as Boston Consulting and
7 Gartner Group.

8 And we note that critical business
9 cases related to digitalization and information
10 technology appear to be missing in action. Over a
11 half a billion dollars with no business case, but
12 right in these -- in the -- in the forecast for
13 Manitoba Hydro.

14 Our clients are frankly disappointed
15 that the Integrated Resource Plan process is still in
16 process nine (9) years after NFAT. And if you read
17 the evidence carefully, it looks like we have three
18 (3) more years of study pending.

19 And our clients note a material step
20 backwards on integrated, probabilistic uncertainty
21 analysis. That step back has been flagged by Mr.
22 Rainkie, by Mr. Bowman -- a material step back.

23 And, again, we have rates grounded in
24 what our clients consider to be arbitrary financial
25 targets, 70/30 based upon a legislative framework that

1 is not in effect today.

2 Again, the Board members have been on
3 top of this more than we have, but there also is a
4 very old school approach to consumer engagement.

5 The second element of that strange
6 paradox on slide 14 is that Manitoba Hydro is making
7 haste to Strategy 2040, that's driving a lot of those
8 OM&A costs, but where's the over-arching policy
9 guidance. The Energy Policy is still not public. The
10 Integrated Resource Plan is still not public. The
11 Efficiency Manitoba Plan has not been publicly filed,
12 reviewed or approved.

13 So, we're making haste spending money
14 towards Strategy 2040, but that essential underlying
15 policy framework is not in place.

16 Finally, our clients consider it a
17 strange paradox that Manitoba Hydro has the temerity
18 to promise a stable and predictable rate path, despite
19 an unprecedented era of uncertainty in policy in the
20 marketplace. And really the hard-nosed realpolitik
21 reality that the future proposed rate path is highly
22 vulnerable to the vagaries of its specific board,
23 who's on that board and its relationship with
24 government. And that's where that strange paradox
25 language comes from from our clients' perspective.

1 And on slide 16, we highlight why our
2 clients place very little weight on Manitoba Hydro's
3 claims and promises of a stable predictable rate path.

4 This is the type of percentage change
5 requested by Hydro or imposed by government over the
6 last number of years, the last eight (8) or so years.
7 7.90s even in November, December, a 3.5 then 2
8 percent.

9 Our clients place very little weight on
10 Hydro's claims that it can promise stable, predictable
11 rate paths.

12 In terms of the applicable laws and
13 regulatory principles, as we turn to slide 18, earlier
14 in the hearing Manitoba Hydro seemed -- seemed to be
15 suggesting that this 70/30 debt to equity target was
16 an act of legislative compliance. They -- they seem
17 to have backed away from that a little bit, in their
18 closing argument on -- on Monday.

19 As we turn to slide 19, clearly the
20 Bill 36 rate setting framework is not binding on this
21 Board prior to April 1st, 2025. It is not bound by
22 the Bill 36 rate caps. It is not bound by the Bill 36
23 financial targets and it is not bound by Treasury
24 Board rubber stamps of capital projects.

25 The applicable law and regulatory

1 principles are set out we think, well canvassed, on
2 slide 20 of our presentation. Don't worry, I'm not
3 going to walk you through this in any detail, that's
4 there for your reference, but we think it captures the
5 world today.

6 But we do want to focus you to the
7 second column under the Hydro Act, where that
8 promotion of economy and efficiency is highlighted
9 right at the start of the Hydro Act.

10 And that commitment to economy and
11 efficiency will underline our clients' submissions.
12 And, again, if we move one (1) column over, what's
13 this about? Ultimately, just and reasonable rates.
14 Rates that are -- are and class -- rates and
15 classifications that are also not unjustly
16 discriminatory or unduly preferential.

17 Critical guidance for the revenue
18 requirement and for cost of service and, ultimately,
19 rate design.

20 On slide 22, we turn to forecasting.
21 And at the start of each section, Mr. Chair and
22 members of the Panel, we are going to give you a
23 roadmap of the recommended findings for each section
24 and then we'll try to walk through them at a high
25 level.

1 Our client on this slide is
2 contemplating whether Hydro scenarios are reasonably
3 reliant for rate setting. We note, right at the
4 start, that their financial forecasts are subject to
5 significant longstanding over-arching uncertainty and
6 volatility related both to hydrology and export
7 prices.

8 And that affects our perceptions of
9 financial forecasts, that effects our perceptions of
10 risk and that is critical when we get to rate design
11 and cost of service as well.

12 We also note, beyond the immediate test
13 years, that we have a level of unprecedented
14 uncertainty, which in our clients' views raises
15 serious doubts about the financial forecast beyond the
16 test years.

17 We don't know where this era of
18 unprecedent and uncertainty will take us, whether it
19 will be to the good or to the bad, but we do know that
20 the -- that futures are uncertain and can be both
21 positive or negative.

22 Again, we highlight, that even in the
23 short term there are fundamental sources of
24 uncertainty related to the Provincial Energy Police,
25 the Integrated Resource Planning Process and the

1 review of Efficiency Manitoba.

2 From our clients' perspective, Hydro's
3 load scenario is reasonably reliable for the test
4 years. But Hydro itself notes that there's an equal
5 chance its load forecast will deviate up or down,
6 after the test years.

7 Our clients consider Hydro's export
8 market scenario for the test years to be reasonable,
9 albeit conservative.

10 Our clients also just want to note and
11 we note Hydro talked a lot about Daymark's findings in
12 its PowerPoint. But Daymark was really very careful.
13 They -- a lot of their comments were premised on the
14 words "for the test years." So, we urge that caution
15 upon the Board.

16 And from our clients' perspective,
17 there appears to be general agreement between Mr.
18 Colaiacovo, Mr. Gawne, Mr. Rainkie and Daymark, that
19 significant caution should be exercised in examining
20 scenarios beyond the test years.

21 In terms of forecasting -- we always
22 have to start with hydrology. Again, it's central to
23 the financial forecast, it's central to risk, it's
24 central to cost of service and rate design and the
25 fundamental point is that Manitoba Hydro can be

1 subject to wild swings. You can see my conversation
2 with Mr. Bowman on -- on this point. And you just
3 think to the early 2000s where we went from
4 circumstances with a drought less than 75 percent of
5 the long term average, to high water rates 50 percent
6 above the average.

7 That's the sense of swings that can
8 happen in just a few years. And we see that again on
9 slide 24. We just saw that the last two (2) years,
10 and this is the CEO of Manitoba Hydro talking. And
11 she's making two (2) points.

12 Hydro is subject to wild spring --
13 swings in hydrology, but those wild swings can be
14 compounded by dramatic and unexpected shifts in export
15 prices.

16 Now, hydrology is mean reverting over
17 time, taking into account climate change, it'll head
18 back to -- towards that average.

19 We do have risks with export prices,
20 because we don't have that -- that confidence that it
21 will be mean reverting and, again, we -- we see this
22 reality of hydrology risk and -- and spot market risk
23 as being central to the forecast to our assessment of
24 risk and to the cost of service and rate design
25 analysis.

1 There does not seem to be, as we turn
2 to slide 25, disagreement in terms of the nature of
3 the future for Hydro. We don't know and it -- there
4 seems to be a consensus view that the level of
5 uncertainty is unprecedented.

6 Mr. Athos, on behalf of Daymark,
7 flagged this point. Hydro, both in its information
8 responses, but in cross-examination, again flagged
9 unprecedented uncertainty and Ms. Grewal noted that
10 some of the key elements of this uncertainty won't
11 emerge until the 2030s.

12 And, in our clients' view, this flags
13 the inherent unreliability of the long-term forecast
14 and predictions of stable and predictable rates and
15 Mr. Fogg, in his cross-examination, on slide 26,
16 really compounded that point. He had been saying,
17 well, 20-year forecasts are always uncertain, but,
18 here, you see him, on slide 26, talking about the
19 unprecedented uncertainty, the potential for drastic
20 change, and acknowledging that there was more
21 uncertainty at this point in time compared to those
22 other 20-year forecasts. From our clients'
23 perspective, this is a very important point.

24 Mr. Bowman -- and, as we look at slide
25 27, Mr. Bowman and Mr. Colaiacovo both made a really

1 important point. Not only is there a very uncertain
2 20-year forecast, a bunch of that uncertainty is way
3 out at the back end of it. Mr. Bowman was talking
4 about what is driving this rate increase levels needed
5 to get to 70/30 and that is that additional thermal
6 resources being added in the late, late 2030s.

7 To similar effect, Mr. Coliaco --
8 Colaiacovo was raising both his eye brows for having
9 that -- that large thermal investment at the back end
10 of this -- of this process, so, of the forecast.

11 So, not only is it an unprecedented er
12 -- era of uncertainty, but way out there is a -- a big
13 capital investment driving the rate path, which is
14 highly suspect. We don't know what will be out there
15 in 2039, but I -- we wouldn't expect a lot of betting
16 that it would be on -- on combusting -- on -- on
17 thermal.

18 Slide 28, Mr. Colaiacovo just notes, as
19 does Mr. Bower of -- of Midgard, that this
20 unprecedented uncertainty can go both ways.

21 Slide 29, we just reiterate, as -- as
22 we get to Slide 29, Ms. Schubert, that -- slide 29,
23 please, that, again, there is some big policy
24 decisions that are likely to significantly impact
25 Hydro's future that we don't know about right now.

1 That leads us to conclude, at slide 30,
2 that we can take more confidence in the immediate
3 forecast and Mr. Tess and Mr. Peters made this point,
4 quite eloquently we thought, as Mr. Peters put it,
5 stay tuned for the next General Rate Application, pay
6 the most attention to the first two (2) or three (3)
7 years out, Mr. Tess -- Tess thought that was a fair
8 statement, and we commend him for his candour.

9 To similar effect, Mr. Gom -- Mr. Fogg
10 noted that he had a fair degree of confidence in the
11 load scenario for the test years. I think we all
12 agree that there's a lot less certainty beyond the
13 test years.

14 Slide 32, again, uncertainty cuts both
15 ways. Hydro's load forecast is -- is premised on an
16 equal chance of high or low load.

17 Just the last two (2) slides in this
18 section, as I -- I come up to a potential coffee
19 break.

20 One is that, on slide 33, we just want
21 to go back to the heavy emphasis placed by Manitoba
22 Hydro on Daymark in this proceeding and in its closing
23 submissions and we think Daymark provided really
24 important evidence, but it was really GRA evid --
25 focussed evidence and really focussed on reasonable

1 expectations for the GRA time period, and Mr. Bower,
2 we think, made this point quite well, on slide 23,
3 saying, we're not looking long-term out. This isn't a
4 critical look at their supply outlook or - or
5 different plans. Their judgment on the export market
6 was concluding for the GRA. These conservative
7 assumptions are appropriate.

8 Beyond that time period, that was
9 not the focus of Midgard's work. They were less
10 critical of -- of examining Manitoba Hydro and we --
11 we think that is an important observation.

12 Mr. Chair, I'm at your benefit. The --
13 the next section is a bit grindy. So, I'm happy to
14 grind with you before coffee, but you may thank me if
15 we grind after coffee or health breaks.

16 THE CHAIRPERSON: I think we'll thank
17 you after the break. Thank you. We'll take a 15-
18 minute break. We'll come back at just after 10:30.
19 Thank you.

20

21 --- Upon recessing at 10:17 a.m.

22 --- Upon resuming at 10:32 a.m.

23

24 THE CHAIRPERSON: Thank you. Mr.
25 Williams, according to my clock you've got an hour

1 forty (40) left. So, that puts us at about -- about
2 12:10.

3 DR. BYRON WILLIAMS: Thank you, Mr.
4 Chair. And I believe you mean is one (1) hour forty
5 (40) seconds, not --

6 THE CHAIRPERSON: One (1) hour --

7 DR. BYRON WILLIAMS: -- one (1) hour
8 and forty (40) minutes?

9 THE CHAIRPERSON: Well, according to
10 my thing you used --

11 DR. BYRON WILLIAMS: Oh --

12 THE CHAIRPERSON: -- twenty (20)
13 minutes --

14 DR. BYRON WILLIAMS: Right.

15 THE CHAIRPERSON: -- so you have an
16 hour forty (40) minutes.

17 DR. BYRON WILLIAMS: Here we go.

18 THE CHAIRPERSON: Does that mean we
19 should get more coffee or...

20 DR. BYRON WILLIAMS: It -- it does
21 need --

22 THE CHAIRPERSON: I've never seen you
23 so excited, Mr. Williams.

24 DR. BYRON WILLIAMS: It does mean that
25 I need to reset my timer, and it also means you

1 shouldn't be trusting my math, apparently, in this
2 Hearing.

3 Before you start your clock, sir, I've
4 neglected to introduce our back row. Vick -- Vicky
5 Klutis, immediately behind me is our current articling
6 student fresh out of the U of O. And to her left is
7 Kelin Griffen (phonetic) who is our summer student,
8 but next year's articling student from Robson Hall.
9 So we're really happy to have them join us.

10 THE CHAIRPERSON: Mr. Williams, did
11 you warn them to get sleep now, before --

12 DR. BYRON WILLIAMS: They're very --

13 THE CHAIRPERSON: -- the started into
14 it?

15 DR. BYRON WILLIAMS: They're very
16 passionate, sir.

17 THE CHAIRPERSON: Okay.

18 DR. BYRON WILLIAMS: So, we are going
19 to -- if you think of the analysis of just and
20 reasonable rates, we're getting into the section where
21 we really focus on whether costs are prudent --
22 prudently unnecessary incurred.

23 And we address a number of major issues
24 here. Ultimately, we recommend that PUB find that
25 Hydro has not demonstrated that its proposed BOC, or

1 Business Operational Costs, capital expenditures are
2 prudent and necessary; that it has not demonstrated
3 that its proposed OM&A expenditures are prudent and
4 necessary; or that its proposed finance costs
5 expenditures are prudence (sic) or -- and necessary.

6 In terms of depreciation, leaving the -
7 - the heavy lifting to our friends from MIPUG and
8 General Service Small, our clients conclude that Hydro
9 has not demonstrated its preferred ELG procedure and
10 disposition of assets approach to depreciation is just
11 and reasonable.

12 The next twenty (20) minutes or so I am
13 going to focus on business operational capital. And
14 at a very high level, this is an excerpt, slide 36
15 from Mr. Rainkie's PowerPoint.

16 That just shows the -- the sharp
17 departure from what business operational capital
18 forecasts look like in the Manitoba Hydro 16 versus
19 Manitoba Hydro 22. A \$0.8 billion increase, again,
20 with a lot of those cost pressures coming in the
21 second -- the second half, the second decade, or the
22 second -- and this is looking over a fourteen (14)
23 year period.

24 If we turn to slide 37, Mr. Rainkie
25 here on this very dense quote makes a couple of -- of

1 key points. One is that there's increase in
2 expenditures of .8 billion as compared to the
3 comparable period from the last General Rate
4 Application but, in his view, it's not about
5 sustaining investments.

6 Of that .8 billion increase, 480
7 million of it is related to AMI for which we do not
8 have a business case and grid modernization. So, that
9 totals 480 million.

10 And, again, Mr. Rainkie concludes that
11 over the next decade there's a fairly significant
12 decrease in terms of sustainment capital as compared
13 to the 2016 GRA forecast, although, you know, ten (10)
14 to fourteen (14) years out that -- that does
15 apparently catch up.

16 Slide 38; we don't need to go through
17 this. This is merely admissions from Manitoba Hydro
18 which we think can conclude -- confirm Mr. Rainkie's
19 conclusions at slide 37.

20 So, I am going to now turn and ask you
21 to turn to slide 39 which focusses on business
22 operational capital and asset management. And our
23 clients have five (5) key recommended findings here.

24 First is that ratepayer surveys and
25 comparisons to other Canadian utilities demonstrate

1 Manitoba Hydro has a strong record of delivering
2 reliable service.

3 Our client is mindful of the specific
4 concerns of certain large industrial consumers, and
5 they note that they may be addressed through customer-
6 specific responses or through general capacity
7 enhancements such as the Portage extension.

8 Bullet 3 is a critical one, and that is
9 that the independent evidence of Midgard and AMCL and
10 the admissions of Manitoba Hydro demonstrate that
11 Manitoba Hydro's business operational capital
12 expenditures are not prudent -- prudently and
13 reasonably optimized, prioritized, or paced.

14 And our clients conclude that Manitoba
15 Hydro has failed to demonstrate a commitment to
16 optimize its asset management decisions on a timely or
17 prudent basis.

18 And we simply note that the claims of
19 senior Hydro management at the start of this Hearing
20 have been undermined by the evidence of independent
21 experts and by Hydro's own admissions in Information
22 Responses and in cross-examination.

23 At slide 40 we start with the easy
24 stuff. There is consensus that modern asset
25 management, you know, that 3.0 target that AMCL is

1 aspiring to, delivers ratepayer value.

2 And Ms. Vine, on behalf of AMCL,
3 suggests that:

4 "Increased asset management
5 capability will enable Hydro to gain
6 more value from its capital and
7 operational expenditures and more
8 effectively manage risk while
9 maintaining current service levels."

10 The second quote on that page is
11 actually from the 2016 report of UMS. And they're
12 suggesting that, in their experience with other
13 utilities:

14 "There were significant improvements
15 in -- in productivity and overall
16 cost savings of significant
17 magnitude."

18 Hydro appears to agree with this,
19 although a little bit more reluctantly, in the third
20 quote on this page.

21 On slide 41, we go to that essential
22 asset management triangle between cost, performance,
23 and risk and opportunities. This is an excerpt from
24 Midgard. And that is this important balancing act
25 that our clients have been asking Manitoba Hydro to

1 modernize on since 2008.

2 Slide 42 shares the Midgard approach to
3 modern capital asset management; not suggesting that
4 reliability should fall, but that decisions should be
5 made on an assessment of the system, ratepayer
6 desires, and the constraints of cost, reliability and
7 risk.

8 And in the second quote on this page
9 Mr. Oakley is making a really important point. You
10 aim for a certain targeted level of reliability for
11 the whole system, but you're also alive to the
12 realities of those worst feeders, and that might be
13 the issues relating to the pipelines or otherwise.

14 He's saying aim for an overall level of
15 reliability, but also spend some time on those worst
16 performing feeders.

17 Slide 43 starts with where we think
18 Manitoba Hydro should have started. This is from
19 their customer survey, their most recent one. And if
20 you look at consumer satisfaction with reliability of
21 electricity, that's the second column, and you'll see
22 that figure of -- again, 8.73.

23 Manitoba Hydro's ratepayers through
24 these surveys are telling Manitoba Hydro that they
25 have a very high level of satisfaction, higher than

1 overall corporate satisfaction, way higher than
2 satisfaction with rates.

3 So, that is an important piece of
4 evidence that Hydro has -- in our view -- our clients'
5 view, neglected in this Hearing.

6 Slide 44 does the peer review. And
7 consistent with good professional practice and
8 inconsistent with Manitoba Hydro's approach, this
9 takes out those major event comparisons, and it looks
10 at things Manitoba Hydro can control.

11 And what this slide does is highlight
12 that Manitoba Hydro's SAIFI -- SAIDI, S-A-I-D-I, and
13 SAIFI, S-A-I-F-I, performance when normalized to take
14 out major weather events, et cetera, is far superior
15 to Canadian peers.

16 SAIDI is 42 percent of the peers,
17 approximately 2.4 times better. SAIFI is 60 percent
18 of the peers, approximately 1.7 times better.

19 And more colloquially, in his imitable
20 fashion, Mr. Oakley at slide 45 described the Manitoba
21 Hydro system, "Built like a Porsche." And how
22 surprising it was to the Midgard analysts because you
23 don't see a provincial system across the whole wide
24 complex Manitoba region that performs like an urban --
25 well interconnected urban system. Slide 46, please.

1 Again, it was important at the start of
2 the -- the Hearing to hear from MIPUG's customers.
3 And we note that they brought a mix of perspective on
4 the reliability of their system.

5 Maple Leaf told us that disruptions
6 have been few and mostly weather related due perhaps
7 to a dedicated line into the plant.

8 Kraft Paper, in response to the
9 chairperson's questions, noted that reliability has
10 been good for a while and recent outages were due to
11 weather.

12 TransCanada Energy did identify
13 significant concerns. We would note -- just we should
14 be mindful of the region where TransCanada Energy has
15 a lot of its operations in that western and -- and
16 southern part of the province. And Manitoba Hydro
17 appears to be responding to capacity pressures in that
18 region.

19 Those capacity pressures are, of
20 course, related to exports to Saskatchewan and new
21 large industrial load in that region, but that's
22 underlying the Portage Extension Project.

23 Board Member Sy had a very pointed
24 question to Mr. Oakley which appears -- the response
25 appears at slide 47. And Mr. Oakley is a highly

1 competent professional with decades of experience in
2 this industry. And he says:

3 "You don't design the largest power
4 grid for the most sensitive
5 industrial consumers, but when there
6 are problems, you target those
7 solutions to the particular
8 customer."

9 I think that's wise advice from Mr.
10 Oakley and -- and puts the issues and the legitimate
11 concerns of TC Energy into some perspective.

12 Slide 48; we see a claim by Ms. Grewal
13 on behalf of the Corporation suggesting that Capital
14 Expenditure Plans follow a rigorous planning review
15 and testing process.

16 With respect, our clients disagree.
17 And we think there's independent evidence from UMS in
18 2016 from METZGO (phonetic) in prior PUB proceedings,
19 from Midgard and AMCL in this proceeding that
20 undermine that claim. Slide 49, please.

21 This is perhaps the most famous figure
22 from the hearing in terms of capital asset management.
23 Remember that we aspire to a score of three (3), and
24 what this tells us on -- on the right-hand side is
25 that, at an enterprise level, Manitoba Hydro is -- is

1 still in the beginner phase: an average performance
2 of one point eight one (1.81), and importantly, at one
3 point three two (1.32) for asset information, one
4 point four five (1.45) for risk and review, and one
5 point eight five (1.85) for asset management decision
6 making.

7 And if -- as we go to slide 50, this is
8 the AMCL -- we're just getting to AMCL. And first of
9 all, Hydro confirms that the AMCL report is a sound
10 and fair assessment of where Hydro stood in 2022 in
11 terms of maturity. And that's important because AMCL
12 in our clients' view is pretty devastating to Manitoba
13 Hydro.

14 Slide 51, Ms. Vine on behalf of AMCL
15 highlights the poor scores of Hydro on asset
16 information, risk and review, asset decision making.
17 But at the bottom of that page, she makes the point of
18 how critically intertwined these factors are. And,
19 ultimately, they're all reliant on adequate asset data
20 where Manitoba Hydro is scoring one point three two
21 (1.32) which is a fundamental concern.

22 At slide 52, we have a candid admission
23 by Manitoba Hydro of its fundamental gaps in data.
24 And perhaps I'm being a bit geeky, but it's Hydro's
25 response to Coalition/Hydro-1-100 is a really good

1 response.

2 It's a candid response, and it
3 highlights the profound data limitations of Manitoba
4 Hydro: eleven (11) of their twenty-eight (28)
5 categories without asset health indexes; nineteen (19)
6 where the asset health indexes are not used for
7 decision making; and only three (3) of the asset
8 health indexes where you can say unequivally (sic)
9 that they're fit for purpose. And that's why Hydro
10 gets a one point three two (1.32).

11 There are other -- if you go beyond the
12 overarching assessment, there are other -- in terms of
13 the thirty-nine (39) categories, other devastating
14 scores: resource management maturity, zero point eight
15 (0.8); data and information management, one point
16 three (1.3).

17 At the highest level -- and this is a
18 critical point made by Midgard and by AMCL -- Hydro is
19 stuck back in the 1990s with an asset approach rather
20 than a system approach.

21 And at slide 55, Ms. Vine got really
22 passionate about this point in cross-examination, and
23 she acknowledged that Hydro in AMCL's point of view
24 was focussed on asset failure instead of the risk of
25 system failure.

1 And that's critically important because
2 not all assets are rated equal. They have a
3 criticality. Some are far more important to the
4 system than others, and that's where you get the most
5 bang for your buck. That's where scarce resources
6 have to be directed, mindful of that triangle of cost,
7 performance, and risk.

8 Slide 56 looks busy, but these are
9 admissions by Manitoba Hydro of what it can't do
10 today. And these admissions are critical because
11 they're examples of what a modern three (3) level good
12 asset management decision-making tool and process
13 should enable you to do.

14 Hydro acknowledges that standardization
15 gaps prevent comparability of key metrics across asset
16 classes.

17 Bullet 2: Making sound quantitative
18 assessments of system performance based on various
19 resource inputs is demonstrative of a higher level of
20 asset management maturity than Hydro currently holds.
21 Maturity is not at a level where specific project
22 consequences in relation to peak or other loading
23 conditions can be provided.

24 Hydro has not evaluated alternative
25 business operation capital spending scenarios. There

1 is no cutoff or threshold for corporate value
2 framework. It does not quantify the benefit to
3 customers of saving money now compared -- as compared
4 to proceeding with a project.

5 It cannot presently assess merits of
6 run-to-fail for certain assets, and it is not
7 currently employing an enterprise optimal plan. This
8 slide is underlying -- lining our clients' conclusions
9 that that BLC budget has not been demonstrated to be
10 prudent and necessary and justifiable.

11 Slide 56, again a lengthy quote from
12 Midgard. But here in the middle quote, you see Mr.
13 Helland saying:

14 "At the high level, here's the
15 problem. The system is not
16 optimized. O&M versus capital is
17 not traded off well. It's not done
18 across business units, and there's a
19 lack of system focus. In a
20 nutshell, that's the problem."

21 Slide 58. So has Hydro demonstrated a
22 commitment to prudently optimize its system on a
23 timely basis? With respect, our clients say no. This
24 dialogue goes back to Order 116 back in 2008. It's
25 con -- continued over time.

1 UMS came out with some very important
2 recommendations in 2016. Only eight (8) of those have
3 actually been completed by Hydro, and those long-
4 standing concerns of UMS sound just like many of the
5 concerns of AMCL today. And, of course, Hydro's
6 process has been delayed by reorganization of the
7 business model.

8 Slide 59, we talk again about how these
9 core UMS concerns are still unresolved. At the top,
10 asset management efforts are focussed on capital
11 spending with minimal attention given to optimizing,
12 operating and maintenance spending. Same problem
13 today.

14 And the second quote there:

15 "Hydro had Copperleaf back in 2016.
16 It actually had Copperleaf in
17 generation back in 2010. Hydro's
18 spending a lot of money, in UMS's
19 views, with implementing
20 sophisticated tools, but there's a
21 lack of data management, and
22 government's processes of metrics.
23 Have all the tools -- if you don't
24 have the data, if you don't have the
25 risk review, it undermines the

1 objectives."

2 Slide 60, Mr. Peters -- I was quite
3 jealous of him for this cross-examination -- he
4 highlights the laggardly approach of Manitoba Hydro to
5 optimizing its system. AMCL, of course, told the
6 Board it should take four (4) to five (5) years to get
7 from one point five (1.5) to three (3) on average.

8 He notes in -- and it's confirmed by
9 Ms. Vine, that to get from the cumulative time line
10 from 2016 only to get to two point four five (2.45)
11 looks like eleven (11) years, and even longer to take
12 -- get to -- to level 3.

13 Our clients consider this laggardly,
14 and we choose those words respectfully.

15 Slide 61 explains from the Midgard
16 perspective why a 10 percent cut in BLC expenditures
17 is mandated and prudent and reasonable.

18 Slide 62 shows how Mr. Rainkie came to
19 the same conclusion based upon a different process,
20 and Mr. Rainkie, as you can see on slide 62, he looked
21 back over time at how they've been underspending on
22 BLC at the 9.2 percent. And he noted how that trend
23 appears to be continuing into the future -- same
24 conclusion, a different way to get there, both
25 strongly supported by the evidence, in our clients'

1 view.

2 Our recommendations on business
3 operational capital are that, for rate-setting
4 purposes, employ a 10 percent reduction for the BLC
5 capital expenditures, and that the Board may benefit
6 from reviewing and Manitoba Hydro filing business
7 cases for AMI and grid modernization, at least while
8 that -- those consider -- at least under the existing
9 regulatory framework.

10 Turning to section 6 -- slide 65, in
11 terms of recommended findings on OM&A, our clients
12 will ask this Board to find that OM&A costs have grown
13 impudently -- imprudently -- perhaps impudently,
14 although I don't think I'd say that -- and
15 unnecessarily that -- in a manner that is inconsistent
16 with prior PUB recommendations.

17 They observed that a significant amount
18 of full-time equivalent growth is linked to Strategy
19 2040 rather than to operations.

