

December 22, 2025

The Public Utilities Board of Manitoba  
400-330 Portage Avenue  
Winnipeg, MB R3C 0C4

**Attention: Rachel McMillin, Executive Director & Secretary**

**VIA E-MAIL**

Dear Ms. McMillin:

**Re: MANITOBA HYDRO FISCAL 2026 TO 2028 GENERAL RATE APPLICATION –  
FINAL ARGUMENT REPLY SUBMISSION**

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Please find enclosed Manitoba Hydro's Reply submission in response to the Intervener Final Arguments.

Should you have any questions with respect to the foregoing, please do not hesitate to contact the writer at 204-360-3399.

Yours truly,

**MANITOBA HYDRO LEGAL SERVICES**

Per:



**GWEN MUIRHEAD**  
Legal Counsel

Encl.

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**MANITOBA PUBLIC UTILITIES BOARD**

**IN THE MATTER OF Manitoba Hydro Fiscal 2026 to 2028 General Rate Application**

**WRITTEN REPLY SUBMISSION OF MANITOBA HYDRO**

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**INTRODUCTION**

Manitoba Hydro filed its final written argument on December 15, 2025, and its oral argument was delivered on December 16, 2025. On December 18 and 19, 2025, final written and oral arguments were delivered by interveners.

The following reply argument of Manitoba Hydro is limited to addressing a question posed by Vice-Chair Kapitany,<sup>1</sup> a request by PUB counsel,<sup>2</sup> and new arguments raised by interveners that could not have reasonably been contemplated before Manitoba Hydro delivered its final argument. Any lack of reply argument should not be construed as agreement by Manitoba Hydro to interveners' submissions.

Manitoba Hydro relies on and urges the PUB to review, in full, Manitoba Hydro's final argument filed as Exhibit MH-47 (Written Final Argument of Manitoba Hydro Volumes 1 to 4) and Exhibit MH-48 (Final Argument Presentation).

Manitoba Hydro's reply argument addresses the following issues:

1. The use of rate riders to address the impact of drought.
2. The legislative framework with respect to the PUB's approval of cost allocation methodology and rate design changes.
3. Clarification with respect to statements made by Manitoba Hydro in relation to customer choices and energy burden.
4. MIPUG's interpretation of section 39.4 of *The Manitoba Hydro Act*, specifically, the applicability of the rate cap to a reconsideration and adjustment of rates.

**1. RATE RIDER TO ADDRESS FINANCIAL IMPACTS OF DROUGHT**

At transcript pages 3903-3904, Vice Chair Kapitany asked about Manitoba Hydro's views with respect to the use of a rate rider to address the uncertainty related to the drought:

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<sup>1</sup> Transcript, December 16, 2026, at pp. 3903-3905; Question from Vice-Chair Kapitany on whether Manitoba Hydro has considered the possibility of a rate rider to deal with drought.

<sup>2</sup> Transcript, December 16, 2025, at p. 3908; Request from Mr. Hombach to review the French version of s. 39(5), Rule 4. And advise if, based on a review of that version, Manitoba Hydro's position changes.

1       *“And so, I was wondering if Manitoba Hydro had considered the possibility*  
2       *of a rate rider to deal with drought, but then could allow for the uncertainty*  
3       *that could be there if the drought continues. But if the drought doesn't*  
4       *continue, if we get significant rain as we did after the last drought, then if*  
5       *the rate could be reduced so that ratepayers then wouldn't be paying that*  
6       *cumulative amount.”*

7  
8       At transcript pages 3904-3905, Mr. Czarnecki indicated Manitoba Hydro would provide  
9       information on the record from previous GRA proceedings where Manitoba Hydro's  
10      position was previously outlined.