20 Our clients respectfully disagree with
21 Hydro's claims that its honouring the intention of the
22 VDP or Voluntary Departure Program. And they think
23 that the best evidence of that is PUB Information
24 Request 1-64.

25 Our clients, at bullet 4, have

1 significant grounds for concern with the absence of an
2 approved Technology Plan and approved business case
3 analysis for key expenditures related to
4 digitalization and technology. And they're puzzled by
5 the lack of demonstrable link to benefits and
6 productivity gains and key performance indicators.

7 Slide 66. This is the PUB telling us
8 back in Order 69/19 that it wasn't accepting Hydro's
9 O&A target. Suggesting an escalation factor of 1
10 percent. And also requesting improved business cases
11 to look at O&A expenditures.

12 And I want to go to slide 67 and -- and
13 spend a moment with the Board on this. We have a
14 relatively new senior Hydro executive. And sometimes
15 we forget history.

16 So the Voluntary Departure Plan was not
17 some cruel malicious government or senior executive
18 directive. There was really important evidence before
19 Hydro and before this Public Utilities Board in terms
20 of opportunities to improve efficiency at Manitoba
21 Hydro.

22 The Boston Consulting Group was before
23 -- their reporting was before Manitoba Hydro. And it
24 was concluding -- and this is a -- a quote from the
25 59/18 Hearing that Manitoba Hydro was not generally a

1 top quartile or second quartile performer.

2 And even in this proceeding, we hear --
3 we've seen a 2018 report from Gartner on IT. And look
4 what they're saying about certain of Hydro's service
5 costs. Service -- IT service desk costs were 29
6 percent higher than peers, driven by -- primarily by
7 higher personnel costs.

8 Service desk staffing level is 37
9 percent greater than peers. End user computer
10 staffing levels, 24 percent greater than peers.

11 So this pressure -- this top-down
12 pressure from Manitoba Hydro's management for that
13 seven (7) year period leading up to the Voluntary
14 Departure Program was based upon evidence, in our
15 clients' respectful view, and that evidence should not
16 be forgotten.

17 The Board has -- has given strong
18 regulatory signalling to this effect. It did it in
19 Board Order 59/19. It did it in Board Order 69/19.
20 And Board Order 9/22.

21 And the Board was mindful, in our
22 respectful submission, that there was a lot of staff
23 associated on major capital projects and that there
24 was an opportunity beyond the VD --, an opportunity,
25 not a risk -- to reduce staffing levels after the VDP

1 was completed and as those major capital projects were
2 wound down.

3 Slide 69, please. This is another
4 slide taken from Mr. Rainkie's projection. And
5 perhaps most importantly is, on the left, it -- it
6 tracks at a graphical mechanism, the attrition
7 strategy, the VDP strategy, and then what it suggests
8 are the -- the impacts of Strategy 2040. And the
9 black line on the bottom on the right is Order 69/19
10 plus 1 percent escalation.

11 Slide 70, Mr. Rainkie, who our clients
12 suggest is an extraordinarily credible witness, deep
13 experience within the Corporation, deep experience now
14 nationally in terms of the activities of other
15 utilities.

16 He concludes that it's fair to say that
17 Manitoba Hydro did not respond to the regulatory
18 signalling. And he contrasts it with what he suggests
19 Hydro had between 2015 and 2019, which was an actual
20 plan to keep operating costs on a good path.

21 Our clients have focused on the period
22 after order -- after the 2019 Order. And this tracks
23 the changes in O&A costs from 2020 to 2025. The
24 bottom line is the red line at the bottom. We see a
25 growth from 512 million to 687 million. A 34.2

1 percent increase, 175 million.

2 On slide 72, Mr. Rainkie suggests that
3 a lot of that pressure is coming from governance and
4 service business units and related to Strategy 2040.
5 And he notes the \$72 million change in those expenses,
6 54.1 percent increase.

7 On slide 73, again, this is an excerpt
8 from Mr. Rainkie's evidence. This is focussed on
9 changes in full-time equivalents between 2020 and '25.
10 And again, you see the -- the material growth in his
11 view and in -- based upon his analysis, being in
12 governance and service business units as compared to
13 operations.

14 And the fundamental concern Mr. Rainkie
15 flags at slide 74 is that a lot of the benefits of the
16 VDP are being lost.

17 You won't become an agile company, he
18 suggests, by increasing levels of staff in the
19 governance and service business units by that much.

20 It won't become an agile company by
21 adding back layers of executive and senior management
22 that were de-layered during the VDP. So those underlie
23 his concerns and our clients' concerns.

24 Our client has been struggling with
25 Manitoba Hydro's assertion that is honouring the

1 intent of the VDP. So the next few slides are our
2 efforts to reconcile our analysis based upon Hydro's
3 data in response to PUB-1-64A to E versus Manitoba
4 Hydro's analysis.

5 And what that Information Request to
6 the PUB did -- and we'll have a visual explanation of
7 it on the next slide -- but it removed the full-time
8 equivalents associated with capital construction on
9 major truc -- projects.

10 If you want to look at the post-VDP
11 world, it said -- and our clients agree -- take out
12 those major capital projects. Then you have an
13 apples-to-apples, oranges-to-oranges comparison.

14 And it concludes -- and we can see this
15 from the 2018/19 data -- that the VDP did result in
16 full-time equivalents excluding major capital
17 projects, decreasing by some 13.4 percent.

18 But by '22/'23, non-major capital FTEs
19 had risen and -- so that we were only at an 8.7
20 percent reductions from pre-VDP.

21 And by '24/'25, again looking at the
22 non-major capital projects, remembering Keeyask was
23 completed in 2022, it's only 3.5 percent lower than
24 the pre-VDP non-major capital full-time equivalents.
25 And that's why our clients are of the view that Hydro

1 has not honoured that commitment.

2 Slide 76 just displays this visually.

3 And again, if you -- if you look at the bottom, there
4 is a comparison to the pre-VDP totals. After the VDP,
5 twenty-eight-nineteen (2819), column 2, you're to a
6 13.4 percent increase.

7 The COVID, up to 19.3 percent. But by
8 forecasts for '24/'25, nowhere near that 15 percent
9 VDP.

10 And so, our clients conclude, on slide
11 77, that Hydro is backsliding. We do input, on the
12 next page, an explanation of how we understand they
13 came to their calculation.

14 And in essence, what they did is they
15 included all the major capital project FTEs. And
16 that's on -- you can see that analysis on slide 78.

17 With the permission of our friends from
18 General Service Small and General Service Medium,
19 we've included three (3) I think really stark graphs
20 from Mr. Madsen in terms of Hydro's expenses and
21 patterns in terms of consulting costs, as well as
22 digital and technology costs and commuter services.

23 That blue graph, the blue bars, capture
24 the growth and, in particular, the growth in
25 consulting costs in the '23/'24 test year and the

1 '24/'25 test year. Mr. Rainkie and Mr. Madsen clearly
2 believe a -- a picture is worth a thousand words. So,
3 I'll let you reflect upon that picture and move to the
4 next slide.

5 And here's an important analysis by --
6 by Mr. Madsen because, remember, that some of the
7 expenses of Manitoba Hydro are now being not treated
8 as capital but expensed. And so, he was looking for
9 circumstances where there -- there would be a -- the
10 same type of decrease in capital costs as increase and
11 -- in O&A costs.

12 And instead he saw the blue line rising
13 much more sharply than the -- the orange line is
14 declining, and I think Mr. Rainkie -- Mr. Madsen, I'm
15 going off of memory, but was talking about a growth in
16 a cost per FTE in -- related to digital and technology
17 going from nine thousand (9,000) to eighteen thousand
18 (18,000) per FTE and -- and -- and saying that there
19 wasn't the proportionate decline in capital costs per
20 FTE.

21 And this is an important analysis that
22 our clients recommend to the Board. And -- and we
23 hope that I've done it justice.

24 Slide 81 captures that same dramatic
25 growth in computer services costs.

1 Slide 82 highlights why this is so
2 concerning to our clients in the context of the
3 evidence of this hearing. There are a lot of
4 significant expenditures right in the test years that
5 don't have business cases, including significant
6 expenditures for SAP Hana, as well as some of the
7 cloud based small software systems.

8 Our clients are also deeply concerned
9 with the absence of an approved technology plan
10 consistent with Strategy 2040.

11 In Coalition 1st Round Information
12 Request 1-75, we asked for a plan. We got a one-page
13 roadmap, along with some acronyms.

14 Manitoba Hydro has conclude --
15 confirmed that its digital and technology plan is
16 still under development and has not been removed --
17 reviewed by the Hydro Board.

18 It's noted that the SAP Hana
19 expenditures are very much a placeholder and that
20 there are some other significant costs there,
21 including the banner billing system.

22 And it is asking this Board, if you
23 look at its forecast out the -- the next period of
24 time, to take into account for rate-setting purposes,
25 half a billion dollars of proposed expenditures for

1 AMI and SAP, for which there's no business plan.

2 And I should just note on the AMI, that
3 is a capital expenditure, but this is how Mr. Tess
4 described it. He said they have to go to the Board
5 with their digital and technology plan and he candidly
6 concerned -- confirmed, that to date, there is no
7 business plans for AMI or SAP. They're in the works.

8 On slide 83, we highlight some really,
9 in our view, impressive analysis by Mr. Madsen in
10 terms of his concerns with the absence of alternatives
11 and benefits analysis.

12 He describes the SAP transition as
13 potentially a -- a major and potentially disruptive
14 business decision. And raises concerns that Manitoba
15 Hydro has not considered alternatives, including
16 alternatives like the more pragmatic and incremental
17 approach to IT costs, adopted by some other utilities.
18 And he talked with Vice-Chair Kapitany about that.

19 Including options, which he talked
20 about with the Chair, in using the current SAP, but
21 using third-party contractual supporters.

22 Importantly on the second, third, and
23 fourth bullets here, both Mr. Madsen and Mr. Rainkie
24 agree the cloud-based computing costs will -- will
25 have expenditures, but they also should lead to

1 savings. But the savings of these proposed
2 investments can't presently be quantified based on the
3 record. And that's an important deficiency in the
4 financial forecast or financial scenarios as My Friend
5 Mr. Hacault will no doubt say.

6 And there's a lack of linking
7 expenditures to key performance indicators or to the
8 delivery of services and reliability.

9 Our clients cannot have confidence that
10 Manitoba Hydro has reasonably and prudently considered
11 alternatives. They cannot have confidence based upon
12 the record of this proceeding that it has a pragmatic
13 and feasible plan. And they cannot have confidence
14 that the benefits outweigh the costs.

15 And, this Board knows we've been down
16 this path with Project NOVA on the MPI side. There
17 was actually better evidence on the record in the
18 Project NOVA examination than what we have here today.
19 And that is worrisome to our clients.

20 Slide 84, I think Mr. Rainkie just has
21 a great quote here. He talks about the difference
22 between platitudes and plans. And our clients
23 acknowledge the -- the rhetoric from the scripted
24 Manitoba Hydro presentations, but there's a difference
25 between that and a plan and they respectfully think

1 Mr. Rainkie nailed that one on the head.

2 On slide 85 and Mr. Sy picked up on
3 this in discussions with Mr. Madsen. A -- a big thing
4 missing, Mr. Rainkie suggested from Hydro's analysis,
5 was productivity savings. And where is that in their
6 analysis; where is that in their plans; where is that
7 in their equation?

8 Slide 86, we're now, and I believe
9 right on schedule, shockingly to me, moving to
10 Financial Management.

11 And this is another long-standing issue
12 related to fixed versus floating debt costs. And way
13 back in 2009 or so, there was an important report
14 prepared by the National Bank at the request of the
15 Public Utilities Board.

16 And, in terms of Financial Management,
17 our clients are going to urge upon the Board, the
18 following recommended findings:

19 First, that Manitoba Hydro's interest
20 rate risk, contrary to its assertion, has materially
21 reduced, as compared to prior General Rate
22 Applications.

23 Secondly, that the National Bank
24 analysis has demonstrated over time that an
25 optimization of floating and fixed debt can be a

1 mechanism to optimize return at the same level of
2 risk.

3 And we note that when National Bank did
4 that analysis, they expressly incorporated recognition
5 that Hydro would have to be return -- redoing its
6 fixed date -- date obligations and it used a fixed
7 rate WATM or weighted average term to maturity of
8 thirteen (13) years.

9 Our clients note that Manitoba -- the
10 Province of Manitoba has 11 percent floating debt.
11 Conscious recognition that there's value in terms of
12 return at the same level of risk in having floating
13 debt. And that the updated National Bank analysis
14 shows an optimum mix of 8 to 15 percent floating-to-
15 fixed debt.

16 In contrast, our clients note that at 1
17 to 2 percent, Manitoba Hydro's percentage of floating
18 debt is far below the National Bank's models updated
19 conclusions and that both B.C. Hydro and Hydro Quebec
20 have materially hire floating debt ranges.

21 Hydro and our clients disagree with
22 this, but Hydro says you can't just look at floating,
23 we disagree, and -- and how they understand the
24 National Bank analysis, but even if you take Hydro's
25 overly constrained approach, our clients note that at

1 5 to 7 percent of floating short term and fixed debt,
2 in -- in -- which has been matured, Hydro is still
3 below the National Bank range of 8 to 15 percent.

4 In our clients' view, and we'll ask
5 this Board to conclude, that Hydro's debt management
6 strategy appears out of step with the analysis of the
7 National Bank, with the actions of Mani -- the
8 Province of Manitoba, and with peers like BC Hydro and
9 Hydro Quebec.

10 And there are with -- within Mr.
11 Rainkie's solutions and proposal, a more balanced
12 approach that could improve return for ratepayers at
13 an equivalent or superior level of res -- risk and our
14 clients note that Mr. Rainkie was not tested through
15 cross-examination on -- on this aspect of his
16 evidence, to our recollection.

17 Manitoba Hydro has somehow alleged that
18 interest rate risk has increased. Mr. Bowman nailed
19 this one on the head, in the first bullet on this
20 page. He -- he suggested interest rate risk in 2023
21 is nowhere near where it was in 2013, when we were
22 entering a decade, where we were going to be borrow --
23 borrowing three and a half billion (3,500,000,000) a
24 year, and Hydro confirms this.

25 Their interest rate sensitivity, this

1 is the second bullet here, in the current General Rate
2 Application, has a four hundred and sixty-two million
3 dollar (\$462,000,000) reduction in retained earnings.

4 The risk from an analogous con --
5 conclusion in 2018/2019 was seven hundred and forty-
6 seven million (747,000,000), and, back in 2015/'16,
7 when we were borrowing and building with fiery, was
8 over \$1 billion. Their own evidence suggests that
9 financial risk is materially reduced.

10 Their response to Coalition 1-45A and
11 B, which is captured in the last two (2) bullets on
12 this page, confirms this as well. In writing, they
13 say that they view debt maturities per year of
14 approximately 5 percent of the total debt portfolio to
15 be a reasonable level of risk and that it does not
16 anticipate high levels of concentration risk. So, our
17 clients are at odds with Hydro in terms of their
18 conclusions in terms of risk.

19 In cross-examination, with the kind
20 assistance of Ms. Stephen, and, I think, the National
21 Bank report, is at Coalition 1-44. We just talked
22 about the conclusions of National Bank back then,
23 about how a portfolio could op -- op -- be optimized
24 with a judicious injection of floating debt.

25 And that analysis, on the first bullet

1 there, was founded on National Bank's conclusion that
2 there was a correlation between short-term interest
3 rates and spot pricing and based on the data, as it
4 was at the time, they recommended a floating debt rate
5 of 14 to 27 percent. That model is still in -- in --
6 in place for Manitoba Hydro and is updated from time
7 to time, in terms of inputs.

8 Slide 90. With updated data for the
9 fiscal 2022 year, and recognizing that Hydro has more
10 debt, the floating debt rate output, the optimum
11 range, one that provides a better return at the same
12 level of risk was concluded by -- by the model to be 8
13 to 15 percent.

14 And Hydro has mistakenly alleged that
15 the National Bank model does not take into account
16 debt maturity in its analysis and that is just not
17 accurate, in our clients' view.

18 Go to page 31 of National Bank's
19 analysis. It assumes a weighted average term to
20 maturity of 15 years. National Bank is an extremely
21 credible analyst. Such a fundamental oversight, as
22 alleged by Manitoba Hydro, is out of step with
23 National Bank's own report and, in our clients' view,
24 it is unfair to National Bank.

25 Slide 19-1. There's two (2) important

1 pieces of information on this table. First of all,
2 what is Manitoba's floating rate, as of March 31st,
3 '22? About 11 percent. And, then, you also see a
4 table of the peer group historical floating rate debt,
5 Manitoba 2018, 4 percent, 2021, 1 percent, 2022, 1
6 percent. BC Hydro's numbers are just below it, 10 to
7 11 percent between 2018 and '22.

8 Two (2) slides down is -- is Hydro
9 Quebec, 9 to 6 percent, still well above Manitoba
10 Hydro's. Ms. Stephen was anxious to -- to look at
11 Newfoundland and Labrador Hydro but, surely, Manitoba
12 Hydro's not suggesting that Hydro's financial
13 circumstances are analogous to that troubled utility.

14 Slide 90 -- slide 92. This is just Mr.
15 Rainkie's analysis, not tested in cross-examination,
16 that the interest rate policy and debt guidelines
17 operate additively together.

18 Slide 93. Here we capture what our
19 clients consider to be an extreme limit on floating
20 debt. The first bullet shows a floating rate debt of
21 1 percent in '21 through '24, 2 percent in '25 and
22 '26, in our clients' view, well below the model
23 optimization, and, even if you take Hydro's approach,
24 which would -- our clients say is -- is inconsistent
25 with National Bank's of combining short-term floating

1 rate and fixed renewals, us -- 5 percent in '21, 5
2 percent in '24, still below that Hydro model
3 optimization. Next slide, please.

4 At slide 94, we're quoting -- I guess
5 we not quoting but we're drawing what Mr. Rainkie
6 tries to do in his analysis. Those are Consumer
7 Coalition scenarios 11 -- 10 and 11 versus Man --
8 Manitoba Hydro 22.

9 And he proposes a modest increase in
10 floating rate debt, which we would suggest will not
11 materially alter the risk exposure, but it will lower
12 finance costs to customers and it would still be
13 consistent with the National Bank range and we
14 recommend that approach to the -- to the Public
15 Utilities Board. Next slide, please.

16 I think, Mr. Chair, we're still on
17 schedule. On depreciation, which is slide 96, we're
18 just going to say May 2, on behalf of our clients, and
19 we support the alternatives presented by MIPUG and --
20 and General Service Small, and agree with General
21 Service Small and General Service Medi -- Medium, that
22 no further componentization is -- is required, in
23 terms of the ALG procedure.

24 Slide 97. This was an important
25 recommendation from Midgard or at least -- excuse me -

1 - let me back up. This was an important thought from
2 Daymark, in terms of hedging. This is not about
3 depreciation, just so I'm clear.

4 But, when Daymark did their report for
5 the Board, they did examine Manitoba Hydro's approach
6 to hedging during the drought and I think they believe
7 that it was reasonable, but they did identify
8 opportunities for improvement.

9 And, of course, Daymark noted that
10 electricity is a very volatile commodity in terms of
11 price; that utilities face joint price and quantity
12 risk. They also noted Hydro's risk is asymmetrical in
13 purchases versus sale, with the greater
14 disproportionate risk being associated with import
15 purchases.

16 And what Daymark proposed is that there
17 might be benefit for Manitoba Hydro in exploring
18 asymmetric hedging strategies, still incorporating
19 Hydro's volume concerns, but accounting for the
20 asymmetrical risks related to purchasing.

21 And I think, at the heart, what they
22 were trying to say is that the hedging strategy of
23 Hydro had been developed mindful of the risks when
24 you're selling into the U.S. market and what Daymark
25 was trying to kindly point out is that the risks look

1 different when you're importing and that Manitoba
2 Hydro might be able to tweak its strategy going
3 forward, to -- to -- to consider those risks.

4 So, not an earth-shattering
5 recommendation but an important thought shared by
6 Daymark, which our clients recommend to the Board.

7 I want to turn to the overall health of
8 the Corporation. And, Mr. Chair, in terms of the --
9 and members of the Panel, in terms of the overall
10 health of the Corporation, our clients want a note
11 that Hydro has experienced material and positive
12 changes in circumstances since the last GRA; that it
13 is unique among publically utilities.

14 From our clients' views, much like AMC,
15 our clients considered the 70 to 30 debt/equity ratio
16 to be not just and reasonable. And they note that
17 independent experts have raised serious questions
18 about debt-to-equity targets as the primary mechanism
19 in setting financial targets for rate setting.

20 In our clients' view, the second last
21 bullet on this page is that the determination of
22 financial targets for Hydro would benefit from an
23 evidence-based process involving surveys of the
24 financial market, employment of the probable ballistic
25 uncertainty tool, and taking into account management

1 and regulatory actions.

2 And we note that both, Mr. Colaiacovo
3 and Mr. Rainkie were highly credible on this issue in
4 which they have significant expertise in the
5 marketplace, and in Mr. Rainkie's case, within
6 Manitoba Hydro. Their evidence was carefully
7 formulated, nuanced, and essentially unchallenged and
8 should be giving heavy weight, in our clients' views.

9 We're going to try to move through some
10 of these fairly quickly. Our clients want to note
11 that the completion of major capital projects since
12 the last General Rate Application has made a
13 significant contribution to Hydro's corporate
14 resilience and financial health.

15 Mr. Bowman points out how the MMTP
16 changed things dramatically; importantly, in terms of
17 a -- a strategic backstop for drought resilience.

18 It also enabled Hydro to enter into
19 major sales into Minnesota Power. We often forget
20 about Birtle, but Birtle was an important export
21 opportunity enabling a major new power sale to
22 SaskPower and providing an important and long-term
23 hedge against revenue uncertainty.

24 And again, Keeyask costs have declined
25 by about a half a billion dollars since the last

1 General Rate Application.

2 Mr. Rainkie, and I don't have time to
3 go through this slide. Mr. Rainkie rebuts and flags
4 that Hydro's assessment of elevated risk is not just -
5 - is not borne out by the facts in this Hearing.

6 And again, we don't have time to go
7 through it, but I do want to draw your attention to
8 the fourth row, Overall Financial Risk and significant
9 improvement. The equity ratio is projected to be 18
10 percent by '24/'25 in the current GRA and net debt is
11 materially lower. And -- and that should not be
12 forgotten in our clients' view.

13 Slide 102, as I try to move through
14 some of these relatively rapidly, Mr. Colaiacovo as
15 always was an insightful witness. He cautions against
16 peer reviews of what legislators have done in other
17 jurisdictions 'cause they ain't apples-to-apples.

18 And he notes that, uniquely, Manitoba
19 Hydro is a public sector power-at-cost utility with an
20 export mandate. There's no one else on that list that
21 is, and that point was made as well by Mr. Bowman in
22 the -- as noted at the bottom of this page. And I
23 apologize for the small footnote, Mr. Bowman, for that
24 important point.

25 Slide 103, both Mr. Bowman and Mr.

1 Colaiacovo conclude that the determination of
2 financial targets is an essential element of rate
3 setting. Our clients could not agree more.

4 Helpfully, Mr. Colaiacovo starts with
5 what's most important and where there appears to be
6 consensus, and that is interest coverage ratio and
7 that it is an important financial target.

8 And that is a key financial target that
9 our clients direct to the Board in this Hearing as it
10 looks at rate setting and in terms of that interest
11 coverage ratio target which is important to the
12 marketplace, to the people who actually lend money to
13 Manitoba. That critical cashflow target is in no
14 danger of being reached in the test years, and that's
15 critically important from our clients' perspective.
16 Next slide, please.

17 Mr. Colaiacovo also notes that there
18 appears to be agreement that some equity is required
19 given hydrological volatility.

20 And if Board Member Bellringer will
21 recall your discussion with him about how we might set
22 financial targets, he really emphasized, you know,
23 what can you hedge or what do you need to reserve
24 against and hydrological volatility, five (5) year
25 drought, seven (7) year drought, ten (10) year

1 drought; that was very important to him.

2 On the next slide clearly, we need some
3 equity, the question is how much, what's the time
4 frame to get there, and who should be making
5 contributions to achieve that equity target, noting
6 though how much progress we've already made.

7 Slide 107, there's a great discussion
8 between Mr. Rainkie, first of all, and the Board
9 Chairperson about the equity target. And on this
10 slide, both Mr. Rainkie and Mr. Bowman are cautioning
11 in the current regulatory framework about putting too
12 much weight on equity targets.

13 As Mr. Rainkie notes, they're lazy
14 targets, pretty easy, and we've got a lot of
15 experience in terms of private sector, a lot of
16 analysis, but very much more judgmentally applied when
17 it comes to public utilities and asking the
18 fundamental question, simply because my balance sheet
19 goes up by 5 billion, does that mean I need a billion
20 and a half more of retained earnings?

21 Mr. Bowman, prosaically, says that he
22 has a lot of trouble putting a lot of weight on
23 retained earnings as the Holy Grail.

24 Our clients, for the purposes of this
25 rate-setting process, this regulatory framework, as it

1 exists today, say that there are grounds to conclude
2 that the 70/30 target is arbitrary. What Manitoba --
3 the province of Manitoba continues to guarantee and
4 issue Manitoba's debt.

5 Manitoba Hydro has an amount of equity
6 far in excess of what it requires to cushion against a
7 lengthy drought. There is no evidence that Hydro is
8 experiencing challenges in affordable access to the
9 capital market -- markets, and we put a footnote to
10 that effect.

11 And there's unchallenged evidence from
12 Mr. Colaiacovo that the key indicator is that interest
13 coverage ratio for the purposes of the financial
14 markets. Next slide.

15 I won't go through this page in detail,
16 but this Mr. Colaiacovo and Mr. Bowman providing a lot
17 of evidence for this Board to conclude that, for the
18 purposes of this rate Hearing based upon this
19 regulatory framework, that 70/30 target is arbitrary.
20 And Mr. Bowman's got some pretty colourful language
21 about that in PUB/MIPUG 1-5. Next page, please.

22 Going back to both Ms. Bellringer's
23 questions, as well as those of the Chair, what might
24 an evidence-based process to consider financial
25 targets if the -- that was to be recommended to the

1 government because that's still going to be part of
2 its analysis in the Bill 36 world.

3 Here are some of the key -- key
4 questions. What are the primary considerations of the
5 financial market; key question to ask. What are the
6 implications of a lengthy drought, five (5), seven
7 (7), or ten (10) years? What risks are appropriately
8 hedged? What challenges might be better dealt with
9 through management or regulatory actions? And Order
10 59/'18 has important things to say about that. And
11 what are the probabilistic outcomes of various
12 combinations of risks, taking into account management
13 and regulatory action? A key recommendation of Mr.
14 Rainkie and Mr. Bowman.

15 The loss of that uncertainty analysis,
16 our clients concur with Mr. Bowman, that that's a big
17 loss. Next slide, please.

18 Our recommended determinations for the
19 purposes of rate setting under the applicable
20 regulatory framework focuses on interest coverage.
21 The 70/30 debt-to-equity target is unjust and
22 reasonable in the context of the applicable regulatory
23 framework. And it's critical that we resume
24 probabilistic uncertainty analysis on a time-sensitive
25 basis.

1 I'll turn it over to Mr. Klassen.
2 He'll get his twenty (20) minutes. And I'll make it
3 up at the end.

4 MR. CHRIS KLASSEN: Good morning.
5 Turning our attention to cost of service and rate
6 design on page 114. Thanks, Ms. Schubert.

7 We've heard from Manitoba Hydro through
8 this process that the prospective Cost of Service
9 study is a tool, and it's used for estimating the
10 share of a utility's approved costs to be apportioned
11 among its customer classes.

12 And without minimizing the importance
13 of the tool, we note that it is one (1) tool among
14 many and one (1) related to which the Board has
15 discretion as to what, if any, use is made of it.
16 Next slide, please.

17 And as we've seen in multiple scenarios
18 presented in this process, the prospective Cost of
19 Service study exercise is dependent, in part, on the
20 circumstances of the test year that provided its
21 inputs.

22 And as one (1) example, we've heard
23 from one (1) of Manitoba Hydro's witnesses that one
24 (1) way that circumstances can change from year to
25 year is growth or reduction in revenues and costs,

1 particularly nonuniform changes. Next slide, please.

2 Another example of the changes to
3 circumstances that we see reflected in the prospective
4 Cost of Service study exercise is a significant
5 increase in Manitoba's -- Manitoba Hydro's rate base
6 that we've learned about in this process, again,
7 following the in-service dates of major capital
8 projects.

9 To turn our attention again to variable
10 water which we've heard about a number of times over
11 the last few weeks and a number of times already this
12 morning, it's well-known to this Board that water for
13 Manitoba Hydro is highly variable.

14 But we've seen in this process the
15 confluence of that variable water, an extremely high
16 water year, with highly volatile export prices. And
17 we don't often see extreme examples of both of those
18 inputs at the same time, but this year, we've had --
19 we have -- and that's highlighted -- a fundamental
20 methodological vulnerability in the prospective Cost
21 of Service study.

22 And it -- it highlights for us that,
23 given those realities, Manitoba Hydro is constantly at
24 risk of either a boom or a bust with the comparison
25 between risk of drought or opportunity for significant

1 success in the export market. Next slide, please.

2 And to illustrate the effects of those
3 realities on Manitoba Hydro over the last number of
4 years, on the slide before us we see the comparison
5 between PCOSS21 and PCOSS24, and we -- we see the
6 change in RCCs by customer class comparing the blue
7 bar to the green. But if we turn our attention one
8 (1) slide more, we see that that progress has
9 backslid, now comparing the green to the red.

10 And importantly, we know that average
11 water flows over time will remain relatively constant.
12 But irrespective of that reality about water, we know
13 that there is volatility in price. And the long-term
14 trends in terms of water flow for Manitoba Hydro are
15 mean reverting, but the -- the same can't be said for
16 export prices.

17 And as a result of these factors on
18 slide 121, we see that ultimately Cost of Service
19 studies and, in particular PCOSS24, as we're dealing
20 with in this process, is an approximation.

21 Turning our attention now to rate
22 design, Order 164 of '16 is discussed primarily in
23 terms of cost of service, but it's -- it's our
24 clients' position that it's equally important for what
25 it doesn't say or perhaps what it says impliedly about

1 rate design.

2 Order 164 of '16 clarified the strict
3 separation between a Cost of Service study that is
4 driven by cost/causation and a rate design process in
5 which rate-making principles and goals and policy
6 considerations take an equally important role.

7 And this perspective is consistent with
8 the evidence of Ms. Kelly Derksen. And we note that
9 Ms. Derksen was relied upon by Manitoba Hydro in this
10 capacity for many years, and trusted in this position
11 by our clients, as well.

12 And what we see from -- from Order 164
13 of '16, that a Cost of Service study in which
14 cost/causation is paramount needs to be complimented
15 by a rigorous, contextual application of rate design
16 principles. And there is guidance for the Board and
17 for Manitoba Hydro on the record of this proceeding as
18 -- in terms of what that should look like.

19 And one (1) consideration, one (1)
20 example of this, a consideration in rate design, is
21 the zone of reasonableness. It's on the record of
22 this proceeding that the zone of reasonableness is a
23 response to the inherent imprecision of the cost of
24 service process as reflected in the revenue-to-cost
25 coverage ratios.

1 Order 164 of '16 tells us that
2 consideration of the zone of reasonableness in terms
3 of interpreting RCCs is properly a rate design
4 consideration. And it's a live question before the
5 Board in this process whether the 95 percent to 105
6 percent zone of reasonableness inadequately
7 accommodates the imprecision that's inherent in the
8 Cost of Service Study.

9 Turning our attention again to variable
10 water, this, too, is relevant to rate design. And we
11 see that as well from Order 164 of '16 when the Board
12 directed a change in practice for Manitoba Hydro from
13 its past treatment of export revenue to the practice
14 we see in this process.

15 The Board noted that what Manitoba
16 Hydro had done previously reflected important rate-
17 making goals, and that those considerations as a
18 result of this methodological change are now properly
19 to be considered in the final rate-making stage,
20 otherwise known as rate design.

21 And to that end, Ms. Derksen points out
22 for us that RCCs before net export revenue are a
23 valuable interpretive tool in illustrating the effects
24 of NER and to determining final just and reasonable
25 rates.

1 And another way to look at the effects
2 of variable water in the rate design process is
3 comparing the PCOSS24 to alternative flow scenarios.
4 And we see that there's a combination of variable
5 water and volatile export prices in the -- in -- in
6 the PCOSS24 this year.

7 And again, we have these two (2)
8 factors that operate independently of one another, but
9 we have a confluence of extreme scenarios in the two
10 (2) of them in PCOSS24 which is driving the anomalous
11 impacts.

12 And what that tells us again is that we
13 have a fundamental -- fundamental methodological
14 vulnerability in the Cost of Service Study and its
15 inability to account for the anomalous circumstances
16 that we see this year in the combined effects of
17 volatile price and high water.

18 And there are multiple examples on the
19 record of this proceeding of scenarios considering
20 alternative flow scenarios in the prospective Cost of
21 Service Study.

22 And this response to Undertaking Number
23 64 is one (1) of those that illustrates for us what
24 the RCCs might look like or how we might conceptualize
25 a rate design process that takes into account -- or,

1 sorry, that excludes that anomalous effect of high
2 water and high price.

3 Moving on from slide 126 to 127, we
4 also know -- and again, following direction from the
5 Board in Order 164 of '16, that recognizing that
6 Manitoba Hydro's prospective Cost of Service Study
7 operates on the basis of embedded costs, marginal
8 costs are not irrelevant.

9 And in fact, the Board noted that they
10 are an important consideration in the rate design
11 phase, and marginal costs being the additional cost to
12 serve the next customer are a valuable consideration
13 for rate design.

14 Moving on to another important item to
15 keep in mind for Manitoba Hydro in rate design is the
16 uniform rate adjustment. And we heard through this
17 process that the uniform rate adjustment is the
18 product of a policy decision taken by the provincial
19 government in the early 2000s to make sure that
20 members of a customer class were charged the same rate
21 regardless of where they lived in the province.

22 And the value of that adjustment is on
23 the record of this proceeding. It was assessed
24 initially at around 14 million, and it grew to about
25 23 1/2 in PCOSS 2014, as we see on the slide.

1 But what's important to keep in mind is
2 that the result of that policy choice, that
3 intentional policy choice, is that it causes RCCs
4 today to under-represent the actual RCCs of individual
5 class members.

6 Moving on to the next slide, from our
7 clients' perspective, a very important consideration,
8 both in rate design and more broadly for the Board in
9 this process, is the role and relevance of
10 affordability.

11 And we're contextualizing this
12 discussion with guidance from our Supreme Court at the
13 top of this slide which directs:

14 "Discretionary administrative
15 decision makers, when their work
16 engages the protections enumerated
17 in the Charter -- and that considers
18 both the Charter's guarantees and
19 the foundational values that it
20 represents such as substantive
21 equality, as we've heard -- those
22 protections must be upheld within
23 the constraints of a relevant
24 statutory framework."

25 And we know that Manitoba Hydro's

1 customers face barriers of many kinds to service for a
2 broad range of reasons, including those that engage
3 Charter protections.

4 And -- and for the Board, more broadly,
5 this consideration heightens the importance of just
6 and reasonable rates for rates for service.
7 Considerations of the Charter value of substantive
8 equality in terms of affordability heightens the
9 importance for the Board of ensuring that forecasts
10 are reliable, that expenditures are reasonable and
11 necessary, and that management is prudent.

12 But specifically for the purpose of
13 rate design, it means that Manitoba Hydro needs to
14 meaningfully consider the potential hardships that its
15 decisions will impose on its customers. And Manitoba
16 Hydro's own data shows that that problem is growing,
17 and its actions show that it is not taking this
18 seriously.

19 Manitoba Hydro's own exercise of
20 consideration of rate design objectives is also an
21 important practice in the rate design process. But in
22 its example in PCOSS24 and in its present Rate
23 Application, we see key considerations like "fairness
24 and equity" are conspicuously absent, even though they
25 had been part of the list of top priorities in years

1 past.

2 And we see Manitoba Hydro's narrow
3 focus on cost/causation and achieving a zone of
4 reasonableness failed to do justice to the spirit and
5 intent of Order 164/'16 in terms of a robust and
6 meaningful rate-design process.

7 So moving to the next slide, these
8 raise the questions of -- of where the Board can go
9 from here. And we see in this process that the
10 confluence of high water and favourable markets
11 revealed a vulnerability in the cost of service
12 methodology. And that highlights an opportunity to
13 improve the stability and predictability of the
14 process.

15 And on the next slide, we see that
16 Manitoba Hydro's differentiated rate proposal reveals
17 an inordinate focus on achieving unity to the
18 exclusion of almost all else.

19 This is not consistent with what --
20 what -- with how our clients read Order 164 of '16,
21 and identifies an opportunity for direction from this
22 Board to fill gaps in Manitoba Hydro's understanding
23 of expectations in terms of rate design.

24 And with that, I'll pass the microphone
25 back to Dr. Williams.

1 DR. BYRON WILLIAMS: I would have
2 shared a bit more time with my -- my friend. Mr. --
3 Mr. Klassen is going to wrap things up for us, I'll --
4 I'll note as well.

5 If we can go to the -- the -- thank
6 you. Thank you. What we're going to do in the next
7 few moments is I will take you through our clients'
8 approach to a just and reasonable revenue requirement
9 recommendation, and then Mr. Klassen will come back to
10 the -- the rate design implications.

11 And I think this is the first time in
12 my thirty (30) years in regulatory presentations that
13 I do not have a unanimous recommendation from our
14 clients. We'll come to that in a moment. We -- we do
15 have recommendations, and we have written consent to
16 fairly present both of them.

17 But I want to back up and start with
18 where our clients started from. When we're looking at
19 a just and reasonable revenue requirement, what is the
20 heart of that just and reasonable assessment?

21 In our clients' view, there have to be
22 reasonably reliable forecasts. The revenue
23 requirement determination consistent with the Manitoba
24 Hydro Act should be promoting economy and efficiency
25 in Hydro's operations, costs that are prudently and

1 necessarily incurred, and it should be appropriately
2 balancing the interests of the captive ratepayer and
3 the overall health of the Corporation. We know both
4 of these are fundamentally important.

5 In terms of reasonably reliable
6 forecasts, our client places very heavy weight on the
7 test years and -- and the years immediately adjacent
8 to them and little weight to the medium- and long-term
9 forecasts of Manitoba Hydro, given both its admission
10 of unprecedented uncertainty as well as its failure to
11 acknowledge projected benefits of many of its
12 expenditures in its forecasts, and that we relate to
13 the absence of business cases for numerous major
14 expenditures.

15 Our clients believe that it is
16 important in this Hearing that a strong economy and
17 efficiency signal is required, especially given
18 findings that Hydro's -- of Hydro's challenges in
19 demonstrating the reasonableness and prudence and
20 necessity of BOC, OM&A, and finance costs.

21 And that's especially so at a time of
22 acute stress for Manitoba ratepayers. It's always
23 this Board's job to send that economy and efficiency
24 signal, but at this point in time, it's particularly
25 important from our clients' perspective.

1 Contextually, our clients -- and going
2 to the overall health of the Corporation -- our
3 clients believe it's important to note that Manitoba
4 Hydro's financial situation has materially improved
5 since the last General Rate Application. And I drew
6 your attention to Mr. Rainkie talking about the
7 dramatic improvement in -- in equity.

8 And Hydro, in our clients' view, has
9 not established that its risk profile is higher than
10 at the last General Rate Application.

11 Point 5 on this page is our clients
12 note that Hydro is significantly more resilient in the
13 face of drought than at any time in its history.

14 In part, due to do the Manitoba
15 Minnesota Transmission Line, which doubled the firm
16 important capability of this Corporation and proved so
17 essential to Hydro in the 2021/22 drought where, at
18 times, they were importing close -- up to 1,400
19 megawatts.

20 Keeyask, as well, has contributed to
21 the generating capacity and the resilience of Hydro in
22 the face of drought.

23 In terms of financial targets, under
24 this regulatory framework, under these facts for this
25 case, our clients are -- place significant weight on

1 interest coverage ratios. There's consensus across
2 the board that these are fundamentally important. And
3 they're fundamentally important as well to the
4 financial marketplace where Hydro relies upon for
5 affordable debt.

6 We also believe that in terms of
7 financial targets, it's important -- as Mr. Bowman
8 recommends -- to consider net income in the test
9 years, while acknowledging progress that has been made
10 in terms of debt to equity.

11 Our client -- clients reject the 70/30
12 debt-equity target for Hydro as unjust, unreasonable,
13 and unnecessary under the existing regulatory
14 framework.

15 If we're back here after April 1st,
16 2025, and the law is the same, then that will be a
17 different discussion, although they'll still have the
18 same opinion.

19 In terms of the different rate paths,
20 there's been a number discussed in this Hearing. Our
21 clients unanimously reject the 2 percent rate path
22 recommended by Hydro and by Mr. Bowman on three (3)
23 key grounds.

24 One, it is targeted to achieve an
25 unjust and unreasonable 70-30 debt-to-equity target.

1 And Mr. Bowman has candidly admitted he doesn't
2 believe in that target. He felt he was bound by it,
3 but that is not a target that he believes in. And in
4 our view, he's suggested that he considers it
5 arbitrary. And you'll see that both in his response
6 to MIPUG -- PUB/MIPUG 1-5, the last paragraph, as well
7 as, I believe, on page 19 of his evidence.

8 We also believe the 2 percent rate path
9 is unjust and unreasonable because it assumes that
10 Hydro's proposed expenditures are necessary and
11 prudent. And in our clients' view, endorsing such a
12 rate path would fail to send a critically important
13 and efficiency signal.

14 Please go back to the previous slide.
15 Thank you, Ms. Schubert. I apologize.

16 Our clients also believe that this 2
17 percent rate path and its promises of predictability
18 and reliability is inherently suspect. This is not a
19 twenty (20) year financial forecast you can rely upon.
20 There is unprecedented uncertainty. And at the back
21 end of that rate path, driving -- as Mr. Bowman admits
22 -- a lot of the rate increases is that expectation
23 that Hydro will be bringing on new thermal in -- in
24 the latter part of the 2030s. This is not a reliable
25 twenty (20) year financial scenario.

1 There has also been some discussion of
2 a 1.59 percent rate increase premised on a 75/25 debt-
3 to-equity target.

4 And our clients have some instinctive
5 sympathy for that. Again, they think that the primary
6 focus should be interest coverage ratios. And they're
7 not convinced that 75/25 is demonstrably the right
8 debt-to-equity target, especially given their focus on
9 -- on drought as a risk.

10 But they don't accept that rate path
11 because it does not appear to send an economy and
12 efficiency signal.

13 It simply seems to accept that Hydro's
14 proposed expenditures are necessary and prudent, and
15 from our clients' perspective -- especially at these
16 times -- an economy and efficiency signal needs to be
17 sent and -- and consumers need whatever relief the
18 Board can offer consistent with prudence and -- and
19 necessity.

20 Our clients and, frankly, their
21 advisory groups, were torn between two (2) rate
22 recommendations. And these are the -- the two (2)
23 recommendations that they believe the PUB should give
24 heavy weight to.

25 One was Mr. Rainkie's zero percent rate

1 recommendation for the '23/'24 year, and a 1.3 percent
2 rate recommendation for the '24/'25 year.

3 And if you'll recall, Mr. Rainkie had
4 about eleven (11) scenarios. This is kind of
5 somewhere in between scenario 10 -- CC-10, and CC-11.

6 This approach has a lot to offer. It
7 places primary weight on the early years of the
8 financial forecast. Mr. Rainkie is a big curler, and
9 you'll remember his curling analogies.

10 It sends a critically important and
11 express economy and efficiency signal by incorporating
12 projected savings of business operational capital,
13 OM&A, and finance expense.

14 And in our clients' views -- all of our
15 clients' views -- it balances -- seeks to balance the
16 interests of ratepayers and Hydro. It considers all
17 six (6) financial targets employed by Hydro and is
18 projected to achieve a near-term -- 2028 or so --
19 80/20 debt-to-equity ratio.

20 Remember Mr. Rainkie's advice. Let's
21 not go down that path -- the path to -- the path of
22 uncertainty. Let's keep our -- our eye on the closer
23 term goals.

24 And so, this is an approach that our
25 clients recommend for serious consideration by the

1 Board. Next slide, please.

2 Slide 138 -- I've been a little unfair
3 to Mr. Rainkie here because it was also his
4 consideration -- the proposal here on slide 38 (sic)
5 is a zero percent rate recommendation for the '23/'24
6 year and zero percent rate recommendation for the
7 '24/'25 year.

8 And that was the exclusive
9 recommendation of Mr. Colaiacovo, as well as a
10 recommendation that Mr. Rainkie felt also was
11 reasonable and that he considered in his analysis.

12 What commends this approach is its
13 focus on the test years of the financial forecast. It
14 sends an implicit economy and efficiency signal. In
15 our clients' view, importantly, it places critical
16 weight on the interest coverage financial target,
17 which is of significant importance to the financial
18 markets. But it's also mindful of the necessity of
19 Hydro having sufficient equity to address hydrological
20 risk.

21 And importantly, it recognizes the
22 ongoing burden of ratepayers related to -- to major
23 capital projects.

24 And I must pause here for a second.
25 This is not a retrospective analysis. It is a -- a

1 realization that baked into the rates of ratepayers
2 moving forward are very significant rate increases
3 that are providing ongoing burdens.

4 And to the extent that within the
5 context of a looking-forward perspective analysis,
6 there is an opportunity to reduce that pressure.

7 Our clients think that that is an
8 opportunity well worth taking. We note that Mr.
9 Rainkie also has recognized this as a reasonable rate
10 recommendation.

11 THE CHAIRPERSON: Mr. Williams, you're
12 at fifteen (15) minutes.

13 DR. BYRON WILLIAMS: Yeah, thank you.
14 So here is where our clients came down and, frankly,
15 our advisory groups came down and were offering these
16 because these are different recommendations.

17 The Harvest Manitoba and the Aboriginal
18 Council of Winnipeg, recommend zero percent for the
19 '23/'24 year and 1.3 percent rate recommendation for
20 the '24/'25 year. The Consumers Association of
21 Canada, the Manitoba branch, recommends zero percent
22 for the '23/'24 year and zero percent rate
23 recommendation for the '24/'25 year.

24 Before we leave this page, the clients
25 are united in saying that these are the critical

1 recommendations. These are the ones that they placed
2 heavy weight on and, ultimately, came to difficult
3 choices on what -- which pathway they preferred for
4 the test years.

5 Interim rates. We haven't talked much
6 about them in this -- in this hearing and I have
7 permission to share with you that our clients looked
8 very seriously at -- at whether to expressly
9 recommend. The PUB conclude that the 3.6 percent
10 interim rate increase was excessive or not needed.

11 Late last night our clients were
12 struggling because there are some -- so much of the
13 evidence in this hearing has been developed assuming
14 that it's baked in.

15 But our clients on slide 140 want to
16 acknowledge and say that they were very sympathetic to
17 -- that it would be reasonable for the PUB to conclude
18 that the 3.6 percent interim rate increase for the
19 '21/'22 and '22/'23 years was excessive or not needed.
20 I think those were Mr. Bowman's words, at transcripts
21 page 4104 to 4105.

22 And that's especially considering that
23 a combined Manitoba Hydro net income for the '21/'22
24 year of 417 million, as well as Manitoba Hydro's
25 choice to operate business as usual during the

1 drought, with no efforts to restrain BOC or Business
2 Operating Capital or OM&A expenditures.

3 In the event the PUB determines the 3.6
4 percent interim rate increase for the '21/'22 and
5 '22/'23 years was excessive, it might consider
6 deferring the 85 million associated with the interim
7 rate increases for those two (2) years, thereby
8 implying a 1.8 percent increase for '23/'24 and a 1.8
9 percent increase for '24/'25.

10 Notionally, it also could defer 50
11 percent of the 3.6 percent for 2023/'24 or another 32
12 million for a total deferral of a hundred and
13 seventeen (117) million. Such a regulatory deferral
14 count would, in our clients' view, require further
15 consideration and amortization at the next GRA.

16 And, again, this is a lot of late night
17 thinking. We did put down another option below that,
18 but our clients are sympathetic to those who might
19 conclude that the 3.6 percent interim rate was
20 excessive or not needed. Next slide please.

21 Over to Mr. -- to you, Mr. Klassen.

22 MR. CHRIS KLASSEN: Should the Board
23 elect to approve rate changes in this process, the
24 Consumers Coalition recommends that a below average
25 change for the General Service Small, Non-Demand

1 Class, be approved, but that all classes -- all other
2 classes be given equal across-the-board rate changes.

3 Second, the Consumers Coalition
4 recommends that -- that the Public Utilities Board
5 provide direction to Manitoba Hydro on what rate
6 design should look like, recognizing that detailed
7 direction has already been given with respect to cost
8 of service in Order 164 of '16.

9 And that direction, could address, for
10 example, the failure of the 10 percent zone of
11 reasonableness to accommodate the inherent imprecision
12 in the cost of service. Also, the necessary policy
13 considerations, including, for example, the combined
14 effects of variable water and volatile export prices.
15 As well as, importantly, these effects combined with
16 the financial pressures already faced by Manitoba
17 Hydro's customers.

18 Third, the Consumers Coalition
19 acknowledges that time is passing since Order 164 of
20 '16 and recognizes that it's on the record of this
21 proceeding that fundamental changes to customer's uses
22 of energy and relationships with Manitoba Hydro may be
23 on the horizon and we flag for the Board that
24 revisiting this methodological process may be
25 appropriate in the near to medium term future.

1 And, finally, with respect to
2 recommendations that are on the record of this
3 proceeding from Mr. Bowman, the Consumers Coalition
4 agrees with the Board's suggestion, in cross-
5 examination, that it may be appropriate to consider
6 the capacity value of wind after the release of the
7 Integrated Resource Plan finds value in Manitoba
8 Hydro's point that there's no reason to depart from
9 Order 164 of '16 direction in terms of treatment of
10 DSM at this time.

11 And with respect to the winter
12 coincident peak, the Consumer's Coalition notes that -
13 - that this metric needs to remain sufficiently broad
14 to capture all classes potential contributions to
15 winter system peaking and that no analysis has been
16 done or -- or insufficient analysis has been presented
17 to determine how many hours, if not fifty (50) is
18 appropriate. And so it's -- not justified to depart
19 from current practice at this time.

20 And subject to questions from the
21 Board, these are the closing submissions of the
22 Consumers Coalition.

23 THE CHAIRPERSON: Thank you. Ms.
24 Kapitany...?

25 VICE-CHAIR KAPITANY: Thank you. I

1 have two (2) questions, one goes back to your slide
2 96. Mr. Williams, I believe that was -- you were
3 presenting there. And it's to do with the
4 depreciation recommendation.

5 And I'm looking on PUB-20, that you
6 referred to, and I'm on page 5 of that. Where it
7 says:

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1 "Alternative 2, is to accept IFRS-
2 ALG with implementation following a
3 further regulatory review process to
4 finalize componentization.

5 But I believe you said that you
6 recommended no further componentization, so then,
7 would you be saying that we don't need the further
8 regulatory review and that you would be recommending
9 that proceeding immediately with the other parts of
10 Recommendation 2?

11 DR. BYRON WILLIAMS: Thank you for
12 that question and I apologize for the imprecision and
13 I tried to make it a little bit more clear on the --
14 the second part.

15 That's -- it's correct. We're agreeing
16 in that second bullet with what we think was the GSS's
17 -- GSM recommendation that, and Mr. Madsen's
18 recommendation that no further componentization is
19 required and that what they define as IFRS-ALG is
20 consistent with the current level of componentization
21 found in the 2019 study of Mr. Kennedy, the Concentric
22 Report.

23 Does that -- does that answer your
24 question?

25 VICE-CHAIR KAPITANY: Yes.

1 DR. BYRON WILLIAMS: Thank you.

2 VICE-CHAIR KAPITANY: My other
3 question is on your slide 136. And you were speaking
4 of Consumers Coalition does not recommend the 1.59
5 percent increase, premised on a 75/25 debt-to-equity
6 target.

7 Do you have any comment -- what would
8 you see as an appropriate debt to equity target?

9 DR. BYRON WILLIAMS: Well, that
10 discussion's never been finished, in -- in our
11 clients' perspective. And we're very sympathetic to
12 Mr. Colaiacovo's views, based upon expertise in the
13 marketplace, that primary target should be that
14 interest coverage ratio.

15 In terms of debt/equity, we would
16 benefit from an -- an uncertain -- a probabilistic
17 uncertainty analysis to -- to -- to look at -- to
18 develop that and that's what Mr. Rainkie was
19 recommending.

20 And so, pragmatically, Mr. Rainkie's
21 proposal will get us to 80/20, you know, a few years
22 out, for example. Our clients are not endorsing that,
23 because we think the debt/equity ratio we, being our
24 clients, is -- should not be the primary indicator.
25 If we're going to use that number we need to dig into

1 it more deeply than -- than we -- we have. I -- does
2 that help a little bit?

3 VICE-CHAIR KAPITANY: Thank you.

4 BOARD MEMBER BASS: Dr. Williams, your
5 comments about BOC as well as OM&A expenses and the --
6 the lack of business cases.

7 I'm interested in knowing what your
8 clients would feel that the PUB should take into
9 account for those expenses for rate-setting purposes.

10 DR. BYRON WILLIAMS: The -- if you go
11 to -- I can't remember the specific Information
12 Request, but we're heavily relying upon the scenarios
13 developed by Mr. Rainkie in Consumer Coalition
14 Scenarios 10 and Consumer Coalition Scenarios 11.

15 And so for BOC, it's clear it's 10
16 percent. Mr. -- certainly, Mr. Bass, we could -- or
17 Mr. Rainkie has said how he developed his OM&A
18 recommendations, and we could provide, in writing,
19 just the -- the reference to the transcript where he
20 provided it, but it's -- it's set out, both in -- in
21 that Information Request, as well as in his -- his
22 oral comments.

23 But that's what we're relying upon is
24 the calculations that went into Consumer Coalition 10
25 and 11. And, in essence Mr. Rainkie -- I think

1 Coalition -- one of them was 1.5, one was 1.2, he kind
2 of came in -- in between them a little bit and it was
3 actually a bit more generous and aggressive than what
4 the PUB said in Order 59/18.

5 So, we could just provide you with the
6 reference, 'cause it's clear on the record, but I hope
7 that helps to answer your question, sir.

8 BOARD MEMBER BASS: It does. Thank
9 you.

10 THE CHAIRPERSON: If we can go back to
11 96 -- page 96. Ms. Kapitany sort of stole part of my
12 question. Am -- am I right, this wasn't your original
13 position on -- on depreciation, was it?

14 DR. BYRON WILLIAMS: Well, just to be
15 clear, sir, this is where I was, perhaps, a bit
16 intemperate, when the Depreciation Panel was
17 presented, because our client never had a position.

18 Mr. Rainkie, who we think is the -- the
19 -- the best, most reliable expert in the world, did
20 provide his independent expertise to the dialogue on
21 the Depreciation Panel, but our client took no
22 position on it, and, if you think of when -- and,
23 again, perhaps I intemperately spoke on that Monday, I
24 noted that that was the positions adopted by the
25 independent experts.

1 And our clients, just so I'm clear, I -
2 - I think the Board knows this, when we send in an
3 independent expert on something like that, we say, be
4 independent. And we adopt, obviously, many, many of
5 Mr. Rainkie's recommendations, based on the evidence,
6 that was the one that we -- we didn't accept, and with
7 no -- he's an estimable expert, but that's why we have
8 independent experts.

9 THE CHAIRPERSON: Thank you. Thank
10 you very much. We will adjourn until one o'clock.

11 MR. CHRIS KLASSEN: If I might, Mr.
12 Chair, and I apologize for the interruption.

13 THE CHAIRPERSON: Yes.

14 MR. CHRIS KLASSEN: There are just a
15 few exhibits to be filed --

16 THE CHAIRPERSON: Okay. Please do.

17 MR. CHRIS KLASSEN: -- before we turn
18 the lights off for the last time.

19 For the Consumers Coalition, there were
20 a number of responses to Undertakings filed following
21 the conclusion of cross-examination and these have all
22 been circulated electronically and I'm just noting
23 them today for the purposes of the record.

24 The response to Undertaking Number 45
25 has been filed as Exhibit CC-29.

1 Exhibit CC-30 is the response to
2 Undertaking 46.

3 Exhibit CC-31 is the response to
4 Undertaking 50.

5 And Exhibit CC-32 is a consolidated
6 package of responses to Undertakings 64 through 69.

7 In addition to those, the slides that
8 we've referenced this morning, we -- we request to
9 file, as noted on the top corner of the page, as
10 Exhibit CC-33.

11 In addition to the slides circulated
12 this morning was a written legal argument and we
13 request that that be noted as Exhibit CC-34.

14 As well as our written submission
15 providing additional details on matters of Business
16 Operations Capital and we request that that be Exhibit
17 CC-35.