11  
12      During its 2023/24 & 2024/25 General Rate Application, Manitoba Hydro provided its  
13      position with respect to the use of rate riders. At the time, the matter under consideration  
14      was the use of rate riders to refund customers the revenues that had been collected  
15      through the interim rate increase approved by the PUB in Order 137/21. In its final written  
16      argument, Manitoba Hydro stated the following:

17  
18       *“During the hearing, Vice-Chair Kapitan asked whether there were*  
19       *mechanisms Manitoba Hydro could use to refund revenue collected*  
20       *through the interim rate increase. Mr. Epp opined that two options may be*  
21       *a bill credit or a rate rider for a certain amount of time. While these options*  
22       *are possible, they are administratively complex and would take*  
23       *considerable time and effort to implement and could also be difficult for*  
24       *customers to understand, particularly when the bill credit or rider expires*  
25       *and customers' bills increase.”<sup>3</sup>*

26  
27      In the current circumstances, Manitoba Hydro has interpreted questions around the use  
28      of a rate rider to be for the purposes of temporarily increasing revenues to address the  
29      impact of the drought. Manitoba Hydro's position continues to be that a rate rider would  
30      not be a practical approach in the circumstances and would not support rate stability or  
31      predictability.

32  

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<sup>3</sup> [Manitoba Hydro Final Argument, 2023/24 & 2024/25 General Rate Application](#), at p. 31.

1 Mr. Czarnecki summarized some of Manitoba Hydro's concerns with respect to the use of  
2 rate riders:

3  
4 *"... But maybe more generally speaking, how it would answer your question*  
5 *is I don't think Hydro is in support of a rate rider as you're suggesting. And*  
6 *-- and I think our preference would be that, you know, our revenues tend*  
7 *to oscillate from year to year, not only with drought, but with capital and*  
8 *other O, M&A. So, you know, in the normal course, we set rates and they*  
9 *are projected in the short term in the long term, and they're to factor in all*  
10 *that oscillation that's going to occur. And, you know, I can -- Ms. Van*  
11 *Husson (sic) is probably thinking in her mind about, you know, how would*  
12 *a rate rider apply with respect to demand charges, for example. Like, I think*  
13 *it would get fairly complex."*<sup>4</sup>  
14

15 Generally, a rate rider is meant to be a temporary charge, separate from the base rates  
16 charged to customers and typically for the purposes of recovering a discrete amount.  
17 Drought impacts Manitoba Hydro's extraprovincial revenues and a number of cost  
18 components, such as finance expense, fuel and power purchases, and water rentals.  
19 Depending upon how one defines cost incurred due to drought, a rate rider required to  
20 address those costs could well exceed the reasonable tolerance of Manitoba Hydro  
21 customers and the legislated rate cap. For example, as noted in Manitoba Hydro's  
22 response to the Undertaking Accepted at Page #1440, incremental borrowings and net  
23 debt is expected to be approximately \$639 million higher than what was originally  
24 projected; recovery through a rate revenue rider mechanism would result in an  
25 approximate rate rider of 31.5%, to be in place for twelve months.

26  
27 The financial impacts of the drought are not limited to a single year but, rather, impact  
28 the entire financial horizon through increased borrowing requirements, finance expense,  
29 and reduced level of retained earnings. It will take time to recover from the financial  
30 impacts due to the extent of the drought and, treating a portion of the rate increase as a  
31 temporary rider eliminates the compounding effect from future base rates which is a key  
32 and underlying aspect of financial recovery. As outlined in Manitoba Hydro's written final  
33 argument, the proposed 3.5% rate increases are based on a long-term view of rate-setting

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<sup>4</sup> Transcript, December 16, 2025, at pp. 3904-3905.

1 that recognizes that there will be fluctuations in financial results from year to year. Rate  
2 relief granted specifically to address the impacts of the drought will generate additional  
3 revenues over the forecast horizon that will allow Manitoba Hydro to maintain its debt at  
4 current levels and rebuild retained earnings over time.

5  
6 An additional complication of rate riders is that they may be in the form of an additional  
7 line item on the bill (e.g., percentage of the bill) or an add-on to base rates, such as in the  
8 form of a cent per kilowatt hour rate. Given the varying nature of existing rate structures  
9 by customer class, where there is a combination of energy, demand and basic charges, a  
10 rate rider based solely on a cents per kilowatt hour would result in recovery from customer  
11 classes that differs from underlying cost allocation assumptions.