18 And one final note with respect to
19 Exhibit CC-15, the Panel will recall that Midgard
20 Consulting was asked to amend the contents of their
21 slides following their testimony. They did so, and it
22 came to their attention, this week, that an
23 inadvertent error had been made in making those
24 amendments and, so, those have been corrected and a
25 further amended CC-15 was circulated electronically

1 yesterday. Thank you.
2
3 --- EXHIBIT NO. CC-29 Response to Undertaking
4 Number 45.
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6 --- EXHIBIT NO. CC-30: Response to Undertaking
7 46.
8
9 --- EXHIBIT NO. CC-31: Response to Undertaking
10 50.
11
12 --- EXHIBIT NO. CC-32: Consolidated package of
13 responses to Undertakings
14 64 through 69.
15
16 --- EXHIBIT NO. CC-33: CC closing submission
17 presentation - June 22,
18 2023
19
20 --- EXHIBIT NO. CC-34: CC written legal argument
21 - June 22, 2023
22
23 --- EXHIBIT NO. CC-35: CC written submissions on
24 Business Operation Capital
25 - June 22, 2023.

1

2 THE CHAIRPERSON: Thank you. We'll
3 adjourn until one o'clock. Thank you.

4

5 --- Upon recessing 12:15 p.m.

6 --- Upon resuming at 1:03 p.m.

7

8 THE CHAIRPERSON: Okay. If we're
9 ready. Mr. Reimer, are you taking the lead?

10 MR. THOMAS REIMER: Thank you, Mr.
11 Chair. I am going to start. And my colleague, Mr.
12 Walichnowski, who you know, will conclude at the end.

13 THE CHAIRPERSON: Thank you.

14

15 CLOSING SUBMISSIONS BY GSS-GSM:

16 MR. THOMAS REIMER: So, good
17 afternoon, Mr. Chair, Madam Vice-Chair, Member Sy,
18 Member Bellringer, and Member Bass.

19 I'd like to begin by expressing my
20 thanks to the Board, to all of My Learned Friends
21 here, and especially to Ms. McMillan and Ms. Schubert,
22 for the hospitality and patience that have been
23 exercised towards me and Mr. Walichnowski.

24 And I'd also like to recognize the
25 important and hard work that Manitoba Hydro does for

1 Manitobans. And I'm going to make some relatively
2 pointed critiques of them, but I do want to situate
3 those critiques from the outset in the context of an
4 understanding and a recognition that -- that they keep
5 the lights on for us, and so I -- I do want to put
6 that out there at the beginning.

7 In my late teens and early 20s, I was
8 in a hard core band. It may not surprise that I was a
9 base player. And the nice thing about being a bass
10 player is there are only four (4) strings and you just
11 need to worry about one (1) at a time.

12 I've always admired drummers because
13 drummers have to do a whole bunch of things at once.
14 And, in my view, it would make sense to call Manitoba
15 Hydro the drummer of the Manitoba economy. It keeps -
16 - it keeps the time. And -- and, occasionally, the
17 PUB is a click track in its ear, but it does a very
18 important job, and it -- and it may not get the
19 recognition that the importance of having the power on
20 deserves.

21 Now, unfortunately, in my submission,
22 Manitoba Hydro has missed a few beats with respect to
23 the materials that it has put before the Board for
24 this matter, and that's going to be a theme of my
25 submissions.

1 Barring a legislative change, as
2 everybody here knows, this is the last GRA in which
3 the PUB will have what I'll call the traditional rate
4 setting discretion that it currently enjoys.

5 And -- and I think it's unfortunate
6 that Manitoba Hydro has not provided the PUB with a
7 number of important documents that would have
8 undoubtedly assisted it in determining the rates for
9 the next two (2) years with an eye on the longer term
10 forecast.

11 I won't repeat Dr. Williams' comments
12 about this. He listed a number of things, IRP,
13 business cases for SAP S/4HANA, AMI, et cetera, the
14 digital and technology plan. There were a number.

15 And -- and I think, to be fair to
16 Manitoba Hydro, there are reasons, and they've put
17 forward reasons during their evidence, about why it
18 was difficult or not possible for them to put that
19 material before the Board, but -- and so three (3) I
20 think that -- that were particularly focussed on were
21 Strategy 2040 and the -- and the pivot to a new
22 strategic vision, the drought, and the pandemic.

23 But, in my respectful submission, it
24 was incumbent on -- on Manitoba Hydro in this last --
25 potentially last GRA of its kind to do what it could

1 to -- to get as much information before the Board as
2 it could so that the Board could have a very close
3 look at things before the legislative change comes
4 into effect in April 1, 2025.

5 To go back to my analogy, the drummer
6 needs to be able to keep time and operate the kick
7 drum pedal and do the -- play the snare and the high
8 hat all at once.

9 And so, while I have some sympathy for
10 the -- the challenges that Manitoba Hydro faced, I --
11 I think it has put the Board and the Interveners in a
12 difficult place when it comes to considering the
13 issues that need to be considered in the context of
14 this request for rate increases.

15 So, if Ms. Schubert could go to slide
16 2, I'll very briefly recognize the three (3) formal
17 clients that we had working with us a part of our
18 GSS/GSM coalition. They are the Building Owners and
19 Managers Association, the Canadian Manufacturers and
20 Exporters, and the Automotive Trades Association of
21 Manitoba.

22 I -- I -- in my opening comments I made
23 sort of some introductory remarks about each of them.
24 I think from their names it's -- it's obvious what
25 they do. But as I said in my opening, they are

1 responsible for a significant amount of economic
2 activity in the province and a significant number of
3 jobs.

4 I'm going to flip relatively quickly
5 past the next few slides. Mr. Williams touched on
6 these -- on the -- on the PUB's mandate and -- and the
7 statutory framework within which it operates
8 currently, so I'm not going to spend a ton of time on
9 this.

10 But, you know, the -- it's bring coal
11 to Newcastle to say that -- that the Board's job's to
12 set -- or to approve just and reasonable rates. So,
13 go to the next slide, please, Ms. Schubert. Thank
14 you.

15 So, I'll start with the sort of big
16 picture take on what our clients' position is with
17 respect to the requested rate increases.

18 So, with respect to the 3.6 percent
19 interim rate increase, I -- I think we would
20 sympathize with the positions that have been put
21 forward by other parties, that the practical reality
22 is it would be very difficult to unwind. And the
23 benefits of doing that would likely not be outweighed
24 by the difficulties that it -- that would be required
25 in order to -- to make that happen.

1 So, with that in mind though, the -- in
2 our view, the interim rate increase, and not to
3 mention the record net income from the last fiscal
4 year, are clearly contextual considerations that the
5 Board needs to make as it considers what to do about
6 the test years and the two 2 percent increases that
7 are being requested.

8 You can see on the slide there that,
9 the first bullet, reliable service is vitally
10 important to our clients. And so, they -- they were
11 very clear with us that reliability should not be
12 reduced even if increased rates are needed. So -- so,
13 that's clearly their perspective on this.

14 Now, having said that, the 2 percent
15 increases -- and -- and I'll go through this in more
16 detail when I touch on each of the separate points
17 that I'm going to be dealing with -- it is not clear
18 to us that the 2 percent rate increases for the -- for
19 each of the test years are necessary to fund Hydro's
20 operations if it engages with appropriate cost
21 constraint measures.

22 And there are few places where Mr.
23 Madsen has assisted us in -- in developing some
24 recommendations and comments, and I'll deal with them
25 in a moment.

1 If the -- you know, despite that
2 comment, that -- that, in our view, 2 percent is not
3 needed to fund operations, if the Board, because of,
4 for instance, Bill 36, is of the view that -- that it
5 would be just and reasonable and that, in keeping with
6 the government policy, as -- as my friends from
7 Manitoba Hydro presented on Monday, that that policy
8 needs to be obviously something that guides Manitoba
9 Hydro and -- and, therefore, needs to be a
10 consideration for the Board.

11 So, if the Board considers those two 2
12 percent increases to -- to lead to just and reasonable
13 rates in the -- in the circumstances, that needs to be
14 coupled, in our submission, with -- and I wrote it
15 down somewhere. I liked Mr. Williams' phraseology. I
16 think it was a message of efficiency and economy.

17 So, the message that we're receiving
18 from Mr. Madsen is that, if that 2 percent increase is
19 put in place, there should be direction that cost
20 constraint has to happen that there may be some
21 opportunities to pay down debt more quickly if savings
22 can be found in other places.

23 So, this is the roadmap for my
24 submissions. I think -- did I miss slide 8? Oh,
25 pardon me. Okay.

1 So, I will then start with operation
2 and administration expenses. And -- and I will say I
3 -- I've filed a brief with the Board that sets most of
4 this stuff in detail. From here on out, I am going to
5 be tracking the submissions there, so I -- I think the
6 Board has copies of it. And -- and my friends can
7 avail themselves to a few copies that are on the table
8 if -- if they feel that it's helpful to them.

9 So, I'll go through these first two (2)
10 or three (3) slides relatively quickly. But I don't
11 think it's controversial that the PUB is a surrogate
12 for the market. Effectively, or -- or maybe even more
13 than effectively, Manitoba Hydro is a monopoly.

14 And so, part of the reason why the PUB
15 needs to approve the rates is because Manitoba Hydro
16 is not subject to market forces in the way that an
17 investor-owned entity, for instance, might be.

18 So, the PUB -- and this came up in a
19 number of places during the evidence. The PUB does
20 not manage Manitoba Hydro's finances. But, in our
21 submission, it must be satisfied based on the evidence
22 -- and -- and I underscore that -- based on the
23 evidence that electricity rates that it approves are
24 just and reasonable.

25 And at slide 8 I reproduced the prudent

1 standard from the PUB's website. You're -- you're
2 well familiar with it, I'm sure. As I say in the
3 brief, the definitions of -- of 'prudence' connote --
4 and I'm looking at paragraph 12 -- a sense of caution,
5 carefulness, shrewdness, and the avoidance of risks.

6 So, with that definitional guidance in
7 mind, we submit that there are three (3) overarching
8 questions that the Board should consider when it is
9 looking at operations and -- and administration
10 expenses.

11 First, is Manitoba Hydro tracking and
12 managing it's O&A costs in sufficient detail so that
13 it can provide the Board with confidence that its
14 costs are being prudently controlled?

15 Second, is Manitoba Hydro reporting its
16 operation and administration costs in sufficient
17 detail to allow the Board to make apples-to-apples
18 comparisons between years? And -- and that was a
19 concern in a -- in a few places, and I'm going to
20 touch on at least one (1) example in -- in a moment.

21 And third, where operation and
22 administration expenses have increased materially, has
23 Manitoba Hydro presented sufficient evidence to
24 satisfy the Board that the increases are prudent and
25 reasonable and would contribute to just and -- and

1 reasonable electricity rates?

2 So, Ms. Schubert, I think -- I think
3 that was the -- the next slide, so I would be looking
4 at slide 10 next, and this is at paragraph 16 of the
5 written material.

6 One (1) of the themes of Mr. Madsen's
7 testimony the Board will recall was what is not
8 tracked is not managed, and what is not managed is not
9 tracked.

10 In other words, Manitoba Hydro's
11 ability to understand and, more importantly in this
12 context, to explain to the PUB what it's O&A
13 requirements are depends on the detail and the quality
14 of the data that it has and that it can present.

15 And -- and Mr. Madsen made this clear
16 in a number of places in his written -- pre-filed
17 written argument and in his testimony that he was of
18 the view that Manitoba Hydro mostly provided high-
19 level information about forecasts and budgeting
20 processes, but it didn't bring the level of detail
21 that would be necessary to -- to sort of get under the
22 skin, and there -- there are examples of that.

23 We just did a CTRL-F search for 'track'
24 in the -- in the IRs, and -- and these were some of
25 the things that we pulled out on slide 10. There are

1 other examples in paragraph 18 of the written
2 material.

3 Most importantly for our purposes in
4 O&A, we -- you know, we didn't have detailed
5 explanations for -- for instance, there was -- there
6 was no business cases to support the considerable FTE
7 increases that are being proposed. There wasn't
8 activity-based information for a number of FTE
9 positions.

10 And -- and one (1) -- one (1) example
11 from the transcript is at transcript page 2455 at line
12 21 where Ms. Amorim-Dew and I had an exchange with
13 respect to HR forecasting increases where, in -- in my
14 submission, there was very little detail provided as
15 to why HR FTEs were increasing more quickly than in
16 the enterprise writ -- large and -- and what was --
17 what was it that these people needed to do that wasn't
18 being done.

19 And so that's -- that's one (1) example
20 of -- of a place where it -- it seems as though there
21 isn't information or -- or evidence available to the
22 Board, at least on the record, that supports the
23 requested O&A expenses.

24 So if you go to the next slide at slide
25 11 -- this is at paragraph 21 of my brief -- sets out

1 some of the -- by percentage some of the major
2 increases that -- that Mr. Madsen pulled out and
3 referred to in his -- in his pre-filed written
4 evidence.

5 And, you know, most of them are -- are
6 well above inflation, even the high inflation that
7 we've been experiencing over the past couple of years.

8 At slide 12 and at paragraph 22 of the
9 -- of the written brief, I make the submission that,
10 in order to establish these expenses that are -- are
11 sizeable increases above past years, our submission --
12 and -- and we'll get to a recommendation, or the
13 recommendation is here on slide 12.

14 The recommendation is that -- that it
15 may be useful for the Board to issue some direction to
16 Manitoba Hydro in the future that, if there's a
17 certain threshold that's crossed in terms of a change
18 in -- in budget, that additional infor -- information
19 is required to be filed in support of that change.

20 And so, you know, an example of this
21 could be if -- if something's going to vary by 10
22 percent in either direction or more, you know, you
23 could -- you could take your -- your specific numbers.

24 But Mr. Madsen made the point in his --
25 in his oral testimony if -- if it's a 2 percent

1 increase in a -- in a context of a 2 percent
2 inflation, that may not attract a huge amount of
3 scrutiny from the Board. That just on its face
4 appears reasonable.

5 When we're talking about, you know,
6 some of the numbers that are listed in paragraph 21,
7 more is needed, in our submission. Next slide, Ms.
8 Schubert.

9 I'm not going to spend a great deal of
10 time on zero-based budgeting. Mr. -- I -- I do
11 commend Mr. Madsen's pre-filed written evidence and
12 also his -- his direct testimony where he set out a
13 very practical guide to what this would look like and
14 ways in which what he's suggesting differs from what
15 Manitoba Hydro actually does.

16 So I'm not going to dwell on that
17 really at all other than to say that, again -- and
18 I'll -- and I'll preface my comment by saying how --
19 the -- the budgetary method that's employed by
20 Manitoba Hydro is, in my view, and I'm sure in yours
21 and -- and certainly in Manitoba Hydro's, a management
22 decision.

23 So it is not for the Board to require
24 Manitoba Hydro to use a particular procedure when it
25 comes to budgeting. However, it would in my view --

1 in my submission be appropriate for the Board to make
2 a recommendation that Manitoba Hydro at -- at, for
3 instance, some -- at one (1) business unit level or --
4 or some discrete element of the -- of the enterprise
5 employ the technique that Mr. Madsen has suggested,
6 and that may foster future discussion at a future GRA.

7 So when it comes to the -- we're at
8 slide 14. I believe this tracks with paragraph 37 of
9 my written material. So initially -- and I'm actually
10 looking at the top of -- of page 14. I've produced
11 the same table or -- or, sorry, not the same table --
12 I've produced the initial table at -- at the top of
13 page 14 that Mr. Madsen had in his -- in his written
14 material.

15 And you recall that there was some
16 concern about the fact that there was no general wage
17 increase in -- in his table and -- for 2022/'23. And
18 we went through that, and -- and so, you know, you can
19 read in my written submission a reiteration of Mr.
20 Madsen's view that Manitoba Hydro, by the time it was
21 filing this, would have known that there was going to
22 be GWI for 2022/'23, or at least would have reasonably
23 forecast that there would be.

24 And so, you know, his view is that
25 there should have been a number in that GWI category

1 for 2022/'23. With that said, he's now adjusted and
2 he accepts that -- that there should be something
3 there. He's adjusted his numbers, and -- and so the
4 table that you see on slide 14 is an adjustment of
5 that.

6 And what he's done -- and you can see
7 this at paragraph 40 of the written brief -- is he has
8 adjusted the FTE expense upwards as the starting
9 number to 461.7 million rather than 458.8. And I
10 think you can see that in the -- in the Madsen
11 proposed for 2023/'24, so that's the -- the middle
12 column. And so -- and then he -- and then he runs the
13 same formula that he did before, moving from there.

14 And so that -- based on the information
15 that we received during the GRA, that is the revised
16 recommendation that Mr. Madsen is making. And so it's
17 -- it's something more like \$4.7 million reduced for
18 '23/'24 and just under 8 million reduced for 2024/'25.
19 Next slide, please. Oh, sorry. If we could go back
20 just one (1) moment.

21 I did want to talk a little bit about
22 the vacancy rate that's been used. And so you'll
23 recall there was a discussion and if you look at -- at
24 the -- the chart that's on this -- on this slide, you
25 can see that the vacancy allowance there is at 49

1 million 679. And the FTE, normal operating changes
2 and other is at fifty-three eight ninety-seven.

3 And so what that means as I understand
4 it, as I understand the evidence, is that essentially
5 they've put in another 53 million and change in FTEs,
6 and then they've backed out almost 50 million of it.
7 And in my submission, that -- that is a problematic
8 way of -- of presenting this to the Board because it
9 presents it as what I'm calling a fait accompli.

10 We already have these FTEs for the
11 2022/'23 year, and -- and so the FTEs are there, but -
12 - but unfortunately, because we've got this very high
13 vacancy rate, we didn't need the money -- so
14 fortunately we didn't need the money -- but
15 nevertheless, there's the FTE number, and then it
16 tracks forward from there.

17 You'll recall that Mr. Madsen called
18 the vacancy rate that was used as unprecedented, and -
19 - and Ms. Amorim-Dew agreed with me when I suggested
20 to her that it was unusually high. And she had some
21 explanations for that given the Strategy 2040, but in
22 my view, those are not satisfactory explanations. And
23 as I say, I believe that -- that it presents these
24 numbers as -- as fait accompli to the Board. They're
25 already there. Let's just keep them moving forward.

1 The last -- sorry, Ms. Schubert -- the
2 last point I'll just make is -- is at the bottom,
3 which is there's no -- in the written argument -- and
4 I've given the citation there -- there is a moment
5 about Mr. Madsen's recommendation jeopardizing safety,
6 reliability, and customer time lines.

7 In my respectful submission, there is
8 no evidence for the Board to make that conclusion,
9 especially -- and -- and operations is one (1) thing.
10 And I can -- I can accept that there may be increases
11 in FTEs in operations that are needed and the written
12 brief does touch on that and say, We don't dispute
13 that that -- you know, you'll recall the -- the
14 building up of the trainee program.

15 We don't dispute that they -- that they
16 need the skill trades to -- to work on the
17 infrastructure. And so, we're not talking about that
18 here.

19 But it is difficult for me to accept --
20 and I -- and I submit to the Board that it should not
21 accept that reducing executive, HR, or finance FTEs is
22 going to have an effect on safety, reliability, or
23 customer time lines. So slide 15 then, Ms. Schubert.

24 This is a slide that came out of the
25 direct evidence of Manitoba Hydro with respect to

1 revenue requirement. And it was provided as an
2 explanation for why the consultant costs are being
3 projected to increase so precipitously in the next few
4 years.

5 So the first thing I'll say is that,
6 clearly, some of these projected increases are
7 reasonable. The -- the reality is that the cloud
8 costs cannot be capitalized. They need to be
9 expensed. There's nothing we can do about that. That
10 makes sense. Okay.

11 And so, we do deal with that later on
12 in the brief. I'll touch on digital and technology a
13 bit. And the SAP S/4HANA.

14 But that's fair enough. But I do want
15 to point out on this slide that there is a couple of
16 things that -- that are circled in the -- in the oval
17 that appear to track forward. And it's unclear to us
18 why that would be the case.

19 So for instance, the IRP -- the -- the
20 project management staff augmentation, these are
21 things that I would have expected would be either one
22 time costs or short-term costs. And -- and from this
23 chart -- and this -- this sort of is part of the theme
24 of having limited information or evidence by which to
25 evaluate what Manitoba Hydro's putting forward. But

1 it's not clear why it is that those costs would track
2 forward and still be part of the -- of the, you know,
3 big blue shaded part there into the future.

4 Like, why -- why isn't it coming down?
5 And the -- the cloud and SAP S/4 expenses then sort of
6 replacing it over time. It's -- it's an unknown. For
7 me anyway.

8 So we're at slide 16, and I'm -- I'm
9 going to -- I'm going to hope -- I think if I -- if I
10 try to do the math with you here, I'm going to -- I'm
11 going to step on the explanation that is in writing in
12 -- in the -- in the written materials at paragraph 60
13 and on to paragraph 64, I believe.

14 This table is in there as well. But
15 Mr. Madsen has -- has sort of helped me put into
16 writing here an explanation for how he has revised his
17 table based on the evidence that came forward during
18 the GRA, in terms of how much the consulting costs are
19 that are related to SAP S/4HANA or other cloud
20 computing issues. And so, he's -- he's explained here
21 how he gets to the number he gets to.

22 The -- the point that I will sort of
23 just flag for the Board right now though is, there are
24 essentially two (2) scenarios that he's pointing out.

25 One is a scenario where the reduction

1 that he recommends is approximately 14 million for
2 each of the test years.

3 And one where the reduction is
4 approximately \$9 million for each of the test years.

5 And I commend the explanation to your -
6 - to you and your advisors as you consider what to do
7 with these consulting costs. But I think that that
8 will -- that will suffice for the moment.

9 So just before I turn to the SAP
10 S/4HANA issue, I'm just going to point out a couple of
11 things about consulting costs. One is that you have
12 Manitoba Hydro acknowledging that, typically,
13 consulting costs are more expensive than using
14 internal resources.

15 And -- and so, in our submission, it is
16 -- it would be prudent to send a message that -- that
17 the -- again, the economic -- the message of economy
18 and efficiency that Mr. Williams was referring to
19 before, that -- that these expenses really have to be
20 watched carefully.

21 On to SAP S/4HANA. I'm going to go
22 through this very quickly. Mr. Williams dealt with it
23 in a bit more detail this morning. But I just --
24 there are a couple of things that I want to point out.

25 First of all, this is a fraught issue.

1 It -- I think it -- everybody in the room is well
2 familiar with what's happened at MPI and -- and that
3 is a scenario that we certainly want to avoid here.
4 And I don't think there's anybody that would descent
5 from that view.

6 The concern that -- that I have, as I
7 read this -- and -- and I'll leave with you just to --
8 to consider -- is that it appeared to me, as I was
9 reading the material, that Manitoba Hydro clearly
10 prefers the option of moving to the SAP S/4HANA.

11 And in my brief, at paragraph 73 and
12 74, I've outlined a couple of examples of where I
13 think that's the case. Where -- it doesn't sound
14 provisional, it sounds like this is where we're
15 headed. We just need to backfill the -- the -- the
16 paper case to help us make the decision that we
17 already know we want to make.

18 And so, I -- I will acknowledge that
19 Manitoba Hydro walked those sentiments back during the
20 Hearing, but it did raise a red flag for me. And --
21 and so, I -- I leave that with you for further
22 consideration.

23 The second and third bullets on this
24 chart, I think, are -- are related. The first is that
25 -- sorry, the third and the fourth.

1 The first is that -- and I'll start
2 with fourth bullet. Manitoba Hydro, I would submit,
3 has very little idea of what this is actually going to
4 cost. And -- and Mr. Tess was at pains to -- to say,
5 This is a-- the number that's in -- in the -- the GRA
6 filings is a placeholder number.

7 I'm going to submit to you, as somebody
8 who knows very little about technology, that there's
9 no chance it's going to be less. It is going to be
10 more. And until we know how much more, extreme
11 caution needs to be exercised.

12 The second point is in -- in the third
13 bullet, which is that little to no evidence has
14 actually been presented to the Board about what the
15 specifics of this would -- would involve in terms of
16 how the decision is going to be made, what input
17 Manitoba Hydro is proposing the Board should have into
18 the decision after its been made.

19 And so, again, these are concerns. The
20 third concern is -- and this was part of my cross-
21 examination on this point -- that it has not been a
22 secret that SAP is not -- no longer going to be
23 supporting the legacy system.

24 Mr. Fogg agreed with me when I
25 suggested to him that that's been known for several

1 years. In fact, the deadline was originally 2025 and
2 has been pushed back to 2027.

3 And so, the problem with that is that
4 now we're here in 2023. We have an Order coming out,
5 let's say, in September of 2023 from this Board. And
6 -- and we're dealing with a very limited -- or a very
7 tight time frame with a very limited number of SAP
8 consultants that can assist with the transition into
9 SAP S/4HANA from the legacy system.

10 And the problem with that is that
11 everybody who's got the legacy system is looking for
12 the same -- is -- is dipping into the same pool of
13 consultants. And so, that's going to send the costs
14 up and the time lines longer.

15 And so, the problem that I've got here
16 is that we've got this sense of urgency that we
17 shouldn't have and that can lead to a bad decision.
18 And so, I -- I again -- I urge caution on the part of
19 the Board as it considers this issue and on the part
20 of Manitoba Hydro as it considers the issue.

21 I'll -- I'll end this submission on
22 this point by just pointing to the recommendation.
23 And that is Mr. Madsen -- and our clients agree with
24 this -- it is prudent to investigate the options when
25 you know that your -- your enterprise resource

1 planning platform is -- is no longer going to be
2 supported.

3 So phase zero costs should be part of
4 what the Board allows as part of the revenue
5 requirement. And, in fact, as part of the deferral
6 account that -- that Manitoba Hydro is proposing.

7 So -- so we do accept that. Now, the -
8 - the final thing that I'll point out on this -- and -
9 - and we do refer to it in the -- in the written
10 materials at paragraphs 86.

11 And that is at CSI Undertaking No. 1,
12 from Manitoba Hydro which came in, I believe, late
13 last week. Ms. -- Ms. Schubert, I don't know if
14 you've got that available. If not, I can -- I can --
15 just -- so -- the -- I don't know what's behind the --
16 the redacted portions, but I will just flag for the
17 Board, that already we're in Phase 0 and it appears
18 that the costs are going up and the timelines are
19 moving out. And that's a concern. Because we're just
20 at Phase 0.

21 THE CHAIRPERSON: Mr. Reimer you've
22 got about thirty (30) minutes left.

23 MR. THOMAS REIMER: Thank you. I
24 think I'm -- I'm right on track, Mr. Chair, so, but
25 thank you for that.

1 I -- I won't -- Mr. Madsen gave
2 evidence about the challenges and risks associated
3 with such a large IT transition. I -- I won't
4 belabour that, it's in this slide and it's in his
5 testimony and I think that -- that makes the point
6 well enough.

7 So, we can turn to depreciation. I --
8 you can pick pop-culture reference here. I -- I
9 selected Monty Python, the sketch with the -- the
10 corpse who says he's not quite dead yet.

11 And as I recall from that sketch,
12 ultimately, they -- they bang the corpse on the head
13 and -- and -- and that's the end of it. This is your
14 opportunity to bang the corpse on the head and put
15 this to rest once and for all.

16 This has been a lingering issue. I'm
17 new to it, and as is Mr. Madsen, but I think I've
18 understood the sentiment in the room, certainly with
19 those who have been here for the last ten (10) years
20 to be -- it would be good if we could argue about
21 something else at the next GRA. And -- and certainly
22 we concur with that.

23 So, I'm going to just set out a few of
24 the principles on depreciation that are part of Mr.
25 Madsen's -- Mr. Madsen's written evidence and also

1 part of his presentation to the Board on the
2 depreciation day evidence.

3 The first is that depreciation is an
4 estimate. It is not a perfect projection and -- and
5 that is not an expectation. Professional judgment is
6 needed by the person who's doing the depreciation
7 study.

8 The level of componentization -- and
9 this is important and I'm going to get into the weeds
10 on this a little bit in -- in the next slide -- but
11 the level of componentization is not prescribed by
12 IFRS.

13 And -- there -- I -- I believe and I've
14 looked and Mr. Madsen's looked, and I believe that I'm
15 right to say, the only evidence that the Board has
16 with respect to the interpretation of significance and
17 that's -- that's the key word when it comes to what
18 needs to be componentized.

19 It's things that are significantly
20 different. And the only evidence on how that word
21 should be interpreted, I believe, I'm correct to say,
22 and -- and my learned friend will correct me on
23 Monday, if I'm wrong, was Mr. Madsen's in his -- in
24 his pre-filed written testimony. So, I -- I -- I
25 think that's very important to keep in mind.

1 The last thing that I'll point out is
2 that componentization, whether it's under ELG or under
3 ALG, is an on-going process. It is constantly
4 supposed to be refined as the assets age. Okay.

5 So, the suggestion and -- and -- and I
6 don't know if it's been a suggestion, so much, as an
7 interpretation that could be out there based on the
8 evidence, that -- that somehow if we keep ELG, we're
9 not going to have to do further componentization
10 analysis moving forward.

11 My understanding of Mr. Madsen's
12 evidence and -- and frankly of -- of the evidence of
13 the other witnesses, is that's not the case.

14 Doesn't matter if it's ELG or ALG
15 componentization is going to be an ongoing process.
16 Go ahead to the next slide please, Ms. Schubert.
17 Thank you.

18 So, we've -- I'm -- I'm not going to
19 get -- into much more detail than is on the slide
20 here, but the -- our submission is from GSS/GSM,
21 perspective that ALG is clearly the -- preferable
22 procedure to use for depreciation. It provides
23 continuity and consistency for depreciation expense.
24 It is simpler and -- and Mr. Madsen spoke about that
25 in -- in his written pre-filed written evidence.

1 It's more understandable, it's more
2 transparent and this is important. It has less risk
3 of overstating depreciation than -- than ELG does.

4 And so, if you -- you -- you may recall
5 the -- the question I asked Mr. -- Mr. Bowman, sorry,
6 you may recall the question that I asked Mr. Bowman
7 and -- and the Manitoba Hydro depreciation witnesses
8 about why a -- a privately owned utility might want to
9 use ELG. And I can distill -- I think I'm correct to
10 distill Mr. Bowman's answer down to, it has
11 significant cash flow benefits that can lead to
12 dividends for investors. Okay. Not a concern here.

13 And if you recall the chart that --
14 that Manitoba Hydro presented to the Board with
15 respect to which utilities in Canada use ELG versus
16 ALG. I think I'm right in recalling that all but one
17 are privately held entities. And none of the big
18 utilities are on that list.

19 So, I -- I -- I think, I just want to
20 make that point that -- that Manitoba Hydro has not
21 pointed to another, sort of apples-to-apples
22 comparator that is also using ALG. Next slide,
23 please.

24 So, in this slide I've reproduced part
25 of Order 73/15 and you've got the citation there. And

1 that was where the Board directed that if Manitoba
2 Hydro was going to file an IFRS compliant ASL or ALG,
3 just to sort of to keep the terms consistent,
4 depreciation study, if and when filed by Manitoba
5 Hydro, it should be based on the minimum level of
6 additional componentization required by IFRS, but
7 avoid optional additional componentization.

8 I deal with this in some detail in the
9 brief, but the -- I -- I -- I have the -- the -- the
10 evidence citations here where Manitoba -- both
11 Manitoba Hydro and Alliance acknowledge that less
12 componentization than was used in the Alliance study
13 would have been appropriate.

14 So, in my submission, and -- and -- and
15 you can track this and I -- and I do track it through
16 the evidence, in terms of what the Alliance group did
17 when it did the depreciation study, but you'll note
18 when you read the terms of reference, which I've --
19 which I've cited to you and when you read Mr.
20 Watson's introductory pages to his depreciation study,
21 there is no reference to this direction of the Board
22 to have minimum componentization.

23 And what's more, and I've -- I've
24 referenced one of the IR responses to the PUB,
25 Information Request from Manitoba Hydro. It appears

1 that -- that Manitoba Hydro was trying to reverse
2 engineer the outcome of an ELG study when it asked Mr.
3 Watson to do the ALG -- the IFRS compliant ALG study.
4 And -- and you've got that -- that citation at the top
5 of page 33 of the brief. The next page, please.

6 So, this is an important point on
7 depreciation. Manitoba Hydro did not file independent
8 expert evidence. Mr. Watson -- Mr. Watson did not
9 file evidence in this Hearing with respect to whether
10 it's preferable to use ALG or ELG. And that's not
11 surprising, because he wasn't asked to do that.

12 I -- I point out here that Mr. Madsen
13 was the only independent IFRS expert. Mr. Madsen is
14 an accountant. Mr. Watson is an engineer. And if you
15 look at Mr. Watson's CV, you'll see that he has
16 limited IFRS training or experience. Mr. Madsen has
17 literally taught IFRS to accountants across Canada
18 with respect to how it should be applied in the
19 context of utilities.

20 The other point that I -- that I make
21 and it's -- it's -- I mean it's not the be all and end
22 all, but I think it's -- it's important to point out.
23 Mr. Watson was not expected to testify and so he was
24 not cross-examined or not cross-examined in any real
25 detail.

1 And -- and I -- in the brief I do have
2 some citations to the -- to the transcript where --
3 where counsel for the PUB and counsel for MIPUG put on
4 the record that he was not expected to be part of the
5 -- the panel and sworn in to give evidence.

6 And -- and this is important and I -- I
7 seem to recall Vice-Chair Kapitany asking Mr. Watson
8 whether he participated in the technical conference
9 that the parties had engaged in. And the fact is, he
10 didn't.

11 So, he didn't file evidence, in terms
12 of ALG versus ELG. He didn't participate in the
13 technical conference. The only thing he did was to
14 prepare -- prepare the depreciation study, the IFRS
15 compliant ALG depreciation study and -- and he -- and,
16 by his own admission, the level of componentization in
17 his study is higher than IFRS requires.

18 The other thing and -- and I don't have
19 the citation on the slide but I do have it in the
20 written brief -- is that Alliance has acknowledged
21 that its clients predominantly use ALG and that, for
22 U.S. regulated utilities, ALG is frequently used.
23 Next slide, please, Ms. Schubert.

24 I won't go through this at all, but
25 you've got it here, if -- if you want to refer to Mr.

1 Madsen's credentials, these are just duplicates of --
2 of his slides from his non-depreciation and
3 depreciation evidence. So, you can see -- flip to 27,
4 please.

5 There was some competing testimony
6 about how onerous the transition to ALG would be for
7 Manitoba Hydro. I -- I'll point out that there is no
8 evidence, in terms of specifics, of -- of what that
9 would entail by way of FTE costs or anything else like
10 that.

11 The other thing to keep in mind is
12 Manitoba Hydro acknowledged, both in the depreciation
13 issues document and, I believe it was Mr. Fogg, during
14 cross-examination, that the costs to make that
15 transition would not be material.

16 So, that, in my respectful submission,
17 given the absence of -- of specific evidence, should
18 not be a factor that the Board considers when it --
19 when it is deciding whether to direct that ALG be used
20 for re -- regulatory reporting purposes. Next slide,
21 please.

22 I'm very happy to say that that is the
23 last you will hear from me. Thank you. I'm going to
24 turn it to my -- to My Friend, and I think we're --
25 we're well on board to get this in under, probably, 15

1 minutes.

2 THE CHAIRPERSON: You've got about 15
3 minutes.

4 MR. ROBERT WALICHNOWSKI: I -- I
5 expect I will be less than that, Mr. Chair. Thank
6 you. Good -- good morning, Mr. Chair, Madame Vice-
7 Chair, Members of the Panel.

8 Ultimately, with respect to the rate
9 design proposals that Manitoba Hydro's put forward in
10 this Hearing, GSS and GSM are, ultimately, supportive
11 of -- of those positions, and I'm -- I'm going to
12 briefly explain to you why.

13 Beginning with the Cost of Service and
14 the Cost of Service methodology, the methodology used
15 to generate PCOSS24 is the result of a tested and
16 sophisticated methodology. It's a methodology that
17 emerged from a deliberative process that was held by
18 this Board. Madame Vice-Chair Kapitany, I believe you
19 chaired the Panel that produced that Order, 164/16.

20 And, so, this Panel knows that this
21 Cost of Service study and the methodology that is used
22 was the result of a deliberative process. It is a
23 sophisticated methodology and sophisticated -- the
24 word that is not a word that I came up -- it's a word
25 that this Board used to describe that methodology, in

1 Order 59/18, when it was talking about whether -- or
2 when it was considering whether or not to expand the
3 zone of reasonableness.

4 Order 164/16 was issued in December of
5 2016, six and a half (6 1/2) years ago. That's not a
6 long time. It's not a long time for -- and it's only
7 really been deployed in -- in -- in the -- the --
8 well, it's, obviously, only been deployed in the GRAs
9 since that.

10 While the inputs into that Cost of
11 Service study for the -- in this GRA may have been --
12 may not have been expressly expected in 2016,
13 specifically, with respect to the amount of net export
14 revenue that Manitoba Hydro was fortunate enough to --
15 to have kept -- to receive last year.

16 That, alone, doesn't mean that that
17 methodology is -- that that methodology that's been
18 deployed by Hydro and accepted by this Board needs to
19 change. GSS/GSM submission is that it doesn't.

20 Our submission to you on -- on that
21 point is that the methodology that was set out in
22 Order 164/16, and, subsequently, adjusted, remains as
23 sophisticated as it was in -- when this Board
24 described it as that in 59 -- in Order 59/18.

25 And in GSS/GSM's submission, PCOSS24 is

1 reflective of that methodology and should be accepted
2 by the Board for that purpose.

3 I'm going to very quickly touch on the
4 issue of the zone of reasonableness. The Board knows
5 the -- Ms. Schubert, if we can go back. Thank you.

6 As the Board knows, the zone of
7 reasonableness exists because it's practically
8 impossible for -- to have a -- to have all classes be
9 at a hundred percent revenue-to-cost coverage. The
10 zone of reasonableness is a proxy for that. If you're
11 within the zone of reasonableness, this Board has
12 found, then the Board considers that a class is paying
13 its -- its fair share for costs.

14 What flows from that is, if you're
15 outside the -- the zone of reasonableness, you're not
16 paying your fair share; you're either paying more or -
17 - or less.

18 In the written material you -- you have
19 that -- that we've provided there's -- there's
20 argument with respect to whether or not this Board
21 should expand the zone of reasonableness, and -- and
22 GSS/GSM's position is that it should not be.

23 I'm not going to go into it in detail
24 this afternoon. I believe I heard My Friends acting
25 for AMC indicate that their clients would be

1 supportive of expanding the zone of reasonableness.

2 I note that My Friends for the --
3 acting for the Consumers' Coalition did not go as far
4 in their recommendations, at least as I understand
5 them, to include expanding the zone in -- in this --
6 in this proceeding.

7 And so, with that, I think on the point
8 of the zone of reasonableness, and -- and the size of
9 it, it's sufficient to say that Manitoba Hydro hasn't
10 asked you to expand it. They asked you to expand it
11 in the last proceeding, and because of that
12 sophisticated cost of service methodology, this Board
13 opted not to.

14 I'm going to suggest to you that the
15 zone of reasonableness shouldn't be altered simply
16 because some of the inputs into the Cost of Service
17 study produced were -- were of a historical nature in
18 terms of -- especially with respect to net export
19 revenue.

20 You will recall Ms. Derksen recommended
21 expanding the zone of reasonableness, and that -- that
22 recommendation came only in her oral evidence and in
23 her slide deck; it wasn't in her -- her written
24 argument.

25 In the written material, in the written

1 brief, we -- we invite you to kind of consider the
2 timing of that -- of that recommendation that she made
3 and how it came about and her explanation for why she
4 made that recommendation.

5 The written material asks you to make a
6 number of inferences as to how that recommendation
7 came to be. Ultimately, I'm going to suggest to you
8 that you -- you cannot accept her recommendation.
9 There is no need or reason to expand the zone of
10 reasonableness at this time.

11 Turning specifically to -- to Ms.
12 Derksen, GSS/GSM is -- is critical of -- of her
13 evidence and has concerns about her impartiality.
14 Again, that's touched on significantly in the brief.
15 And I'm not going to go over it in a lot of detail
16 other than to remind you you -- you heard her cross-
17 examination. You heard how difficult it could be to
18 get her to agree to even basic facts.

19 The -- the last line on this slide is
20 reflective of a conversa -- or is reflective of
21 questions that My Friend from Manitoba Hydro, Ms.
22 Fernandes, asked Ms. Derksen. You'll remember she
23 asked her:

24 "Will you agree that 3.5 minus 2.4
25 is -- is equal to 1.1?"

1 And Ms. Derksen could not answer that
2 question. She refused to answer that question. She
3 refused to accept the premiss of that question. The
4 premiss of that question was subtraction.

5 And so, ultimately, an independent
6 expert is put forward to assist you in making the
7 decisions you have to make. They possess specialized
8 knowledge. And they -- at law, they have an
9 obligation. Their primary obligation is to assist
10 you. It's not to assist the people who hire them.
11 It's not to assist the people who pay them. They're
12 there to assist you, and that's because of their
13 specialized knowledge.

14 And I'm going to suggest to you that,
15 at times, Ms. Derksen crossed into advocacy. And
16 because of that, I'm going to suggest to you that you
17 cannot rely on her evidence. Ms. Schubert, if we can
18 go to the next slide, please.

19 I'm just going to very briefly touch on
20 some of the history with respect to the general
21 service -- specifically, the General Service Small
22 class.

23 On the right-hand side of this -- of
24 this slide we have a figure from Mr. Bowman's evidence
25 that -- that tracks the various -- where the classes -

1 - customer classes are relative to the zone of
2 reasonableness since 1991.

3 GSS class is orange. And you can see,
4 with the exception of a brief period kind of in the
5 late 2000s, GSS has historically been overpaying for
6 its electrical service.

7 The GSS class, of course, consists of
8 GSS demand and GSS non-demand. And GSS non-demand has
9 been well above the upper threshold of the zone in
10 PCOSS18 where it was at 105.7 percent and PCOSS21
11 where it was at a 103.8 -- sorry, 113.8. I'm told I
12 misspoke there.

13 If Manitoba Hydro's proposed rates are
14 implemented, GSS ND would -- would move to 109.7, so
15 it's still above, but it's moving in the right
16 direction.

17 This Board directed Manitoba Hydro to
18 move all customer classes into the zone of
19 reasonableness within a period of ten (10) years.
20 That -- that was issued in Order 59/'18. We're about
21 halfway through that -- that time period.

22 The Board -- and -- and there's two (2)
23 points I wish to make with respect to that -- to that
24 direction. First, the Board recognized when it made
25 that Order, and it said it specifically in the written

1 -- in its -- in its written reasons, that differential
2 rates were necessary to accomplish that.

3 The second point the Board made is that
4 this ten (10) year time frame allowed the Board -- or
5 allowed -- or accomplished -- sorry. That ten (10)
6 year time frame accomplished the principle of -- the
7 rate design principle of gradualism.

8 We're halfway through that ten (10)
9 year period. This Board will not have many more
10 opportunities in order to authorize rates to allow the
11 classes to get within that zone of reasonableness
12 within that period. You shouldn't miss that
13 opportunity in -- in this Hearing.

14 One (1) of the proposals that Manitoba
15 Hydro is -- is making that GSS/GSM is -- is ultimately
16 supportive of is breaking the rate harmonization with
17 respect to the GSS non-demand class.

18 You heard evidence as to why that is.
19 You heard evidence as to the -- the difficulty or --
20 that -- that comes with trying to move General Service
21 Small and general -- General Service Small demand,
22 General Service Small non-demand, and General Service
23 Medium together into the zone of reasonableness simply
24 because of the different load -- the different load
25 characteristics of those classes.

1 And so, ultimately, as -- as GSS/GSM
2 understands it, the breaking of this harmonization
3 will allow GSS ND, the historical outlier, to be moved
4 into the zone of reasonableness more promptly. And
5 for that reason, our clients are supportive of that
6 recommendation.

7 Ultimately, GSS/GSM's submission is
8 that the rate design proposals that Manitoba Hydro has
9 put forward would result in -- in just and reasonable
10 rates. They accomplish the rate-making objectives of
11 fairness and equality, of gradualism and rate
12 stability, and of competitiveness.

13 Those proposals represent a move
14 towards moving all the classes into -- or those
15 outlier classes into the zone of reasonableness. And
16 our -- our -- this Board should approve Manitoba
17 Hydro's proposed rate differentiation.

18 Ms. Schubert, if you can just go to the
19 next slide. The last two (2) slides are the --

20 THE CHAIRPERSON: Five (5) minutes to
21 go through all those recommendations.

22 MR. ROBERT WALICHNOWSKI: Mr. Chair,
23 I'm going to -- I'm going to keep that smile on your
24 face --

25 THE CHAIRPERSON: Okay.

1 MR. ROBERT WALICHNOWSKI: -- because
2 I'm going to tell you --

3 THE CHAIRPERSON: Okay.

4 MR. ROBERT WALICHNOWSKI: -- we were
5 not intending to go through these recommendations.
6 They -- these should capture the recommendations -- or
7 they do capture the recommendations that we've made
8 orally today and that are also reflected in the
9 written brief. We've compiled them here for you so
10 you have them easily accessible.

11 There are just a couple of quick
12 housekeeping matters for the record. With respect to
13 the -- the PowerPoint slides that we've been -- that -
14 - that have been on the screen, we'd ask that they be
15 marked as GSS/GSM Exhibit 12. And the written brief
16 we'd ask be marked as Exhibit 13.

17

18 --- EXHIBIT NO. GSS/GSM-12 GSS-GSM closing
19 submissions presentation -
20 June 22, 2023

21

22 --- EXHIBIT NO. GSS/GSM-13 GSS-GSM Closing written
23 argument - June 22, 2023

24

25 MR. ROBERT WALICHNOWSKI: And with

1 that said, I'd like to thank members of the Panel for
2 your attention, not only today, but also throughout
3 this entire Hearing. Those are our submissions.

4 THE CHAIRPERSON: Thank you very much.

5 MR. ROBERT WALICHNOWSKI: Thank you.

6 THE CHAIRPERSON: I'll ask the Panel
7 if they have any questions. Ms. Kapitany...?

8 VICE-CHAIR KAPITANY: Thank you. I
9 have a question on your -- I guess it'd be slide 21
10 about depreciation. Mr. Reimer, I think that was you
11 speaking to that one.

12 I would ask the same question that I
13 had asked to Consumers Association this morning, and
14 that's: On the report PUB-20 where we were looking at
15 the -- the alternatives, and alternative 2 referred to
16 doing further study on the componentization issue, I
17 didn't hear you opine on that.

18 And I just wondered, what is your view?
19 Should we be going forward with that recommendation 2,
20 as it stands, or should the componentization be taken
21 as a done deal?

22 MR. THOMAS REIMER: Thank you for the
23 question, Ms. -- Madam Vice-Chair. And I -- I hope
24 Mr. Madsen is not cringing as I'm trying my best to
25 answer this question for you.

1 But our position is that, number 1,
2 alternative 2 is to approve ALG for regulatory
3 purposes.

4 Out of that, a certain amount of
5 componentization needs to be done. Mr. Madsen's
6 evidence is very clear: the 2019 concentric study is
7 sufficiently componentized for the purposes of ALG.

8 So -- so I think that answers the
9 question, but I'm -- I'll go one (1) step further,
10 which is to say, componentization is something that
11 is, as I understand it, supposed to be continually
12 revisited. I don't know if it's -- if annual is a
13 requirement, but I've seen it in the evidence that --
14 that we've put forward as -- as something that needs
15 to be reviewed, whether or not annually, regularly.

16 And so I would anticipate that, if
17 that's the starting place, that there would be ongoing
18 refinement and analysis, and the componentization
19 would therefore change over time. That -- so I think
20 that's the -- I think that's the -- that's the
21 position that Mr. Madsen would -- would say if -- if
22 he was here to say it.

23 VICE-CHAIR KAPITANY: Okay. Thank
24 you. And on your slide 30 -- and, Mr. Walichnowski, I
25 believe this was -- you were speaking to this, and

1 this on the breaking the rate harmonization point.

2 So GSS/GSM would stay as one (1) rate
3 class, but you'd be looking at it in the -- in four
4 (4) different pieces is what you're recommending?

5 MR. ROBERT WALICHNOWSKI: Ultimately,
6 we're recommending that this Board approve Manitoba
7 Hydro's recommendation which would separate GSS ND
8 from -- from that. So I -- I believe the answer to
9 your question would be yes.

10 VICE-CHAIR KAPITANY: Okay. Thank
11 you.

12 MR. ROBERT WALICHNOWSKI: Thank you.

13 THE CHAIRPERSON: Ms. Bellringer...?

14 BOARD MEMBER BELLRINGER: Thank you.

15 And apologies, Mr. Reimer. You thought you were
16 finished, and I -- I have a question as well for you.

17 It's on slide 18, and I actually think
18 that it got clarified in one (1) of the
19 recommendations, but I just wanted to make sure I
20 heard it correctly that you are recommending that we
21 approve a deferral account for the -- for the phase
22 zero costs, but what I had heard was "and the revenue
23 requirements."

24 So -- so I was just -- I didn't -- I
25 wanted to make sure that it was indeed to set up a

1 deferral account was your recommendation.

2 MR. THOMAS REIMER: Thank you for that
3 question, and I -- I do recall fumbling that comment a
4 little bit, so thanks for the opportunity to clarify.

5 Yeah, in our view, the -- this is
6 something that is potentially going to be a large
7 expense coming down the track. The -- the -- these
8 costs should be put into a deferral account, and --
9 and Mr. Madsen goes further than that, and I think he
10 may be the only expert that does say this, but -- but,
11 in his view, it would actually be appropriate to treat
12 all cloud computing costs similarly.

13 So even though the smaller applications
14 are -- are different in -- in scale, they're not
15 different in kind, and therefore, in his view, because
16 of this change in the CCA treatment, it would be
17 appropriate for that deferral account to include as
18 well the smaller applications.

19 So I hope that -- I hope that
20 clarifies.

21 BOARD MEMBER BELLRINGER: It does.
22 Thank you.

23 MR. THOMAS REIMER: Thank you.

24 THE CHAIRPERSON: Thank you,
25 gentlemen. Just before you finish, I would say, Mr.

1 Reimer, it was a dead parrot. It wasn't a corpse; it
2 was a parrot. It was a dead parrot. It was a dead
3 parrot. This parrot is dead. No, he's sleeping.

4 Mr. Hombach, that's going to be in the
5 Order. Thank you, gentlemen.

6 Mr. Hacault, did you want to move over
7 to -- okay.

8

9 (BRIEF PAUSE)

10

11 THE CHAIRPERSON: Well, I was going to
12 suggest that you could decide, but probably around
13 2:40, 2:45, but just at a -- a point which fits well
14 within your presentation, okay? Because we're going
15 to be going late.

16

17 (BRIEF PAUSE)

18

19 THE CHAIRPERSON: Mr. Hacault, it's
20 all yours.

21

22 CLOSING SUBMISSIONS BY MIPUG:

23

24 --- EXHIBIT NO. MIPUG-23: MIPUG Final written
25 submission - June 22, 2023

1

2 MR. ANTOINE HACAULT: Yes. Mr. Chair,
3 Madam Vice-Chair, members of the Panel, all those
4 present, counsel, advisors, I also want to reiterate
5 that I really appreciated and extend on behalf of our
6 clients the collaborative nature of all lawyers, the
7 transparent and comprehensive filing by Manitoba
8 Hydro, and all the work it's done to respond to IRs,
9 et cetera.

10 We often forget about it, but I do
11 practice in other jurisdictions, and I want to
12 continually remind people here that we have a very
13 collegial bar and a very good process here, and I
14 really appreciate it.

15 With that, there should have been
16 distributed a submission, and it has an index with all
17 the recommendations. I don't propose to go -- read
18 the recommendations at the outset.

19 The one thing I would note, though, if
20 the Board is making a note, I did not address what I
21 would call recommendation 17. And for that, I would
22 direct your attention, if you're making a note, to
23 issue brief number 5 at page 127 of the PDF -- sorry,
24 126 to 128.

25 It deals specifically with the

1 recommendations on some small changes to the PCOSS
2 study on DSM allocation, wind allocation, and also
3 dealing with the fifty (50) coincident peak issue
4 that's averaged over eight (8) years.

5 So in the summary and/or
6 recommendations part of that brief, there are further
7 recommendations which I would categorize as
8 recommendation 17.

9 Now, the elephant in the room is that
10 we've had two (2) different approaches, and nobody's
11 discussed it even collaterally.

12 I've taken the time to put quite a bit
13 of material in my brief. I'm not going to go through
14 all of it -- for those who are non-lawyers, you're
15 going to get bored really quick -- but it was a
16 conundrum I would think for most parties because how
17 do you approach this?

18 I've called it a 'blindness' approach
19 and an 'outlook' approach. We know on one hand that
20 this Bill 36, which I've called the Amendment Act, is
21 coming, and it's coming pretty quick. It's going to
22 be in effect on April 1, 2025, and it's got a whole
23 bunch of stuff in it related to RCCs, related to
24 debt/equity ratios, various policies.

25 And I've used the word 'blindness'

1 because we know it's coming, but jurisdictionally does
2 this Board ignore all of that? Or does it have the
3 discretion to look at it?

4 Or what I've called the second
5 approach, which was basically Mr. Bowman's evidence to
6 a large extent, but I'll get into that a little bit
7 more.

8 We look at the three (3) test years
9 for, you know, the interim rate up to 2025. But we
10 also bear in mind the in force legislation will take
11 in -- will be in effect on April 1 of 2025.

12 Now, no witness to date -- and frankly,
13 nobody really dealt with this issue and tackled it
14 head on. And so, therefore, if I'm going into page 6
15 of my brief, I want to put a little bit of context to
16 it, so I'll spend about ten (10) minutes or so and
17 then I'll get to the meats and potatoes of actual
18 recommendations. But it's page 10 of the PDF, sorry.

19 I've extracted, for convenience -- and
20 as I've said, I'm not going to go through everything -
21 - when bills go through -- and Mr. Hombach is going to
22 be familiar -- he was drafting all this stuff --
23 there's explanatory notes at the beginning that say,
24 Well, in plain language, but it's not part of the
25 legislation -- in plain language, this is what we want

1 to have happen.

2 So I've bolded a couple parts. The one
3 that's in front of you right now:

4 "The existing legislative framework
5 continues to apply for the
6 determination of electricity rates
7 until March 31, 2025."

8 Okay. Doesn't explicitly tell me what
9 I do because, presumably, the legislature knew that
10 this Board always look at ten (10) to twenty (20)
11 years down the road. What's it supposed to do? Well,
12 it says -- in plain language, this is what it says.

13 And if we go further to the next page,
14 under the heading 'Application', again it's still just
15 an explanatory note. It's not part of the law. But
16 it outlines the three (3) pieces of legislation which
17 traditionally have governed how this Board deals with
18 applications: The Hydro Act, the Public Utilities
19 Board Act, Crown Corporations Governance and
20 Accountability Act.

21 What does it say? Plain language:

22 "Continue to apply for the
23 determination of electricity rates
24 for any period ending before April
25 1, 2025 as if those Acts had not

1 been amended."

2 Woo hoo. Now, somebody had to put pen
3 to paper and put this in legislation. And what I then
4 do -- there's a transition period in this Amendment
5 Act, and it's Section 65. That's at -- I quote it at
6 paragraph 11 at the bottom of the page.

7 And it uses different words. It says
8 'despite'. We'll look at that later. It goes --
9 there's different parts. I'll get through that.

10 "The following Acts or provision as
11 they read immediately before the
12 enactment of this Act continue to
13 apply to the determination of rates
14 for retail supply."

15 And then, they list the same three (3).
16 We saw that in the plain language explanatory note.

17 And because the Court of Appeal tells
18 us to do this, I've also included, on the next page,
19 the en francais version. And it uses par derogation
20 and I'll get into that. It also says that the three
21 (3) Acts are to apply.

22 Then we've got something called the
23 Interpretation Act that talks about when things expire
24 or lapse. And we have a particular date here, April
25 1. We know it's going to change, the whole regime.

1 So then I get into -- well, what do we
2 make of all of this? And the rule we apparently have
3 to follow as lawyers is, Well, what's the general
4 meaning of words? Logical place to start.

5 So I deal with that in the next page.
6 And I go through dictionary definitions of the word
7 'despite' being used instead of 'notwithstanding'.
8 That used to be the old language stuff. I quote a
9 book called 'Legal and Legislative Drafting' that
10 talks about that. I talk about the French version,
11 par derogation which expresses the concept of not
12 needing to comply with the law. The antonym is to
13 observe or respect law.

14 So based on a plain reading of the
15 legislation, there's a direction by the PUB, as I read
16 it, to ignore the following parts of the Amendment
17 Act. Firstly, part 1, that's all the new framework
18 and policies. It also told us to ignore Section 23.
19 That was a piece that amended the Public Utilities
20 Board Act. It took the word -- words that it
21 regulates hydro out of it.