12  
13 As noted by Mr. Bowman, the use of temporary riders can result in rate instability:

14  
15 *"I think BC Hydro has a -- has a lot of their -- their export and import*  
16 *purchases flow through a rider deferral -- DAR it's called Deferral Account*  
17 *Rate rate rider, I believe, and it changes quite frequently. And it -- it*  
18 *addresses some of these changes in water flows and export prices and*  
19 *things. That's the tool they've chosen to use. That's not the tool we've --*  
20 *we've tended to use in Manitoba, and it -- it comes at the expense for sure*  
21 *of rate stability and predictability."*<sup>5</sup>

22  
23 Ms. Davies also characterized the BC Hydro model as "lumpy".<sup>6</sup>

24  
25 If, alternatively, the question around rate riders from Vice Chair Kapitaný contemplates a  
26 scenario where a portion of the overall rate increase is attributed to the impacts of  
27 drought, conceivably this could be defined as the annual expense associated with the  
28 additional borrowings, estimated to be approximately \$30 million over the first decade of  
29 the forecast,<sup>7</sup> which equates to a roughly 1.5% rate increase. However, treating this  
30 amount as a rate rider suggests that there is a trigger for returning to a lower level of base  
31 rates. It is unclear to Manitoba Hydro what this would be, as a return to favourable water

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<sup>5</sup> Transcript, December 11, 2025, at p. 3714.

<sup>6</sup> Transcript, December 3, 2025, at p. 2772.

<sup>7</sup> Manitoba Hydro Undertaking Accepted at Page #1440, [Exhibit No. MH-43].

conditions alone would not alleviate the continued and ongoing financial impacts of the drought.

As described in response to COALITION/MH I-19, Manitoba Hydro produces updated financial forecasts that reflect changes in key assumptions and the impact of financial results from prior years. The updated financial forecasts are the basis for the determination of a proposed rate path. Low water conditions have resulted in significant cumulative net losses over four of the last five years and the financial impacts will endure through the forecast horizon. These impacts are not temporary. In Manitoba Hydro's view, favourable water conditions that result in incremental revenues to Manitoba Hydro serve to reduce the amount of revenue requirement that must be recovered from customers in future rates. In effect, the financial forecast and future rate path is the mechanism by which rates would be adjusted to reflect any positive impact of favourable water conditions.

## **2. LEGISLATIVE FRAMEWORK FOR APPROVAL OF COST ALLOCATION METHODOLOGY CHANGES**

On Tuesday, December 16, 2025, PUB counsel requested that Manitoba Hydro review the French version of Rule 4 of s. 39(5) of *The Manitoba Hydro Act* and advise if, based on a review of that version, the corporation's position on the interpretation of that section (as set out on page 19 of its Final Argument – Volume 4) changes.

As stated by the Manitoba Court of Appeal in *5185603 Manitoba Ltd. et al v. Government of Manitoba et al*, [2023 MBCA 47](#):

[21] Our statutes are, by virtue of section 23 of the *Manitoba Act, 1870*, SC 1870, c 3, constitutionally mandated to be bilingual in French and English (see also section 7 of *The Interpretation Act*, CCSM c I80). The law relating to bilingual interpretation of legislation was discussed in some detail by this Court in the case of *Friesen (Brian Neil) Dental Corp et al v Director of Companies Office (Man) et al*, 2011 MBCA 20 (at para 24):

The two fundamental rules of interpretation applying to bilingual legislation are described in The Honourable Mr. Justice

Michel Bastarache *et al.*, *The Law of Bilingual Interpretation* (Markham: LexisNexis Canada Inc., 2008) as follows (at p. 15):

The bilingual model is based upon two fundamental principles, which we will discuss in this section. The first principle is the Equal Authenticity Rule. According to this rule, both the English and French versions of a statute are equally authentic statements of legislative intent, and neither one is supreme or paramount over the other. The second principle is the Shared Meaning Rule. This rule provides, in short, that both versions of the statute are expressions of the same legislative intent and that courts interpreting statutes should, as far as possible, attempt to ascertain that intent through a determination of the shared or common meaning of the two versions.