22 And there is another section -- it's on
23 the next page -- again, that we're to ignore. It's
24 the Crown Corporations and Accountability Act.

25 Again, all to jive everything so that

1 when this legislation gets through, it's all going to
2 be found in the Hydro Act.

3 So that leads me to how courts have
4 looked at Hydro's jurisdiction. And the last go-
5 around, of course, was the on reserve category back in
6 the 2020 decision. And that's at page 15 of the PDF,
7 paragraph 20.

8 When Manitoba Court of Appeal actually
9 talked about Section 24A(3), which is one of the
10 sections which might be relevant in this analysis --
11 and we'll go back up to page -- at the top of this
12 particular page to know why. 24(4) has a whole bunch
13 of things that this Board can consider.

14 And the last two (2) bits are
15 compelling policy considerations and other factors
16 that the Board considers relevant for the matter.

17 So holy molly, we have an answer here.
18 If we think it's relevant, if it's a big policy thing,
19 we can take -- take it into account, can't we?

20 I'm -- that's what I -- I'm thinking.
21 And then, in French, it talks about -- but it uses
22 different words. It says "considerations de principe
23 importante" that's in the 24(4)(8)(I). And that's
24 what the Court of Appeal was commenting on in obiter
25 in that 2020 decision, saying, Well, maybe that's even

1 better for this Board because if it considers it
2 important, it's not only compelling policy reasons
3 that can consider it, it can consider what it thinks
4 is important.

5 But the baby in the bath water, I think
6 is, the Court of Appeal said, Well, listen, if there's
7 something in your legislation that says you -- that
8 circumscribes that discretion, you can't go beyond
9 those bounds. And that was the whole interpretation
10 they had with respect to this on reserve category.
11 They said, Well, there's a part in the legislation.

12 Well, the question I'm asking myself
13 is, Hey, if there's a specific direction in the
14 transition period that says, You shall not look at the
15 new stuff, does that direction override this general
16 discretion that I've just talked about? Because the
17 Court of Appeal decided, for on reserve categories,
18 yes, it does.

19 Now, in the end, we say, Well, Mr.
20 Hacault, why did you go through all of this? I think
21 based on the facts, whether you take one approach or
22 the other, the facts are there that can support a rate
23 in either way.

24 And if I was the PUB I'd say, well,
25 this is my interpretation, whatever you choose. And

1 the alternative if I -- if I was wrong, this is the
2 other interpretation, but in both instances, I think
3 the just and reasonable rate is. And I'll lead you
4 through in my material why I think the Board can
5 follow that path that avoids any jurisdictional
6 arguments if it does that. And it makes the finding
7 of fact on what's just and reasonable rate.

8 So, but if I was wrong and -- and if
9 you have all this discretion, I brought up during my
10 cross-examinations and there was a question by the
11 Chair of Manitoba Hydro, well about Section 39(1)
12 This is on page 17 of my PDF.

13 That's the section that talks about
14 properly allocating costs to the classes. And I had
15 raised that section because and I set out in my
16 material, we respectfully submit that that means
17 parody. It doesn't mean zone of reasonableness. It
18 means parody.

19 And if we're going to go down the path
20 of considering policy items like the debt/equity rate
21 issues, then we're down the path, in my respectful
22 submission, of requiring parody for all classes.

23 And, the reason I say that is for the
24 reasons set out in our submission, I'm not going to go
25 through it again. I go through the ordinary meaning

1 of the words, both the French and English versions,
2 and you'll see in front of you the French version says
3 Correctement Associe.

4 And I say it would be incorrect and
5 contrary to causation and contrary to the cost of
6 service study to have one class subsidize the other.
7 Or pay more than their measured cost, maybe I
8 shouldn't say 'subsidize'.

9 So, we say that there's other sections
10 in this legislation, when we look it a whole, that
11 actually put emphasis on cost/causation, and that's at
12 page 18, Section 35(5). There's, sorry, the -- that
13 particular section says you must take into account and
14 be guided by the policies and we've just looked at
15 those.

16 Now, the further subsection in 39(5)
17 that I wanted to bring your attention to is on the
18 next page in paragraph 35. It talks about rates
19 within a class may differ based on the type, level or
20 combination of services provided to the customer.

21 And I say that recognizes that if a
22 customer in a class uses a different type of service,
23 and causes a different type of cost, you can have
24 different rates. Well, that's linked to causation.
25 So there's a theme here in this legislation. You pay

1 for what you cause.

2 Now, I'm going to have a bit of
3 discussion on where -- what I call the blinders
4 approach leads us to and the outlook approach. And I
5 start that discussion at page 20 of our brief or,
6 sorry, it's PDF 20, page 16 for the record.

7 So, my question is, I call it also
8 strict compliance, we have to close our eyes to what's
9 going to happen and April 1, 2025, what kind of
10 evidence do we have? How do we set rates?

11 And Mr. Bowman, I have quoted here,
12 talks about if it weren't for Bill 36 and as we sit
13 here today, as much as Hydro has put a case in about
14 debt levels and about the challenges it faces, we need
15 to recognize where we are in the investment cycle and
16 -- and so on. We've had spectacular performance.

17 And you may recall I took witnesses
18 through the table where we had a -- these projected
19 losses and fortunately people like me have been around
20 when we did NFAT and we thought we were going to have
21 six (6) figure losses and close to a billion dollars
22 and five (5) or six (6) years of continuing losses.

23 And we were fortunate -- fortunate, in
24 fact, and Mr. Bowman calls it spectacular and
25 stunning, to be in a position not to have those

1 repeated losses when we are absorbing all these major
2 projects, all the depreciation, interest, et cetera
3 into rates. It's -- it's quite amazing actually.

4 So, that's kind of the background of
5 where we're at. If we're looking to make some sense
6 of where we're going to go, with what I call the
7 blinders approach. And he testified that -- and this
8 is at the top of page 17 of the brief, page 21 of the
9 PDF, on the legal question, if I'm wrong, and he said
10 I'm not a lawyer, I would submit, based on the last
11 two slides, there's actually no basis for 2 percent
12 increase today.

13 I think ratepayers have faced
14 significant increases as we've been bringing the
15 projects into service. We have time to absorb these
16 projects and we are out performing financially what we
17 ever dreamed of -- ever dreamed that we would -- where
18 -- that we would be today and there's time to absorb
19 it.

20 But, that was a "but for the Bill 36
21 targets." The debt/equity targets. Now, what he
22 didn't do, he didn't put recommendations on what
23 should happen, if we take, what I call the blinders
24 approach. But we do have evidence from other
25 witnesses on that issue and I'll refer to Mr.

1 Rainkie's analysis perspective, No. 1, firstly, that
2 focuses on test years and it parallels Mr. Bowman's
3 conclusion that there is no basis for a rate increase
4 in either test year, based on test year specific data.

5 And he also made that finding based on
6 his analytical perspective No. 3 which used a very
7 long term focus - thirty (30) years.

8 And, finally, Mr. Colaiacovo, also, and
9 I'm on page 18 of my brief, similarly concluded that
10 no rate increases were required absent the Amendment
11 Act.

12 So, where does that leave this Board?
13 In paragraph 43 we note that the evidence of Mr.
14 Rainkie in regard to his proposal was an average
15 increase of zero percent for 2023/2024 and 1.3 percent
16 for 2024/2025 respectively.

17 Now, we acknowledge, we put these
18 caveats there but that this assumes certain cost
19 controls, et cetera. And, there's no wasteful 2040
20 spending, perhaps better achievements in exports. We
21 don't know that, we're not privy to that, we just know
22 on the public record somebody has opined it was
23 reasonable, but conservative. We'll find out in a
24 couple of years at the next GRA.

25 So, that approach, however, allows 2

1 percent rate path in the future, if it would be
2 needed. But if we look at exactly what was proposed,
3 it didn't require that 2 percent rate path. So, it
4 provides you some flexibility going forward. Now,
5 those are my comments with respect to the blinders
6 approach.

7 Now, what about an outlook approach,
8 where we actually consider what's going to happen with
9 the legislation coming into effect on April 1, 2025.
10 Where do we go? Well, we've heard Mr. Bowman's
11 evidence that two plus two is reasonable and I'll get
12 that -- into that further, but, subject to the
13 evidence that was going to be discussed on cost
14 containment, on exports, on a bunch of issues, and is
15 also influenced, though, by the fact that there's some
16 constraints.

17 You've got a billion dollar refinancing
18 of debt. If you're limited to CPI, what do you do,
19 unless you kind of front load your 2 percents.

20 So, there's all those challenges, but
21 there are issues with that outlook and, on page 19, at
22 the bottom, I extract some of what I see as issues.

23 Look at Manitoba Hydro's written
24 argument, page 15 to 16 and, oddly enough, what's
25 asserted is that Manitoba Hydro is guided by the

1 following priorities. Now, what's the first thing?
2 Compliance with legislated rate-setting regulatory
3 framework. Well, which one? It's the one that isn't
4 in effect and that we're told to ignore. It's the one
5 that talks about level of inflation for 5 percent.
6 It's the one that talks about the need to achieve
7 debt/equity targets by 2035 and 2040.

8 I think there's a problem there and
9 that problem re -- was kind of repeated again in the
10 slide deck presentation made on June 19. I'm at page
11 20 of the submission, paragraph 50.

12 The new legislative framework, while
13 not applicable to the determination of electric rates
14 until April 1, 2025. If I stop reading there, yeah,
15 okay, we don't have to worry about it. It's not
16 applicable. Why should we even consider it. It's not
17 relevant but, then, the sentence goes, is still a
18 compelling policy consideration, harkening, I guess to
19 the 25(4) of the PUB Act. That cannot be ignored.
20 Now, what is it? Is it applicable? Is it relevant or
21 is it not? I don't think you can suck and blow at the
22 same time. If it is applicable and if it is in the
23 outlook, well, then, so be it. The Board will have to
24 decide.

25 Now, the same issue, and I apologize to

1 Mr. Bowman for criti -- criticizing him indirectly
2 here, but he talks about his recommendation. This is
3 the first Bill 36 rate increase. Well, is that right
4 at law or is it wrong? That's what he was talking
5 about, is a Bill 36 rate increase, because of all the
6 considerations and -- and his outlook, and his
7 evidence was framed in that basis.

8 Now, I'm at page 21. Legislatures are
9 deemed to know the existing frameworks and the
10 existing things. They're not oblivious to PUB Orders
11 and they knew full well that the PUB had a long-term
12 approach in setting rates in the GRA, with specific
13 test years but a long-term approach.

14 The one thing the legislature did not
15 do -- it didn't say -- and it could have said it -- it
16 could have added a sentence to the section 65 of the
17 Amended -- Amendment Act, saying that Section 65 did
18 not limit the PUB's direction in Section 24(5) to
19 consider the relevance of the new framework in
20 deciding just and reasonable rates prior to April 1,
21 2025.

22 Now, unfortunately, that appears to at
23 least cause practical issues and problems to witnesses
24 like Mr. Bowman. He says, I'm quoting him at page --
25 at paragraph 55:

1 "I don't think anybody would design
2 a credible financial forecast that
3 did not build in the law of the land
4 as they understand it will apply at
5 the time they're making the
6 financial forecast for."

7 But I write in paragraph 56:

8 "However, it's not the PUB's role to
9 rewrite the transition provision in
10 the Amendment Act."

11 Now, I told you I would bring you to --
12 I don't think it really matters at the end of the day.
13 You have facts to make a just and reasonable rate
14 decision which would be -- which would be allowed
15 under both scenarios.

16 And this is what I deal with again at
17 page 22 of my submission. It's page 26 of the PDF. I
18 call it the alternative of the outlook approach.

19 Now, the thing I want to focus on is
20 there's a policy provision in this new framework, and
21 it says, I'd like you to reach 80/20 by 2035. Okay.

22 And then we've heard this morning Dr.
23 Williams, and we've made that comment, too, there's a
24 big hockey stick at the end. We're building in
25 combustion turbines; that's fossil fuel generation,

1 admit all these policy things that we're hearing in
2 the world, that we've got to stop doing that, and also
3 admit statements by Manitoba Hydro that they've given
4 us not an IFF that was approved by a Board -- it was
5 indirectly, I guess -- but it's a financial forecast
6 scenario which we've heard is -- doesn't even match up
7 with any IRP scenarios that they're considering so
8 far. It's close to one but not exactly.

9 So, let's stop there for a moment.

10 Well, what if we look at a rate scenario that gets us
11 there because we know how speculative -- I'll say
12 speculative, it is going that far. We don't know
13 exactly what's going to happen in exports, how many
14 people they're going to electrify by putting air
15 source heat pumps, how many people are going to get
16 electric cars and -- and cause increased demand that
17 way.

18 Let's take it one (1) bite at a time.
19 And if we take it one (1) bite at a -- at a time and
20 we go to the 20 -- 80/20 -- and I say that's
21 consistent, also -- and I'm on page 23 -- with how
22 we've had to deal with this Hearing, quite frankly.

23 Manitoba Hydro did not have to put an
24 IRP, right. We didn't have that. We don't have a
25 serious look at it, what does the next twenty (20)

1 years of resources look like. What would actually get
2 built? Will we actually build these turbines and, you
3 know, cause that -- I think it's 1.4 billion --
4 hopefully, I'm not misstating that number -- in
5 additional material capital spending because all of
6 the sudden, if we spend that and it's just a
7 placeholder, we're creating a lot of pressure to get
8 to that 70/30, right. Are we even going to build it?
9 We don't know.

10 So, if we focus on the 80/20, and I'm
11 moving to page 24, page 28 of the PDF, we have a
12 couple scenarios which tell us what kind of rate
13 scenarios we could do and still have that kind of
14 focus. And 80/20 isn't an unreasonable thing to
15 achieve when you've just swallowed -- as Mr. Bowman
16 said -- this anaconda just, like, swallows a pig,
17 right.

18 So, at paragraph 67 we've got a
19 scenario that gives us a sensitivity analysis at
20 Appendix 4.4 amended, and it's actually part of our --
21 our brief here. Those scenarios are at page 71 of the
22 PDF, just for convenience of record at -- at a later
23 time.

24 So, under that scenario we move to the
25 80 percent for the 2035 date -- this is at paragraph

1 68. And lo and behold, we do have a little bit of
2 losses, you know, 17 million, but nothing like the
3 hundred millions that we thought we were going to
4 have, nothing like the five (5) or six (6) years of
5 consecutive losses that we thought we were going to
6 have, so it's not a bad proxy, zero zero, and then
7 going forward, 2 percent at each year thereafter, and
8 that was in paragraph 67 of this submission.

9 Now, that's one (1) scenario that I
10 would say meets both the blinders approach and the
11 outlook approach.

12 And a second one that I thought
13 warranted some attention is, if we go to paragraph 69
14 of my brief, it's scenario 4 in Coalition Round 1,
15 438H. We've got zero zero, that's 2023 and 2024 and
16 2024 and 2025, followed by .98 percent per year up to
17 2034/2035. This one has more losses but not huge, 47
18 million. But after 2035, for the last five (5) years,
19 when we add that \$1.4 billion of, I'll call it
20 speculative turbines, we start to have problems,
21 problems that that's just speculative. But again,
22 that .98 percent, we have some wiggle room. We have
23 up to 2 percent of CPIs at 2 percent.

24 So, I think those two (2) pass are
25 credible things that the Board can take into

1 consideration in deciding where to go.

2 There's various things that we see --
3 and I'm on top of page 26. And I'll finish with that
4 part, leading to the recommendation on rates, at the
5 top.

6 We've said in this Hearing our clients
7 are asking for improved system reliability,
8 particularly for sub-transmission customers and
9 appropriate engagement. There's going to be a cost to
10 that perhaps; it could be focussed. Dr. Williams
11 indicated that.

12 There's a potential -- others took the
13 lead on that -- with respect to O&M cost escalation.
14 There's been chatter about, okay, what about all these
15 positions at the top executive level and just O&M
16 generally.

17 There's been a lot of talk about asset
18 management and capital spending. And we don't know
19 where it's going to go, the export revenues. So,
20 those might warrant a small upward adjustment or
21 downward adjustment.

22 Now, also, we'd suggest the Board be
23 mindful of the recommendation. Mr. Bowman isn't the
24 only one who's made it. We've heard it other -- from
25 other people. Customers find it hard to deal with

1 consecutive increases not twelve (12) months apart.
2 Our clients need to do budgeting. They need to do
3 fixed price contracts.

4 I guess if you have a decision and you
5 know you're going to be hit, bang, bang, you -- you
6 deal with it, but we say let's please be mindful of
7 that.

8 Now, where does that lead us?
9 Paragraph 66. And I'll conclude with that with our
10 break, I think. In light of the above, MIPUG
11 recommends that the Board implement a zero average
12 increase for 2023 and an increase for 2024/2025 that
13 is less than 2 percent overall on April 1, 2024.

14 And the kicker, and you'll wait with
15 baited breath, I'm sure, it says, "As outlined in
16 Recommendation number 3," and I'm going to explain
17 that further when we come back, and that we confirm
18 the 3.6 interim rate increase that was made in Order
19 140/'21.

20 I haven't in this brief dealt with the
21 interim rate relief. I know Mr. Bowman answered some
22 questions from the Chair on that. There's no use
23 dwelling on whether or not we got it right or whether
24 or not it needs to be adjusted.

25 This is a big ship that we're steering

1 here, and probably it's best to focus going forward,
2 keeping in mind, however, that we've got that 3.6
3 percent built into rates forever. Thank you.

4 THE CHAIRPERSON: Thank you, Mr.
5 Hacault. Sorry, I got to -- thank you. We're going
6 to break until a little after 3:00. Thank you. Mr.
7 Hacault, you've got -- according to my numbers, you've
8 got an hour twenty (20) left, okay.

9

10 --- Upon recessing at 2:47 p.m.

11 --- Upon resuming at 3:04 p.m.

12

13 THE CHAIRPERSON: Mr. Hacault...?

14 MR. ANTOINE HACAULT: Merci. Thank
15 you, Mr. Chair.

16 Just to circle back. I had finished
17 with two (2) examples, zero, zero and a 2 percent rate
18 path. And that was Appendix 4.4. That was the
19 scenario. Also I took scenario 4, which was
20 Coalition/MH-1-43A. That was zero, zero, and then .98
21 percent thereafter.

22 And the recommendation was zero, a
23 little bit less than two (2) and I'll get into the
24 details. So in paragraph 77 of my submission, I say
25 our recommendation puts Hydro on a path to achieve, if

1 not exceed, the 20/80 debt target for 2035. That's
2 consistent with the Amendment Act.

3 It would appropriately, in our view,
4 take into account the outlook approach which the
5 policy to get to that number by 2035, and it also is
6 justified under what I've called the blinders
7 approach, which is the approach that Mr. Rainkie used.

8 Now, this brings me to differential
9 rate increases. And I'll start that discussion just
10 by putting on the record and listening to Coalition's
11 submission and Ms. Derksen's evidence.

12 Ms. Derksen quotes the 164/16 Order on
13 Cost of Service a number of times. What we seem to
14 forget is that we had a fulsome argument on all the
15 things she's raising again in 2018.

16 We had a long discussion. Hydro
17 actually proposed expanding zone of reasonableness
18 from one-ninety (190) to one-ten (110). That was
19 fully canvassed. It was rejected. Said we had a
20 solid Cost of Service that allowed us to keep ninety-
21 five (95) one-o-five (105). That's water under the
22 bridge. We don't need to revisit that again.

23 Also, getting there in ten (10) years.
24 I know we had COVID and everything else, but I'll go
25 through some numbers again.

1 There's major overpayment based on
2 measured costs and we have to make progress on that.
3 So uniform rates comes up again. We had a fulsome
4 debate on that in 2018. It was page 236 of 59/18
5 where we discussed that and the Board found, Hey, if
6 we're going to reverse all of this and go back to some
7 old policy things that were said, like, twenty (20)
8 years ago, there should be legislative changes. I'll
9 discuss that a bit more.

10 So a lot of the things that are raised
11 again -- like, we throw enough there each time maybe
12 we'll forget we've already had that debate and it's
13 already been decided. It has been decided. Let's get
14 on with life.

15 Now, the recommendation number 2. And
16 the one thing -- I won't leave the last debate in 2018
17 -- the Coalition says, Don't worry, Bipole III will
18 solve everything. We'll get back into the zone of
19 reasonableness. That was the evidence of that.

20 Well, Bipole III came. Same thing was
21 said about the Keeyask. It will get us into the zone
22 of reasonableness. It is not happening. Because,
23 every time, we're speculating about what the PCOSS
24 study is going to say. We shouldn't do that.

25 Whether it's got a little problems with

1 it -- and I'll talk about the 2021 -- or the 2024 --
2 we've remained consistent on behalf of our clients.
3 We use the best information we have at the Hearing
4 where we're holding it.

5 So recommendation number 2, assuming
6 the PUB adopts the blinders approach and rejects the
7 outlook approach, we say the Board should continue to
8 implement rate differential adjustments. But to
9 achieve that goal as originally intended by 2027/2028,
10 based on PCOSS24.

11 If the Board decides that the outlook
12 approach is preferable in its -- its interpretation of
13 the legislation, well then, it's got to happen quicker
14 if -- if we're right in our submission that we were
15 supposed to reach unity by that three (3) year time
16 period where we're going to be starting in April 1 of
17 2025.

18 Because now the Board's direction is to
19 target the outer boundaries, if we're right in our
20 interpretation that you have to target unity. We've
21 got a long way to go, and it has to happen quickly.

22 So, with respect to differentiated
23 rates, we break it down, and that's Recommendation
24 number 3, no rate adjustments be implemented with
25 respect to the 3.6 rate increase from 2021.

1 So, that's not going to move the needle
2 on zone of reasonableness. For the test year 2023/'24
3 we've chosen four (4) classes which are above the zone
4 of reasonableness and traditionally have always been
5 there based on that graph that GSS put up and that Mr.
6 Bowman put in his evidence.

7 So, we say for that year no rate
8 increases. This would apply whether or not the PUB
9 grants other classes rate increases. If it accepts
10 the other recommendations and goes for a lower one,
11 we've seen two (2) different recommendations from the
12 Consumers' groups.

13 Then we get into the next test year,
14 2024/'2025. Again, those four (4) classes that I've
15 mentioned, GSS non-demand, GSL 30 to 100 kV, and GSL
16 greater than 100 kVs in area and roadway lighting,
17 which are all above zone of reasonableness and
18 basically been there for a couple decades, they would
19 have zero change to unit rates.

20 But with the added part, and we had
21 some discussion of this during the Hearing, there's a
22 change in the billing demand for these two (2) groups,
23 GSL 30 to 100 kV and GSL over 100 kV. That would
24 reduce Hydro's revenues by about .9 million.

25 But remember, and I'll deal with this a

1 bit more, this is a class that, based on PCOSS24, is
2 like 112 and 113. They're already overpaying
3 significantly the measured costs. And in addition to
4 that, we're changing the billing demand definition to
5 nail them with another \$.9 million.

6 So, we've attached -- and I will refer
7 to those issues -- issue papers. There's ten (10)
8 issue papers in all. They're at the end of this.
9 Traditionally, for those who aren't -- are new members
10 to this Panel, we try to segregate issues in little
11 compartments with -- and I'll refer to evidence and
12 set out the issue, our recommendation, and -- and
13 position, and then a discussion on why there's support
14 for that. And there's ten (10) different issue papers
15 on that.

16 Issue paper number 7 deals with whether
17 it's appropriate for the Board to set differential
18 rates in this -- at this time and whether the
19 differential rates proposed by Hydro are sufficient to
20 address the longstanding revenue cost coverage issues.

21 Now, the backdrop is Hydro has actually
22 provided to us, and this is at paragraph 75 of our --
23 79 of our submission, that if we were going to meet
24 the Board's direction to get to the zone of
25 reasonableness within the ten (10) years, we need a

1 movement that's greater than the proposed minus .5
2 percent and 1 percent difference which is in Hydro's
3 proposals thus far.

4 And I remind the Board of some of the
5 evidence in paragraph 80, forty-five (45) companies in
6 GSL 30 to 100, and collectively, those forty-five (45)
7 companies contributed more than their measured costs
8 by some \$11.8 million.

9 And we've heard from companies that
10 they face challenging times. It's not only
11 residential consumers that face challenging times.
12 What about GSL over a hundred kV's? Well, that's
13 fourteen (14) companies that contributed according
14 PCOSS24, that's on the projected basis, about \$19.4
15 million.

16 Thank you, Mr. Executive Officer.
17 Explain to your Board that we're paying over a million
18 dollars on average per company with respect to our
19 hydro rates. Think there might be something better
20 when there's capital pressures and competition between
21 different companies that have more than just a local
22 presence? You sure bet there is.

23 That affects jobs. It affects whether
24 or not you create that extra widget. It's important
25 to companies also that they pay their measured costs.

1 As we've heard in this Hearing by
2 definition, if a class is outside the zone of
3 reasonableness, the rates charged to that class are,
4 quite simply, unreasonable.

5 Now, what about PCOSS24? Can we rely
6 on it? Is it reliable? And we say, yes, it is. We
7 say that, if anything, it understates the persistent
8 issue of the residential class not covering its
9 measured costs under PCOSS24. If they're under, it --
10 it really doesn't matter which one you look at,
11 they're under.

12 And we say that Ms. Derksen's
13 criticisms of PCOSS24 are unfounded. Firstly, you
14 said, well, it's unstable, we've got all these things
15 happening. Well, let's look at all the ones which
16 actually retract. And it's remarkably stable as to
17 how the residential class is always just at the margin
18 of that reasonableness.

19 I guess it means that I haven't been
20 doing a good job and Dr. Williams has been doing a
21 hell of a job because I'm sure my clients would just
22 love to be in his clients' shoes at just under 95 and
23 have them at just over 105. That's untenable. You
24 can't continue to have that inequity and unfairness.

25 Secondly, and I'm at paragraph 90,

1 there's some criticism about the whole PCOSS. But
2 remarkably, although distribution costs affect in a
3 very large way the residential class, nobody's talking
4 about how those are increasing. And they're largely
5 residential costs, the wires that go there. The big
6 industrials don't have much if anything at all. We
7 looked at those numbers. It was insignificant in the
8 big picture.

9 So, we know one (1) example is that
10 between PCOSS21 and 24 there was some \$80 million,
11 that's Mr. Bowmans evidence, of distribution costs.
12 Well, the industrials don't pay that, but it affects
13 what the residentials have to pay and the people who
14 are hooked up to the distribution.

15 What about RCC ratios before net export
16 revenues? Well, we had that fight in 2018. That was
17 discussed then. We said, well, listen, does it go
18 against costs, do we ignore it. The Board's decision
19 in 59/'18 was we apply the export revenues to the
20 generation and transmission costs.

21 What Ms. Derksen is trying to do,
22 respectfully, is to get in through the backdoor what
23 she couldn't achieve getting through the front door in
24 2018.

25 Fourthly, Ms. Derksen's comments and

1 approach to marginal costs, we say are deeply flawed.
2 And I explore that in my cross-examination of her and
3 Hydro's evidence on the deficiencies of her analysis
4 is compelling.

5 We deal with that in more detail in our
6 issue paper, but you recall there were a number of
7 different items which made it unreliable, including
8 the secret line that we don't see and doesn't get a --
9 gets adjusted for everything else, except for the one
10 that's material to us -- or very material to us in
11 generation and demand.

12 I also reference the twenty (20) year
13 old historical speeches that keep on coming back.
14 Well, we dealt with that in the last hearing. Now, if
15 the government wants to change what it's going to do
16 and this was mentioned in the 2018 decision. It had
17 the opportunity to do that in this Amendment Act. It
18 did the opposite.

19 It said you can't -- it went further,
20 right, it tightened the noose. No social programs, no
21 this no that, uniform rates applies to everybody.
22 Residential, industrials, commercials, everybody gets
23 uniform rates whether you've got your -- your plant
24 forty (40) miles from the city and it costs a lot of
25 money to get the hydro there, you pay the same rate as

1 somebody in the city. It's -- it's how our province
2 operates and it's applied fairly to everybody.
3 Everybody has that treatment irrespective of your
4 class.

5 Now, moving to page 31, sorry I
6 couldn't resist the heading 'Speculation that RCC will
7 be self-correcting'. It's a broken record for me,
8 every Hearing we hear the same thing. It's going to
9 self-correct, there's a problem with this PCOSS and lo
10 and behold, it doesn't self-correct.

11 And I've addressed this just a while
12 ago, and my belief is because we start speculating and
13 focusing on one item. We say oh that item will change
14 the results, don't worry, you'll see it will. But
15 when we actually do the study three (3) or four (4)
16 years later, and we say, oh, well there's more than
17 one variable in this. And we see it hasn't really
18 changed the results. The residentials are still where
19 they like to be around ninety-five (95), or below
20 that.

21 And just for the record, the last time
22 in 2018 where they said it was going to be self-
23 correcting, it's page 195 of that Order, that was the
24 Coalition submission at that time, with respect to
25 Bipole III.

1 A hard reality is that there is no
2 evidence of what a full PCOSS analysis in the future
3 test years would lead as a result and what the future
4 will look like in those analysis.

5 Now, two (2) other dispute issues.
6 There's been a lot of chatter about net export
7 revenue. Again, our recommendation No. 4 is just that
8 the Board not depart from what it decided in 2018. We
9 had that bull fight; we had that discussion. The
10 Board made its decision. It should be allocated to
11 reducing the class costs, it being the net export
12 revenues.

13 So, some background. I'm on, top of
14 page 32. We've been discussing this whole issue about
15 PCOSS24. I'll just remind everybody, it's -- reflect
16 -- supposed to reflect the costs of providing
17 electrical service in the test year of 2023/2024.

18 We started with high reservoir levels,
19 but going forward, it's the average water flows that
20 are used. So, really it normalizes that part of the
21 analysis. And, if we look at, also normalizing, just
22 as a test, to -- where does it lead us to.

23 The reservoir levels -- you still,
24 basically, get the same answer. You'll recall the
25 evidence that the residential stay within, I think

1 it's .4 or .5 of a percent, and the two (2) classes,
2 being thirty (30) to one hundred (100) KV's and the
3 one hundred (100) plus KV move from about 112 -- 113
4 to 110. That's still way over the 105.

5 Now, let's compare PCOSS21, 'cause we
6 had results with that, but we used it. Okay. As Mr.
7 Bowman put in his evidence, all of the flaws with that
8 and one of the flaws was 'A', we had Keeyask. And at
9 the beginning of the period no units were generating
10 revenue. And I think we had five (5) out of seven (7)
11 by the end of the period that were generating revenue.

12 So, we had all these huge capital
13 assets and no corresponding revenue. A flaw, perhaps,
14 I wouldn't call it a flaw, it was a particular
15 circumstance that we were in at that time, and we
16 said, it's the results -- let's use the results, even
17 though they might be criticized.

18 So, in that PCOSS we had significant
19 part of Keeyask and all the related assets, for those
20 who weren't here, I mean, our Bipole III was built
21 into NFAT. We had to pay for it somehow, Keeyask was
22 a way to pay for it and the Minnesota line was a
23 benefit of getting Keeyask and opening the markets to
24 the States.

25 But we had all those expenses being

1 accumulated with little or no revenue in PCOSS21. But
2 now, Keeyask is in service, we've gone past all this
3 big capital expenditures, we've got revenues, maybe in
4 the future those revenues are going to change, they're
5 going to be replaced by more residential revenues and
6 domestic revenues from other classes of clients, but
7 all those capital costs are stable. We know that's
8 not going to change.

9 Now, when we look at all of this and
10 I'm at paragraph 102, there's net export revenue and
11 the corresponding contribution to reserves do see an
12 upward effect from the higher than average starting
13 reservoirs. That's conceded.

14 The added net export revenues allocated
15 to generation and transmission and the net income is
16 allocated to all assets based on the average rate
17 base. That rate base still, primarily, consists of
18 generation and transmission -- I know this is kind of
19 very technical stuff here, I'm sorry to pull -- put
20 you through it.

21 But, we submit that for this reason the
22 impact of any alleged high or unstable net export
23 revenue makes relatively little difference in the
24 outcomes of PCOSS.

25 Now, I -- sorry, I -- I couldn't get

1 over it, just like when -- what -- we had high export
2 revenues and Hydro is explaining, well, everybody's
3 getting a lot more revenues. You should see, you got
4 your equal share that's applied to generation
5 transmission. Everybody gets it.

6 But the one thing that wasn't chatted
7 about is the net export revenue has actually bumped
8 how much the industrials had to pay in addition over
9 their measured costs, because we had a good year.

10 So, I go and I put the -- these
11 calculations in the next paragraphs, with the heading,
12 those classes are further penalized when there's above
13 average export revenue. So, if anybody should be
14 complaining, it's that group.

15 We saw that, if we take the reservoir
16 levels down and the GSL greater than 100 goes down
17 from 113.2 percent revenue costs coverage to 110.5
18 percent, that's 2.5 percent, we know that their
19 revenues were -- for the class were one hundred and
20 sixty point six million.

21 So, with the good fortune that's been
22 blessed to every Manitoban, the Director says, well,
23 that's great, but how much does that mean we had to
24 pay over our measured costs, because we had great
25 export revenues, well, another 2.7 percent, out of one

1 point six six million dollars (\$1,660,000) and that
2 means, nearly four point five million dollars
3 (\$4,500,000) extra. Woo-hoo. Great results. Let's
4 pay more to the other classes.

5 So, the -- we also want to bring the
6 Board back and I'm -- I'm at the next page, paragraphs
7 105 to 107, to Mr. Bowman's slide and -- and in MIPUG
8 Exhibit 21. It was slide 24. You may recall that
9 slide. He said, okay, let's assume everybody pays
10 their distribution costs. I mean you need that hydro
11 pole to bring it to your house, right? That
12 distribution line does not go anywhere close to
13 industrials. In fact, they hook up gen -- directly
14 and have their own transformers. You don't use that.

15 But let's assume everybody pays for
16 their distribution costs and let's see what's really
17 happening on the major issue with respect to all of
18 this generation and transmission we've built, a big
19 decade of investment, and everything else that we
20 spent before that's in our system, and Mr. Bowman took
21 us through those calculations and we say, oh,
22 residential only cover a smaller portion of it.
23 Their RCC goes down.

24 Paragraph 106 and summarize the
25 results. So, instead of contributing 95 percent,

1 they're really -- what -- what's happening,
2 mathematically, is the distribution portion is masking
3 how they are significantly underpaying their measured
4 costs for generation and transmission. It's masked by
5 the distribution costs. If you look solely as to are
6 -- what are they really contributing for generation
7 and transmission, 'cause they need those distribution
8 lines to bring it to their houses, they're actually
9 being at 90 percent of their measured costs.

10 So, we also said, well, let's do a
11 cross-check of -- talking about. Okay, well, what if
12 net export revenue goes down. Well, we -- we've heard
13 a number of those scenarios running at paragraph 107.
14 We go through one of them. We said, okay, well, let's
15 go and bring down that net export revenue by a hundred
16 eighty million dollars (\$180,000,000).

17 Well, lo and behold, something is
18 supposed to make it all this huge difference to the
19 residential class. Well, what does it do? It moves
20 them from 94.4 percent to 94.8 percent, but we saw
21 what had happened on the other side, the industrials
22 and the 30 -- 100 kV over, it moved -- they had to pay
23 an extra 2.7 percent, which about four point five
24 million dollars (\$4,500,000). So, that completes that
25 part of it.

1 Next, the subject that, thankfully,
2 there was a whole bunch of work done by Manitoba
3 Hydro, by everybody else that was part of that
4 process, depreciation. I dreaded having to do cross-
5 examinations for a day on Iowa curves and all this
6 funny stuff that depreciation experts think is
7 important.

8 Now we've got a series of
9 recommendations. You've seen the paper which is PUB
10 Number 20, and the recommendation is basically the
11 alternative 2. And there's been a question, a
12 repeated one, by Vice-Chair Kapitany, and I deal with
13 it in my presentation.

14 I said, well, listen, the primary
15 evidence that you have by the most credible person
16 before you as an expert was Mr. Madsen who's brought
17 IFRS to the -- you know, the big accounting firms. He
18 has depreciation. He understands us. He says no
19 componentization is required.

20 And also, we have to be, in my
21 respectful submission -- this is getting a bit lawyer
22 -- lawyerly, but Hydro could have bought -- brought
23 its auditors to say, well, listen, no, we need this
24 level. It could have brought its accountants to say,
25 no, we need this level. It could have brought

1 somebody like Dustin Madsen to say, no, Mr. Madsen,
2 you're wrong. And it didn't.

3 It's relied on management discretion
4 and decisions to say, well, we need more
5 componentization. And Mr. Bowman and I think Mr.
6 Madsen say, well, listen, this is an ongoing thing.
7 You have to readjust. If you see your components are
8 not in nice boxes with respect to their lives and it
9 is significant, you should be dealing with it.

10 And in fact, as I'll discuss a little
11 bit later, we saw that there was a lot of that
12 happening, if I look in the notes, that -- of the
13 meetings between Hydro and Dane Watson (phonetic) in
14 coming up with what they said was a compliance study,
15 but over-componentized. I guess you can componentize
16 to the hilt, even though it's immaterial.

17 But there's a lot of that work that's
18 been done already. So the more detailed comments on
19 depreciation -- and I'm at the bottom of page 35 of
20 this submission -- are set out in pages 29 to 32 of
21 the depreciation document.

22 Mr. Bowman's evidence has a lengthy
23 discussion on a lot of depreciation issues, his main
24 evidence, and we've provided further information on
25 issue paper -- in issue paper number 1 which is at the

1 end of this submission.

2 Going to the next page, I would
3 nonetheless bring to this Board's attention a couple
4 of key points for its consideration. The first one --
5 and I'm repeating myself a bit, Madam Vice-Chair, I
6 apologize -- is the only independent expert witness
7 with twenty (20) years of auditing and accounting
8 experience was Mr. Dustin Madsen.

9 And that, combined with a certified
10 depreciation professional certification and his
11 experience there. So, he understands both parts and
12 was the only expert with the accounting opinion --
13 ability to provide that accounting opinion.

14 As I said, there should be an adverse
15 inference, in my respectful submission, by Hydro
16 choosing not to have someone as an expert witness or
17 its accountants or auditors.

18 The Alliance study -- and I'm at the
19 bottom of this particular page now -- done by Mr.
20 Watson is -- it's done by a person who's not an
21 accountant. He's had very little experience
22 specifically related to IFRS, and I had put to him in
23 my cross-examination, well, you know, what does the
24 majority of your clients do? Oh, average service
25 life. Okay.

1 Now, he also agreed that him and his
2 team included immaterial components that were required
3 by IFRS, and we say the same thing applies to Mr.
4 Larry Kennedy who's not an accountant and cannot opine
5 on IFRS requirements.

6 I'm going to move to page 38 of our
7 submission. There is some suggestion in the Hydro
8 argument -- that's at page 162 -- that Mr. Madsen
9 needed to perform a large-scale depreciation study to
10 understand the level of componentization.

11 No. That's simply not correct. An
12 independent IFRS expert like Mr. Madsen can assess the
13 significance and materiality of the groups chosen and
14 resulting compliance with IFRS, whether under ELG or
15 ALG.

16 There is no independent expert who
17 challenged Mr. Bowman's evidence that if further
18 componentization is required for average service life
19 or ALG, Average Life Group, it is also required to ELG
20 because both are life group depreciation methods. You
21 can't do them unless you do proper grouping.

22 As a result, we say that the extra
23 componentization and extra costs arguments are simply
24 not credible and not based on independent accounting
25 expert advice.

1 At the risk of repeating what others
2 have said, ESL is used by the vast majority of
3 utilities in the US, Canadian Crown utilities, and
4 among the Canadian Crown utilities, only New Brunswick
5 Power uses ELG.

6 It's agreed that average service life
7 leads to lower depreciation expense to the extent that
8 Hydro has acknowledged that IFRS-compliant average
9 service life can be done without likely needing to
10 phase in.

11 I'll stop there for a moment. I'm
12 always amazed -- and it's no criticism of the
13 accountants -- oh, well, if the effect's not good --
14 like ELG, you know, your front-loading costs on -- on
15 this generation, instead of putting it to the proper
16 generations, let's just create this deferral account
17 for the next twenty (20) years. And, you know, we
18 won't notice it for these decades, but maybe our
19 children will, but we've got these fancy deferral
20 accounts that we're going to deal with.

21 No. Let's just do it right. Let's not
22 create all these fancy accounts to compensate for the
23 fact that ELG front-loads depreciation.

24 Another thing that hasn't been talked
25 about much but Mr. Bowman does deal with is there's an

1 -- a suggestion that there isn't much difference
2 between an ELG and a properly componentized ALG. We
3 have adduced evidence to the contrary which nobody has
4 challenged.

5 The reason why we get these small
6 numbers is because Alliance used a different approach.
7 They used different lives. They changed the lives.
8 Well, if you shorten your lives, which is what
9 Alliance did, it increases your costs.

10 And we know that we've already
11 depreciated by too much, but we say it's only 5
12 percent, so we can adjust it. It's nearly \$1 billion
13 of over-depreciation, so why would we depreciate even
14 more under a more aggressive system?

15 And also, the difference if we choose
16 the same lives would be a lot greater. And Mr. Bowman
17 said that his best estimate was somewhere in the 700
18 million. That's referred to at the pot -- top of page
19 39 with the references to the evidence.

20 Now, we have two (2) experts, Mr.
21 Bowman and Mr. Madsen, both supporting ASL procedure.
22 Hydro agrees it's the viable alternative. By
23 contrast, Hydro's preferred approach, ELG, is not
24 supported by any other party in the proceeding. So
25 the weight of the evidence is towards ELG or ASL as we

1 said.

2 Now, I do want to touch upon a subject
3 that Mr. Bowman spent quite a bit of time on in
4 answering one of the PUB's IRs. It's PUB/MIPUG Round
5 1, 7. And it's about the difference between
6 accounting and rate making. And I've tried to
7 summarize the gist of some of this in paragraphs 123
8 and 124. Ultimately, the role of the PUB is to set
9 just and reasonable rates.

10 IFRS, on the other hand, is an
11 accounting standard designed to have fair presentation
12 of financial situation. It portrays that financial
13 condition of an organization after the fact. Right?
14 Hydro still hasn't produced its -- its financial
15 statements.

16 By way of contrast, the role of a
17 regulator is perspective -- or prospective is to
18 establish rates to be charged in the future. As such,
19 it sets the economic and financial conditions in which
20 the utility operates.

21 But we say that the mandate of a
22 regulator is not to chase interpretation of accounting
23 standards. Rate setting on the basis of interpreting
24 accounting standards is inappropriate in that it fails
25 to begin with the clear legislative mandate given to a

1 regulator. And it is also contrary to the purpose of
2 the roles. And I've referenced that.

3 I'm not going to repeat the last
4 paragraph 25. I've mentioned that.

5 I'm into other discrete subjects now.
6 Industrial billing demand definition. We've made a
7 recommendation there. There was some cross-
8 examination by Board counsel on that as to whether
9 instead of the 90 percent rule, we could go down to 75
10 percent. And Hydro was open to that.

11 So we've got a recommendation with
12 respect to this industrial billing demand definition.
13 The first one is that we shouldn't be asking more
14 money from them because of this new definition. We're
15 already paying well over the zone of reasonableness.
16 There's no -- no reason to penalize us further.

17 The Board can achieve this outcome by
18 revising downward the overall average increase per
19 revenue requirement.

20 We've commented on the no basis for the
21 10 percent. That was a timid -- a timid attempt at,
22 I'll call it, time-of-use rates. And billing -- or
23 demand response.

24 By the way, you may recall -- I went
25 through this with Hydro witnesses -- demand response,

1 when you go to the Appendix 5.1, that's where they do
2 the winter capacity peak and how they're going to deal
3 with it. Demand response is a big item in how to deal
4 with that peak.

5 Hydro should take seriously today
6 implementing programs and not being restricted like
7 this to deal with getting people onto demand response
8 programs and rates.

9 And doing this timid approach to demand
10 response with respect to the classes, we say is
11 inconsistent with the planning it should be doing.

12 And that it puts in its forecast for demand -- meeting
13 demand and capacity responses. And we also say that
14 this rate design should also be applied to the zero to
15 thirty (30) kV class who are of a sufficient size and
16 have appropriate metering. These companies have a
17 role to play. We discuss this in more detail in issue
18 paper 8.

19 And I also deal, in paragraph 127, with
20 respect to the response that Gerdau gave to an
21 undertaking it made to this Panel. You know, what
22 kind of rate design things are happening in other
23 provinces. What types of things would you like to see
24 in Manitoba?

25 And companies talked about

1 affordability and the importance of it. And how they
2 can help Manitoba Hydro deal with this capacity issue
3 that's coming up and coming up quicker because of our
4 Saskatchewan sale.

5 So there's industrial conservation
6 initiatives, there's transmission demand coincident
7 peak capacity programs. Those are all further
8 described in their -- their answer. Operating reserve
9 and spinning reserves, we heard the importance of
10 that. Sync reserve services, demand response
11 programs. That's one (1) of the things that's
12 actually in the planning for Manitoba Hydro.

13 So all of these things would be useful
14 things. And we suggest that the Board take the
15 opportunity to remind Hydro that industrials are
16 willing, but they've been pleading a number of times
17 with this Board to say, We would really like Hydro to
18 expand everything that's happening.

19 And that's not only time-of-use rates.
20 We've capped the curtailable rate program. For those
21 that don't know what that means is they go to somebody
22 like Chemtrade and they say, Oops, we've had a power
23 problem here. You take us much power as the Wuskwatim
24 dam, that's the amount of power they use. They use
25 the equivalent of a Wuskwatim dam. Put your power

1 usage on hold while we rectify this problem.

2 And because they curtail their power
3 and they agree that they're going to do that, they get
4 a rate that is appropriate for that type of
5 interruptible service, which can be demanded by Hydro
6 and which basically frees up a whole power dam like
7 Wuskwatim.

8 Classification, that's the next page,
9 42. We've raised here that we should take a look at
10 how we group customers together. And we've suggested
11 a directive with respect to homogeneity -- I always
12 have problems with that word -- in the seven-fifty-
13 eight (758) thirty (30) kV class and suggested that
14 they report back to the -- to the PUB at the next GRA
15 on alternatives to improve the homogeneity of the
16 class. And we've got a paper on that, again, issue
17 paper number 10.

18 We explain briefly here what the
19 problem is. You've got some dissimilar users. I went
20 through that somewhat, about agricultural, commercial,
21 and industrial -- and they've got different
22 characteristics and they don't mesh together nicely.
23 And there -- there isn't a way that that's being
24 recognized.

25 So we're suggesting -- and Hydro as we

1 understand it, based on response that we got from the
2 witness in my cross-examination, Ms. Van Hussen, that
3 that was something that they acknowledge was an issue.
4 And they were ready to look at it.

5 Now, why are we saying it's so pressing
6 is because we've got this Amendment Act coming. And
7 it says that Hydro will be able to do things and some
8 things that are going to have to wait.

9 And -- and the way we read the
10 legislation, the changes to the Hydro Act as a result
11 of this Amendment Act, may limit the Board's ability
12 to direct changes to class structure and composition
13 in the future.

14 And for that reason, we're encouraging
15 the Board to direct Hydro in this GRA to complete the
16 analysis of the GSL zero to 30.

17 Now, going to Recommendation 14 on
18 reliability, we've got an issue paper on that again.
19 The recommendation is that Hydro establish a metric
20 for unserved energy based on industry best practice
21 engagement of customers to establish a reasonable
22 estimate of customer cost for reliability events both
23 momentary and non-momentary. Some of them are not
24 measured. The momentary ones aren't part of SAIFI and
25 SAIDI; those acronyms that we've come to know.

1 Now, I've forwarded some possibilities,
2 shown that other jurisdictions do this. And we
3 believe that Manitoba Hydro could benefit from the
4 adoption of surveys and good customer engagement to
5 know what the value of lost load or cost of unserved
6 energy is. And it appears that, again, when I asked
7 the questions, that Hydro was open to this and
8 acknowledged that it was a gap in what they were
9 doing.

10 Recommendation 15; that's the
11 uncertainty analysis in the probabilistic assessment
12 of the likelihood of reaching future financial
13 targets. We had the benefit of having some of that in
14 one (1) hearing. There's a lot of information on that
15 and the benefits for this Board as we see it as a
16 useful tool.

17 And there's a fairly extensive
18 discussion of that in Consumers' Coalition Exhibit 28
19 and, in particular, Mr. Bowman's background paper C,
20 which is pages 8 to 21 of that book of documents.

21 16th recommendation. And I'm starting
22 to get to the home stretch here. Thank you for
23 bearing with me and following me on this. One (1)
24 year amortization of amounts related to Conawapa
25 deferral account and the Selkirk loss on disposal and

1 costs of removal balances at the -- in the earliest
2 available fiscal year. And we'd like that, if
3 possible, to be explicitly linked to finalizing the
4 3.6 percent interim rate increase from 2021.

5 I acknowledged at the outset that this
6 Board has to decide -- because I've been saying, well,
7 we've already decided that in 2018, we don't --
8 shouldn't revisit it. Well, Mr. Hacault, why are you
9 saying we should revisit this issue?

10 Well, I set out the reasons there. And
11 it's also set out in issue paper number 2. But
12 sometimes, and it's very rare, the factual
13 underpinnings that led to a particular decision no
14 longer exist.

15 And the whole rationale that framed the
16 decision for Conawapa, in my respectful submission,
17 and for all the reasons in the issue paper, have
18 changed so materially that it's appropriate for this
19 Board in the particular circumstances that we have
20 today to complete the amortization of about 303
21 million that's left.

22 Most fundamentally, for those of us who
23 were looking at swallowing all these new major costs
24 and absorbing that into rates and seeing that we're
25 going to have five (5) to seven (7) years of losses,

1 sometimes going up to a billion dollars, the last
2 thing we wanted to do is to say, oh, this \$380 million
3 of Conawapa which is useless, by the way, you're going
4 to have to swallow that in one (1) year in addition
5 to having this huge hit for these big projects.

6 It made sense to say that. We're not
7 going to do that, right. Let's -- even though it's
8 going to penalize -- because I asked the question,
9 what about my granddaughter, what kind of use --
10 usefulness is that going to be to my granddaughter.
11 And I believe the answer I got was, well, it's -- and
12 I've referenced it here -- really, there isn't much
13 usefulness at all because it's not about Selkirk, like
14 we still have, you know, some assets or something;
15 it's just sunk costs.

16 And we just didn't want to hammer
17 people with \$380 million when we were going to hammer
18 them with a whole bunch of projects we were actually
19 setting up. Remember we were creating additional rate
20 increases and setting them aside into deferral
21 accounts to be able to absorb. We were trying to
22 transition this whole thing.

23 The other thing is everybody thought it
24 would be a good ideal for the Provincial Government to
25 give us a break on -- on the fees. MIPUG said, well,

1 that would sure help us swallow these problems, you
2 know, the Conawapa problem and -- and all these big
3 assets.

4 And the Board also made some comments
5 in its decision. They said, you know, Government, it
6 would really help if you'd do that, but they just
7 flatly refused it.

8 So, what choice did we have with
9 respect to the 380 million? Not much. The government
10 wasn't cooperating. We thought we were going to be
11 having all these multitude of losses. But that
12 factual underpinning which required rate smoothing is
13 now gone.

14 We have a government who did a
15 retroactive -- just, like, that's new -- a retroactive
16 reduction in water rentals and guarantee fees. The
17 boot that we got this incredible year -- where certain
18 industrials, I've been complaining, paid 113 percent
19 over their measured cost. And we have yet to see it,
20 but, apparently, it's to be in the order of, what,
21 about \$750 million. It's going to be -- we're going
22 to find out what the number is.

23 But with all these circumstances, why
24 wouldn't we do that? And the same thing with Selkirk.
25 Why burden future generations with that cost if it's

1 no longer being used. Why don't we attack the problem
2 now when we're in a good situation and we aren't in
3 that situation where we thought we were going to get
4 the seven (7) years of losses or five (5) years of
5 losses.

6 Now, the -- for those reasons, and I've
7 set out perhaps a little more detail in the issue
8 paper and -- and the sections -- the paragraphs that
9 followed, we say that this is one of those instances
10 where we say there's -- the high threshold of changing
11 something has been met, and it's appropriate to do it.

12 We say deferral accounts ought to be
13 avoided whenever possible.

14 And the last matter which I'd like to
15 address before completing my submission is, in issue 5
16 -- and if we could go to page 126 of that PDF. These
17 are whether or not it's appropriate to update some
18 PCOSS24 methods.

19 And, again, basing the submissions on,
20 well, listen, there were certain uses and needs and
21 way certain assets and expenses were being treated
22 when we did PCOSS in 2016, and those fundamentals have
23 changed.

24 And the three (3) items that we
25 focussed on is DSM. Clearly, there is, based on the

1 evidence, a portion of DSM costs that reflect the
2 benefits derived from DSM currently that's not being
3 reflected in the cost of service. It's all allocated
4 to generation and transmission. Clearly, based on, I
5 said, the Appendix 5.1, the winter peak demand.

6 Wind is being given capacity not only
7 here. It's the same thing in the States. And there
8 should be a portion that's -- of that wind generation
9 that's classified to demand, consistent with the
10 benefits the wind brings to the system and the way
11 it's being planned.

12 And the last part is, with the
13 increased pressures on capacity and peak demands and
14 what's happening in the market, we say that the fifty
15 (50) top hours in each year which is averaged over
16 eight (8) years doesn't reflect what's happening.

17 And we are requesting that that item be
18 looked at and dealt with, and the reasons for doing so
19 and the discussion are further set out in the
20 following pages. And I'll refer to some of them, and
21 then I'll complete my submission. Page 127 of the
22 PDF.

23 So we've heard that Hydro has lost
24 access to diversity agreements, were traded winter and
25 summer capacity. Can't do that anymore. It looks

1 like it's going to move away from that, and that's
2 caused the advancement dates in which Hydro must
3 invest in new capacity resources.

4 The capacity resources or the
5 availability is questionable. So we talked about the
6 combustion turbines that are at the end of this --
7 from 2035 to 2040, and there's also the whole issue of
8 added electrification.

9 There's other provinces that give
10 substantial subsidies for -- I ended up putting it in
11 my house -- some heat exchangers. And that impacts
12 electrification because if you're moving from gas to
13 electric -- electrification for heat pumps, you're
14 going to be changing those peak hours again.

15 So we say -- and this is at lines 23 to
16 25:

17 "The precise timing of the various
18 methodology updates may vary.

19 Movement towards better reflecting
20 peak, less than fifty (50) hours,
21 can be achieved at the next PCOSS
22 update as addressed by Hydro in its
23 argument."

24 I'm not going to go through the rest of
25 the stuff. It'll be there for your -- your reading,

1 but we also addressed the wind generation issue and
2 DSM in this issue.

3 Thank you very much. For all these
4 reasons -- and I'm not going to go through all the
5 recommendations, but we've set them all out -- we ask
6 that the Board grant the remedies set out in the
7 recommendations which we have made.

8 THE CHAIRPERSON: Thank you, Mr.
9 Hacaault. I'm going to ask the Panel if they have any
10 questions. Thank you very much for your presentation.

11 MR. ANTOINE HACAULT: Thank you.

12 THE CHAIRPERSON: Mr. Buchart, did you
13 want to do it from there, or would you rather shift
14 over to here?

15 MR. MARKUS BUCHART: No, I'll take
16 centre stage.

17 THE CHAIRPERSON: Okay.

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: All yours.

22

23 CLOSING SUBMISSIONS BY MKO:

24 MR. MARKUS BUCHART: Good afternoon,
25 Mr. Chair Gabor, Madam Vice-Chair Kapitany, and Panel

1 members Bass, Bellringer, and Sy.

2 I have the honour and privilege today
3 of delivering the submission of Manitoba Keewatinowi
4 Okimakanak Incorporated. In MKO's opening statement
5 on May 15th, I said that MKO sought to achieve three
6 (3) objectives in the hearing, so I'm going to deal
7 with those in turn.

8 Before you, you can see a copy of the
9 brief that we have filed, and I ask that it be marked
10 as Exhibit MKO-5.

11

12 --- EXHIBIT NO. MKO-5: MKO Final argument, June
13 22, 2023

14

15 MR. MARKUS BUCHART: So I'm going to -
16 - if it's been marked as an exhibit, I'll continue.
17 I'm not going to slavishly follow the brief 'cause you
18 have it in front of you, but I'm going to use it as
19 sort of my -- my guide.

20 So the -- the three (3) issues that we
21 said that we would address in the Hearing. The first
22 one is: Does the Board have the authority to make
23 recommendations? And this arises from some of the
24 comments that were made in the pre-hearing conferences
25 and also in the Orders that were issued arising from

1 those.

2 And we seems that we gleaned that there
3 were two (2) objections that the Board might have to
4 whether it can -- whether it can continue to make
5 recommendations under the Act, under the Manitoba
6 Hydro Act. So that's why we want to address those
7 technical legal points.