Manitoba Hydro has considered the meaning of Rule 4 of section 39(5) in both official languages, set out below:

English	French
<b>Rules for approving or varying rates</b> <b>39(5)</b> The following rules apply to the approval or variation of rates by the regulator: [...] 4. Subject to the policies set out in section 39.1, the corporation may propose changes to its cost allocation method or rate design, and the regulator may approve or disallow those changes or require the corporation to make other changes to them. But the regulator may not require a change to the classification	<b>Règles d'approbation ou de modification des tarifs</b> <b>39(5)</b> Les règles qui suivent s'appliquent à l'approbation et à la modification des tarifs par l'autorité de réglementation : [...] 4. Sous réserve des politiques énoncées à l'article 39.1, la Régie peut proposer des modifications à sa méthode de répartition des coûts ou à sa conception tarifaire, et l'autorité de réglementation peut approuver ou refuser ces modifications ou demander à la Régie d'y apporter d'autres

of customers for rate-setting purposes that has not been proposed or agreed to by the corporation.	modifications. Toutefois, elle ne peut pas demander une modification à la classification des clients à des fins de fixation des tarifs si cette modification n'a pas été proposée ou acceptée par la Régie.
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1  
2 In Manitoba Hydro's view, there is no discrepancy between the English and French  
3 versions of Rule 4 of section 39(5); however, consideration of the French version of the  
4 section has not altered Manitoba Hydro's interpretation that the PUB's jurisdiction is  
5 limited to approving, disallowing, or requiring other changes be made to cost allocation  
6 methods or rate designs that are based on proposals made by Manitoba Hydro.  
7  
8 The Coalition submits that the word "but" (or, "toutefois") contrasts between "what the  
9 Board can do [...] against something that the Board clearly cannot do."<sup>8</sup> MIPUG presents  
10 a similar argument.<sup>9</sup> Manitoba Hydro agrees that the word "but" is meant to signal a  
11 contrast in the PUB's powers, however the contrast is with respect to the PUB's jurisdiction  
12 to change the classification of customers (where Manitoba Hydro has to either propose  
13 or agree to the change) and the PUB's jurisdiction to make a change to Manitoba Hydro's  
14 cost allocation methods/rate design (where the PUB can either approve, disallow, or  
15 require the corporation to make other changes to the cost allocation method/rate design  
16 proposal made by Manitoba Hydro).  
17  
18 Manitoba Hydro has reviewed the submissions of Coalition,<sup>10</sup> MIPUG,<sup>11</sup> and GSS/GSM<sup>12</sup>  
19 on this issue. Considering it must be assumed that each of the words set out in the section  
20 have meaning, Manitoba Hydro submits that the interveners have ignored the meaning  
21 of the starting words "the corporation may propose changes to its cost allocation method  
22 or rate design" ("la Régie peut proposer des modifications à sa méthode de répartition  
23 des coûts ou à sa conception tarifaire") in their respective analyses. The legislature chose  
24 to include reference to the corporation proposing changes in the rule and Manitoba Hydro  
25 submits that a reasonable interpretation of this section is the one advanced by Manitoba

<sup>8</sup> Transcript, December 18, 2025, at pp. 4048-4049.

<sup>9</sup> MIPUG Final Written Argument, at p. A-13 [Exhibit MIPUG-25].

<sup>10</sup> Consumers Coalition Closing Submissions, at p. 132 [Exhibit CC-39]; Transcript December 18, 2025, at pp. 4048-4049.

<sup>11</sup> MIPUG Final Written Argument, at pp. A-11-14 [Exhibit MIPUG-25].

<sup>12</sup> GSS-GSM Final Written Argument, at pp. 25-26 [Exhibit GSS-GSM-16].

Hydro. Before the PUB can require the corporation to make other changes to the cost allocation method/rate design (“demander à la Régie d’y apporter d’autres modifications”), the change has to first be put in issue before the PUB by Manitoba Hydro.