8 So if you look at paragraph 3 of the
9 brief, the old section 39(11) of the Manitoba Hydro
10 Act is reproduced there. And it clearly says that the
11 -- that the:

12 "The Public Utilities Board shall
13 make a report to the minister which
14 shall include its recommendations."

15 So that's the old Act, but as we all
16 know, section 39(11) has been repealed, technically
17 repealed. So Mr. Hacault already had section 65, the
18 transitional provisions, in the amending act, and I
19 liked how he called it the amending act.

20 So section 65 says that the:

21 "Notwithstanding or despite the
22 repealing sections, the following
23 acts or provisions as they read
24 immediately before the enactment of
25 this act continue to apply to the

1 determination of rates for the
2 retail supply of power."

3 Blah-blah-blah. So it does say under
4 (b) "the Manitoba Hydro Act".

5 So in our submission, the old section
6 39(11) is still alive, notwithstanding the fact that
7 it's technically been repealed. And the new section
8 39(11), of course, doesn't allow recommendations to be
9 made. That's why we -- we're -- we're sort of keeping
10 alive the old 39(11).

11 But it seems to me that this entire
12 proceeding is being conducted under the old section
13 39, and so section 39(11) is -- is still alive and
14 operative, and that the Board has jurisdiction from
15 that section still, notwithstanding it's repeal, to
16 make recommendations.

17 And there -- I have a few paragraphs
18 where you talk about -- starting at paragraph 6
19 onwards -- that there's no problem with a statute
20 incorporating by reference a repealed statute or even
21 -- even anything. If a statute refers to something
22 that isn't law, it becomes law.

23 So if the transitional statute in the
24 amending act says that something is still law, then
25 notwithstanding its repeal, its not being law, it

1 becomes law again.

2 And I gave just two (2) examples.

3 Under the Court of King's Bench Act, the bank rate is
4 defined in section 78 of the Act, and it -- and it
5 refers to the Bank of Canada lending rates.

6 Well, that's not law, but it becomes as
7 soon as it is incorporated by reference in the Court
8 of King's Bench Act.

9 Second example I gave is the Manitoba
10 Building Code, where it refers to the Building Code of
11 Canada 2010. So, the Manitoba regulation incorporates
12 by reference the federal government publication, which
13 isn't law, but it turns it into law.

14 So, by the same way, Section 65 of the
15 amending act, keeps 39.Sub-11 under the old Act on
16 life support until April 1st, 2025.

17 But the second objection I gleaned from
18 the Order from one of the pre-trial conferences, Order
19 130/22 and I'm at paragraph 8. So, it -- it -- it
20 suggests in the underlying bits that -- that -- that
21 this section was somehow inoperative even -- even
22 before, notwithstanding the whole transitional
23 question.

24 Yeah, so it -- so -- the -- it says for
25 many years the provision has not been operational and

1 effective November 3rd, 2022, the provision has been
2 repealed.

3 Well, the repeal part I've addressed.
4 The non-operative part, I have to say, with respect,
5 that that is an incorrect interpretation of what a
6 statute does.

7 So, we all know the Interpretation Act
8 says that the statute -- the law speaks. And what
9 that means is that the law in a statute is essentially
10 the King's words, is what the King is saying, 'cause
11 that's the source of law in our system, in our
12 constitution.

13 And, so, at Section 39(11), it's -- it
14 -- it speaks, it's -- it's what -- what the law is.
15 And it is entirely a statutory regime. Without the
16 statute, there is no Public Utilities Board. There is
17 no -- this whole proceeding -- it's entirely a
18 creature of statute.

19 So, you have to read Section 39(11),
20 the old one and what does it say? It says that they
21 shall make recommendations. So, that -- that's what
22 it says. Whatever history there is that it's
23 operative, non-operative, that's not what the statute
24 says. And -- and every word of a statute should be
25 given meaning, that -- that's the ideal.

1 But on top of that, this whole idea
2 that a statute can be just -- through just use or
3 through -- it could become obsolete, is -- has been
4 addressed by the Supreme Court of Canada.

5 In paragraph 9, we quote Mr. Justice La
6 Forest of the Supreme Court of Canada in the Queen
7 against Mayor Quer (phonetic), which was a 1988
8 Supreme Court Decision. And what his Lordship is,
9 statutes do not, of course, cease to be law from mere
10 disuse. As Driedger puts it -- and Driedger being a
11 textbook law -- textbook writer -- a statute is not
12 effaced by lapse of time even it is -- even if it is
13 obsolete or has ceased to have practical application.

14 So, the statute is the statute. It's
15 there. The legislative assembly has not repealed it -
16 - well, other than the transitional provision, it's
17 still the -- the law and I -- I'd disagree
18 respectfully that that old 39(11) could be obsolete
19 somehow, which is what the Order in the pre-hearing
20 conference suggested.

21 So, for those -- both of those reasons,
22 we say that that disposes of the argument that the
23 Board can't -- does have authority to make
24 recommendations still, notwithstanding our transition.

25 That brings us to the second subject.

1 The second subject was the main reason for our -- our
2 MKO's intervention.

3 MKO said all along that what it seeks
4 to do is to get the -- convince the Board, persuade
5 the Board, to recommend that the statute -- the
6 Manitoba Hydro Act be amended to either create a First
7 Nation on Reserve Residential Rate or FNOOR as I'll
8 just keep calling it. Or, outright just create it or
9 -- or authorize the Board to create it.

10 So, the starting point, I'll review
11 some history that you all know, but I'll -- I'll be
12 brief. The rise and fall of FNOOR. So, in Board
13 Order 59/18, there is many references to why the FNOOR
14 rate class should be created and there was one panel
15 member of the Board at the time who dissented.

16 But all the other members agreed that
17 to deal with bill affordability in Manitoba, that
18 there -- there should be a First Nations on Reserve
19 Residential Customer Class to address energy poverty.

20 Now if you look back to the Orders, I
21 was surprised. Back into the early 2000s already, the
22 Board was calling for Manitoba Hydro and parties and
23 Interveners to come up with some solutions to energy
24 poverty. This is a long standing desire of the Board.

25 So, it didn't -- but finally in 2018

1 the Board decided well we're just going to create this
2 FNOOR class and Member Ring, of course, dissented, but
3 nonetheless, these three (3) paragraphs express why it
4 was created and -- and why it was -- why it satisfied
5 the spirit of the Path to Reconciliation Act of
6 healing the wounds between the original inhabitants,
7 Indigenous people of Manitoba, and the -- and the
8 current people.

9 So, unfortunately, Manitoba Hydro
10 appealed the creation of the FNOOR class on the ground
11 that it was ultra vires the Act. The Manitoba Court
12 of Appeal agreed with Manitoba Hydro. Relief to
13 appeal was refused by the Supreme Court and that was
14 the end of FNOOR.

15 So, we -- we're starting the process
16 over and this time, to do it in such a way that it
17 isn't ultra vires and it isn't struck down by the
18 court. And in our submission, the old Section 39(11)
19 allows this Board to -- to recommend that the stature
20 be amended.

21 So, paragraph 15, the Board may well
22 object and say, well, that goes totally contrary to
23 the spirit of the new Section 39, which is going to be
24 the governing legislation from April 1st 2025,
25 onwards.

1 And specifically I cited three (3) sub-
2 sections which clearly -- you know, say no
3 differentiating between types of residential
4 customers, no geographic discrimination between
5 different residential customers and I can't remember
6 what the other one said, but they were all in the
7 spirit of saying, essentially, taking away discretion
8 to do social policy things through -- through the Act.

9 Well, so, the Board might ask, well,
10 what do you say about that because the re-creation of
11 FNOOR would kind of contradict the spirit of those
12 recent amendments?

13 Well, MKO would submit that the
14 question is irrelevant. The Board is supposed to make
15 recommendations that are in the public interest and
16 not only the -- those that are likely to be adopted
17 now. I'm sure there's some suggestions that have been
18 in the statutes in the past. Sorry, Board Orders that
19 have made recommendations which eventually some future
20 government adopts.

21 So, the fact that it's not likely to be
22 adopted now is not a reason to not suggest it. Maybe,
23 you know, I'm used to tilting at windmills, but
24 nonetheless, that's not a reason to not do it.

25 But the other thing to consider is that

1 -- as I always say, you know, governments come and
2 governments go, statutes get passed, statutes get
3 repealed, statutes get amended, even governments have
4 changes of heart and -- and change their approach.

5 So, yes, there would likely have to be
6 some consequential changes to those three (3) sub-
7 sections that I just referred to, but if it's the
8 right thing to do, then it's -- then it's the thing
9 that this Board ought to do.

10 And -- and just consider the history.
11 For twenty (20) years the Board has -- has been trying
12 to come up with some solution to the energy poverty
13 problem for First Nations people. And the only thing
14 left, it seems, is a sort of lower rate class for
15 First Nations people, 'cause nothing else seems to
16 have worked or worked enough, even if it's ameliorated
17 the -- the condition, nothing has really worked.

18 So, if that's the only thing that can
19 be done, then that's what the Board ought to
20 recommend.

21 So, we decided not to call witnesses as
22 in the past, we, being MKO. In the past there's been
23 panels of consumers talking about what energy poverty
24 feels like. This time we decided to do a different
25 approach and we decided to do Information Requests,

1 just basically about just -- just a list of the
2 evidence right from Manitoba Hydro from Information
3 Requests and from cross-examination questions.

4 And you can see that all of those
5 things are in Exhibits MKO-2 and 3, which are not
6 horribly long and there's -- full of tables with
7 numbers that are fairly easy to digest. So I commend
8 them to the panel. And also, the cross-examination of
9 the Manitoba Hydro Panel on rates and cost of service.
10 So, that -- that's cited in paragraph 17 of our Brief.

11 So, what do we do? We -- we -- we
12 slice the pie. We're back to pies again. We've
13 sliced the pie into nine (9) sub-groups and you can
14 see it, paragraph 18. We took all Manitoba customers,
15 Winnipeg, et cetera, et cetera.

16 And the most interesting ones, from our
17 point of view were the (e), which would be all of 63
18 of Manitoba's First Nations and then, (g), which is
19 all of MKO's First Nations. There's 25 and, as I
20 explained earlier, there's a 26th one in Saskatchewan,
21 but the data is from the 25 in Manitoba.

22 And we're also interested, a little
23 bit, in (I) which is the diesel zone. So, as we've
24 explained in the past, in the diesel zone, there are
25 four (4) First Nations, three (3) of them, I believe,

1 are the furthest north of all Manitoba First Nations
2 and one (1) of them is also quite remote, who are --
3 who do receive electricity from Manitoba Hydro, but
4 they are not permitted to -- to use it to provide
5 heat. So, that's -- that's going to be interesting,
6 when we look at the tables, the differences between
7 the MKO diesel and just MKO, all MKO. So, that --
8 that will be telling.

9 So, we looked at those. That's how we
10 sliced the pie and, then, we asked questions regarding
11 the aggregate billed amounts that Manitoba Hydro
12 charges to those nine (9) groups of people. The
13 aggregate collected amounts, the arrears amounts, and
14 we asked some follow-up que -- questions on
15 disconnections and uncollectible accounts.
16 Essentially, those were questions that AMC asked that
17 we were quite impressed by, which fits in with our way
18 of looking at it. So, I -- credit where credit is due
19 and, so, then, we looked at -- at those things.

20 So, if you can stare a while for
21 paragraph 18, which Ms. Schubert has called up. So,
22 we've tried to put some of the interesting numbers and
23 the reason some of the numbers are underlined --
24 single-under -- underlined and some are double-
25 underlined, is so that you, at a glance, can compare

1 apples with apples. So, billed amounts are -- have a
2 single underline and arrears have a double underline
3 and it is quite interesting.

4 So, if you look at (a) 40 percent of
5 MKO customers -- 40 percent of all First Nation
6 customers are MKO customers. It is actually 39.6, but
7 I'm going to call it 40.

8 So, that means that, well, the MKO
9 customers are a large group within all of the 63 First
10 Nations. So, what -- that will change the all First
11 Nations number because you've included them.

12 So, if you look at First Nation
13 customers, I'm looking at (b), they com -- comprise
14 3.67, so 3 2/3 percent of all residential -- all
15 Manitoba residential customers. So, they're fewer
16 than 4 percent of the customers in Manitoba. They're
17 billed 7.1 percent of the total of all residential
18 customers.

19 So, they're billed two thousand nine
20 hundred dollars (\$2,900) per customer, but they're
21 responsible for 59.2, so let's just say 53 percent of
22 all the arrears of residential customers and the --
23 the average First Nation customer is in arrears by one
24 thousand four hundred and seventy-one dollars
25 (\$1,471). So, that, you know, the way averages work,

1 that means some people have zero (0) but some people
2 have considerably more than one thousand four hundred
3 and seventy one (1,471). That's just the mean.

4 Now, if you -- if you, then, look at
5 the 40 percent of First Nations customers that are MKO
6 customers, that's in (c). So, tho -- that comprises
7 1.45 percent of all residential customers and they're
8 responsible for 3 percent of the total billed. So,
9 they're billed an average of three thousand a hundred
10 and thirty-three dollars (\$3,133), I guess, per year
11 in 2022/23 and they're responsible for 37.5 percent of
12 the arrears of all residential customers, for an
13 average of two thousand six hundred and thirty-eight
14 dollars (\$2,638).

15 Now, think about that. That's just the
16 arr -- that's just the arrears, two thousand six
17 hundred and thirty-eight dollars (\$2,638) and AMC's
18 questions about disconnections and writing off of
19 uncollectible accounts were quite interesting because
20 that hadn't occurred to me -- or us. That some of the
21 questions to do with write-offs and disconnections are
22 that the arrears don't stick around forever.

23 At some point, fairly quickly -- I
24 don't remember the answer -- but fairly quickly, they
25 get written off.

1 So what that means is that even though
2 some arrears are being written off, there's -- there's
3 a constant supply of new ones that are -- that are
4 being created.

5 The other interesting thing about AMC's
6 questions were they looked at the -- the time series.
7 They looked at five (5) years. And you could see that
8 things got -- seemed to get a little bit better in the
9 early 2000s. Why? Well, because of the recent
10 pandemic, Hydro admitted to some of their questions
11 that they were -- they weren't trying to collect their
12 arrears as aggressively and were maybe writing things
13 off more.

14 So the data we're looking at is from
15 the third year of -- as I always call it -- the
16 plague. So the third year of the plague. And that
17 means that things will get worse again once Manitoba
18 Hydro is more aggressive in trying to collect their --
19 their arrears. So I thank AMC for those insightful
20 questions.

21 So -- but getting back to my table, the
22 -- the diesel nations are interesting. There's four
23 (4) of them. They can't heat with electricity.

24 Do you notice that their billing is
25 about half of what all First Nations or MKO First

1 Nations are billed? So instead of three thousand
2 dollars (\$3,000), it's fifteen hundred dollars
3 (\$1,500) per customer.

4 And the arrears are also considerably
5 lower, five-hundred-seventy-one dollars (\$571),
6 instead of all MKO's two-thousand-six-hundred-thirty-
7 eight-sixty-seven (2,638.67).

8 So what that says is it's probably the
9 electric heating that's the source of the arrears and
10 the large bills. This may seem obvious, right, but --
11 but that's probably the cause.

12 So finally, the last group, I just
13 wanted to look at the average of all residential
14 customers. I seem to recall there's, like, three
15 hundred thousand (300,000) customers.

16 So on average, you could see they're
17 billed one-thousand-five-hundred dollars (\$1,500)
18 which is the same as what the diesel nations are
19 average billed, around one-thousand-five-hundred
20 dollars (\$1,500).

21 But look at how low the average arrears
22 are. A hundred-one-dollars-and-ninety-nine-cents
23 (\$101.99). So the arrears problem or the problem of
24 energy poverty quite -- I think this demonstrates that
25 it's quite clearly concentrated on Manitoba reserves

1 and especially on the northern reserves, and that's
2 where MKO is.

3 So, as we say in paragraph 20, you
4 know, it -- I think you can infer that -- maybe not
5 the only cause but certainly a major cause of the
6 bills and arrears is electric heating. Because that's
7 why the -- the super far north non-diesel -- diesel
8 nations have much lower arrears and much lower bills.

9 So, I noticed that there's a pattern
10 for twenty (20) years -- I mentioned before -- where
11 the Board has invited the parties to come up with --
12 with solutions.

13 And so, Board Order 137/21 says that
14 the Board expects Manitoba Hydro and Interveners to
15 bring meaningful solutions to these concerns.
16 Meaningful solutions. So that was one of the themes
17 of our cross-examination of Manitoba Hydro's
18 witnesses.

19 And so, we asked, what -- what
20 meaningful solutions has Manitoba Hydro come up with
21 since this latest invitation in 2021?

22 But the answer that we got were three
23 (3) programs which all pre-date the Board's request
24 for meaningful solutions. So the honest answer to our
25 Information Request would have been we have come up

1 with no meaningful solutions. That would have been
2 the honest answer. But the answer was a program from
3 2002, 2008, and 2018, respectively.

4 So the meaningful solution that did
5 exist was -- was the FNORR, the First Nation On-
6 Reserve Residential Rate. And so, MKO, in this
7 proceeding, is bringing back the FNORR. Starting it
8 from scratch.

9 And so, we -- we asked the question,
10 What does Manitoba Hydro think about the FNORR? Is it
11 a meaningful solution? There's that phrase again.

12 And the questions -- they're cited in
13 paragraph 22, but you can see I -- I went at it twice.
14 And I didn't ask about, you know, the old FNORR that
15 the Court of Appeal said, you know, is ultra vires.
16 You know, the question was forward looking.

17 Is a FNORR rate class a meaningful
18 solution? And the question was quite clear. And I
19 looked over and I saw movement from the counsel across
20 from me. And as -- as though counsel from Hydro was a
21 contestant on a game show, Objection.

22 And I've reproduced the objections in
23 paragraph 23 of the brief. Mr. Buchart, I think that
24 matter's been settled by the Court of Appeal.

25 And then, the second one, Mr. Chair, I

1 don't think the panel's in a position to respond to
2 that, considering it was ordered -- directed by this
3 Board and ultimately overturned by the Court of
4 Appeal.

5 Now, I tried to think about a polite
6 way of criticizing that in this Hearing and the best I
7 could come up with -- rather than what I'd like to say
8 -- is that it's a classic textbook example of the
9 strawman fallacy.

10 The strawman fallacy and logic probably
11 goes back to the Greeks or Romans. It says that when
12 a person sets up and then attacks a position that is
13 not actually being asserted. And that's -- that's
14 what that objection was.

15 And I submit that Manitoba Hydro was --
16 knew the question was coming, was prepared for it, and
17 did not want to answer it.

18 Strawman argument is, by definition,
19 disingenuous. Because one has to know that -- that
20 the position they don't want to answer -- one -- one
21 has to understand that they don't want to answer a
22 question in order to create the strawman. So Manitoba
23 Hydro ducked the question.

24 And so, but notwithstanding the fact
25 that it's fallacious, the logic for it, MKO was giving

1 Manitoba Hydro a chance to express its opinion on the
2 efficacy -- efficacy -- whatever -- of a FNORR rate
3 class. And Manitoba Hydro refused to answer.

4 So it's safe to say that Manitoba Hydro
5 did not take a position on a FNORR statutory
6 amendment. It neither opposed or supported it, but it
7 -- it got its chance. It can't say that it wasn't
8 asked. It chose to duck the question. Notwithstanding
9 the land acknowledgement that was the first piece of
10 evidence in the Hearing.

11 Manitoba suggests that the path to
12 reconciliation involves Crown corporations actually
13 answering the questions of Indigenous organizations
14 like MKO and not evading them.

15 So aside from that little side drama,
16 MKO submits that it has demonstrated, again, what has
17 been shown in this Board many times before; that
18 Indigenous people disproportionately suffer from high
19 electricity rates.

20 Manitoba Hydro has not offered any
21 meaningful solutions to the longstanding and worsening
22 problem in the twenty (20) years that it's been asked
23 to.

24 MKO and AMC have made the suggestion of
25 bringing back the FNORR. And so, we -- we ask the

1 Board to recommend the Government create by statute,
2 so that it's intra vires -- not ultra vires -- a FNORR
3 customer class.

4 MKO is going to go further though.
5 Because of the data in, I think, paragraph 19, it's
6 clear that the problem is much worse up north because
7 of the necessity to heat from -- with electricity.
8 And so, you see, we're using a lot of electricity.

9 So I think -- submit that -- we're
10 going to put it out there -- that the Board could
11 actually even recommend a second rate called -- and
12 I'm going to take credit for this -- the NFNORR, the
13 Northern FNORR.

14 And it -- it could apply to people
15 above a -- so there's different ways you could do it.
16 But one way, there's a ready made definition of
17 northern Manitoba in the Northern Affairs Act, which
18 is at paragraph 27 of the -- of our brief.

19 There it is. So you could just say,
20 Well, you know, the -- the NFNORR applies to every
21 place that's in the definition of northern Manitoba
22 from the Northern Affairs Act.

23 Alternately, if you turn to the next
24 paragraph, you could just pick a line of latitude,
25 like, fifty-two (52) degrees latitude, and say

1 everything north of that is NFNORR and everything
2 below that is FNORR.

3 But that's just our suggestion.

4 Because, clearly, the problem is considerably worse up
5 in the far north, than it is in the southern part of
6 the province. So that disposes of our second thing
7 that we sought to address.

8 The third would be the diesel
9 agreement. So the diesel agreement is this thing that
10 keeps popping up in -- in these -- these proceedings.

11 And at one point, in paragraph 29 -- I
12 don't know how Ms. Schubert gets there. She must read
13 minds.

14 So, the Board ordered that -- that the
15 settlement agreement documents, that they be -- that
16 Manitoba Hydro provide confirmation that -- that the
17 executed documents have been received and they're in
18 proper form and that they advise the Board of their
19 intention regarding diesel rates.

20 So, in Appendix 9.13 in Exhibit MH-1,
21 which is the Application, the original application,
22 the diesel agreement is contained. And what it is is
23 three (3) or four (4) counterparts signed by the
24 various parties.

25 The diesel agreement had seven (7)

1 parties. It would MKO, the four (4) diesel nations,
2 Manitoba Hydro, and the Government of Canada; that's
3 the seven (7) signatories. And apparently, it's dated
4 2010, 2011, although there's some disagreement as to
5 when it actually dates back to.

6 But nonetheless, we asked the question
7 in our Information Request, is that it, what Manitoba
8 filed in Appendix 9.13 of MH-1, is that it? And is --
9 and the answer was, yes, that's it.

10 I -- I note just -- I just noticed this
11 when I was writing this -- the -- the Information
12 Request that MKO's counsel provided it to them on
13 February 7th, 2018, which is about four (4) months
14 before the Board ordered that it be produced, so Hydro
15 already had it.

16 If you look at the date of the Order
17 and the date of the answer in -- in the Information
18 Request, Hydro already had a copy.

19 And we also asked, you know, is -- is
20 it valid and enforceable and are you satisfied that
21 it's been executed by everybody? And the answers
22 were, yes.

23 So, in our submission, MKO says that
24 the 2018 Order referred to has been satisfied. The
25 settlement agreement, the diesel settlement agreement,

1 is filed in the Board. And so, if somebody wants to
2 trigger a Hearing on diesel rates or something, we've
3 -- we've done what we were asked to do and confirmed
4 that it's done.

5 So, that's the three (3) things that we
6 set out in this -- in this intervention to prove.

7 We also want to comment on the actual
8 application of the rate -- for the rate increases.
9 Now, we had the benefit -- so, this is the fourth
10 topic that we -- paragraph 32.

11 We had the benefit of -- of seeing
12 AMC's position before -- before hearing it this
13 morning. And this morning, though I wasn't physically
14 present, I was watching in the -- on the live stream,
15 and so I -- I heard it. And -- and we also have their
16 -- their brief.

17 MKO's satisfied that AMC has
18 convincingly -- convincingly argued that Manitoba
19 Hydro has not proven any revenue requirement that
20 would justify confirmation of the three (3) rates that
21 are before the Board, the 3.6 interim rate -- rate
22 increase in 2022 and the two (2) new 2 percent rate
23 increases, 2023/'24 and 2024/'25.

24 So, MKO agrees with AMC's first
25 position and endorses it, that the Board should not

1 confirm the interim rate increase and not grant the
2 two (2) new rate increases.

3 MKO also endorses, albeit with less
4 enthusiasm, AMC's alternative position of permitting a
5 rate increase of not more than 1.4 percent. If it
6 were procedurally possible for the Board to reduce
7 rates, MK would have -- would have taken that position
8 in this proceeding in light of the real hardship that
9 present electricity rates already impose on Indigenous
10 people, including MKO citizens, but that's -- that's
11 not procedurally possible. Nobody applied for that.

12 I think a rate freeze is the best MKO
13 or AMC could hope for. But nonetheless, we -- with --
14 with less enthusiasm, we would -- would support AMC's
15 alternative if the Board is convinced that a rate
16 increase is justified.

17 There's one (1) thing I wanted to
18 address. I was listening this morning, and there was
19 a question that arose about, what about energy poverty
20 by Indigenous people who are not on reserve?

21 Now, I recall this question came up in
22 one of the earlier proceedings I was at, and the
23 answers were that it's -- it's complicated because you
24 don't know how to identify those people. It was
25 something that I had hoped to cross-examine on, but I

1 will -- I will offer my thoughts for what they're
2 worth on that.

3 Many Aboriginal people carry what's
4 called a treaty card or a status card. It's a card
5 that Indigenous Services Canada, ISC, issues. It has
6 a photograph and a name; that's proof of Indigenous
7 identity. That's a form of proof. Some First Nations
8 also have a membership and -- and issue memberships.

9 I don't think it's rocket science for a
10 corporation that has, like, 28 billion -- was it \$29
11 billion in assets and computers and all that -- to add
12 a column in their accounting system, code zero for
13 non-Indigenous, 1 for Indigenous, and when people open
14 their accounts, show up with their so-called treaty
15 card or status card. And -- and when the account is
16 opened up, then -- then that's how they're coded. And
17 that would be regardless of whether they live on
18 reserve or not.

19 That -- it seems to me that people off
20 reserve should be able to do that. That's not really
21 before the Board. Nobody brought any evidence. But
22 for what it's worth, those are our thoughts on that.

23 So, in conclusion, I -- MKO thanks the
24 Board for its consideration of MKO's submission and,
25 indeed, for its attention, patience, and courtesy

1 throughout the Hearing. I'll extend that also to the
2 other parties and the lawyers. It's been a very good
3 experience. Thank you.

4 THE CHAIRPERSON: Thank you, sir.
5 I'll ask if the Panel has any questions.

6 I've got one (1) question. If there is
7 a program, other Bill Affordability Program or some
8 sort of subsidy, as an energy poverty program, would
9 you view that as a ratepayer responsibility or a
10 taxpayer responsibility, or if you have any views on
11 that?

12 Is it something where ratepayers would
13 subsidize, or is it something where the government
14 would -- for example, if it was -- if Manitoba Hydro
15 was running the program, the government would pay for
16 it? I was just wondering if you had any thoughts on
17 that.

18 MR. MARKUS BUCHART: In earlier life,
19 I was an economist, and so I think about things that
20 way. It could be done either way. That -- I guess
21 that's a policy decision.

22 On the one hand, if you look at rates
23 as sort of a self-contained system and you want to pay
24 for the -- the amelioration from that system, then it
25 could be something that could be done through the rate

1 system or through the -- as kind of a rates question.

2 But if you step back and say, well,
3 it's not really regulation of the utility, it's really
4 social policy, this was Master Ring's -- sorry, this
5 was Member Ring's -- I'm so used to calling him Master
6 Ring. This was Member Ring's decent in 2018, that it
7 should be government that -- that's doing it, that it
8 should really be a tax credit or some sort of transfer
9 from general revenue and not financed by the Utility.

10 You could do it either way, and it's
11 really just a political economy philosophical
12 question. So, I did -- I think I dodged your
13 question, but it could be done either way.

14 THE CHAIRPERSON: Yeah, you did, but
15 I'm -- I'm used to people dodging my questions.
16 Anyways, thank you very much for your presentation.
17 This concludes today's session.

18 Monday is reply. Ms. Fernandes is
19 there waiting for me to say something. As a seasoned
20 lawyer, she knows reply is intended to address new
21 arguments raised in the submissions of Interveners
22 that could not be contemplated before Manitoba Hydro's
23 initial submission.

24 So, we will await reply evidence on
25 Monday, and then conclude the Hearing. I thank you

1 all for today. It's been a long day but a very
2 interesting one. Thank you very much.

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4 --- Upon adjourning at 4:49 p.m.

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7 Certified Correct,

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11 _____

12 Wendy Woodworth, Ms.

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