In the event the PUB disagrees with Manitoba Hydro’s interpretation of this section, the corporation has nonetheless addressed the interveners’ recommendations on cost allocation methods/rate design changes in Volume 4 of its Final Written Argument.

### **3. MS. GALBRAITH’S EVIDENCE ON CUSTOMER CHOICES**

In closing submission, counsel for AMC argued that AMC’s interpretation of Ms. Galbraith evidence that “non-payment may be a matter of customer choice” is a problematic line of reasoning and attributes Ms. Galbraith’s evidence to First Nations customers’ choices.<sup>13</sup> Ms. Guglielmin stated in her closing argument that “was not explicitly stated” by Manitoba Hydro, however, Manitoba Hydro believes it’s important to clarify the context of Ms. Galbraith’s evidence on customer choices.

During cross-examination by PUB counsel on December 1, 2025, the Customer, Rates and Cost of Service panel was asked about Manitoba Hydro’s evidence on bill affordability (starting on transcript page 2298). Ms. Galbraith’s responses to some of Mr. Peters’ questions, including where she references customers making choices that lead them to disconnection, is set out below:

*“MR. BOB PETERS: Why has Manitoba Hydro not designed programs to reduce the energy burden for some of your customers?”*

*MS. COLLEEN GALBRAITH: Manitoba Hydro does not have access to all individual's income information. So, what we use is our Residential Energy Use survey which gives us a representative sample. And so that helps inform the various programs but also with targeted engagements with various groups. So, really, we lack the data to be able to target for solely energy burden.*

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<sup>13</sup> Transcript, December 18, 2025 (E. Guglielmin), at p. 4129.

1       MR. BOB PETERS: I'm not understanding that answer, Ms. Galbraith. You've  
2       done an energy survey, you know how many customers Manitoba has --  
3       Manitoba Hydro has that are under the LICO-125 25 category. Correct?  
4

5       MS. COLLEEN GALBRAITH: Correct.  
6

7       MR. BOB PETERS: Can your programs not target those individuals as a  
8       starting point?  
9

10      MS. COLLEEN GALBRAITH: So that's a great question, Mr. Peters. One of  
11      the challenges that Manitoba Hydro faces, and while we use this to inform  
12      our program design, when we have participants going through the various  
13      programs that Manitoba Hydro offers, we're not necessarily collecting  
14      information on all of them. So, you might see in future residential energy  
15      surv -- use surveys where there might be a reduction or a change in that  
16      energy poverty or energy burden representative sample. But we cannot  
17      directly tie the programs that we have to an impact on that. We would have  
18      to wait until the next survey.  
19

20      MR. BOB PETERS: Well, Ms. Galbraith, you are dealing with a Manitoba  
21      Hydro customer who is, in my words, at risk of disconnection. Correct?  
22

23      MS. COLLEEN GALBRAITH: Correct.  
24

25      MR. BOB PETERS: And while you're dealing with that customer are you -- is  
26      Manitoba Hydro able to assess whether there is any barriers to energy  
27      affordability for that customer?  
28

29      MS. COLLEEN GALBRAITH: So, each customer that is struggling with -- or  
30      potentially facing disconnection, could be as a result of a lack of income. It  
31      could also be on personal choices that the customer is making. And I know  
32      that we've testified in previous hearings before this Board where that we

1           *do see other customers, who are not necessarily struggling financially,*  
2           *making choices that lead them to disconnection.”<sup>14</sup>*  
3

4 Ms. Galbraith’s comment regarding personal choices made by customers who are facing  
5 disconnection was made in the context of Manitoba Hydro not being able to assess  
6 whether its bill affordability programs are targeting customers experiencing energy  
7 poverty as Manitoba Hydro does not collect customer income information. As a result, her  
8 evidence was that a customer facing disconnection could be in that position due to lack  
9 of income, or a personal choice made by the customer.  
10

11 Later, during cross-examination by Ms. Guglielmin, Mr. Galbraith was asked about  
12 whether customers in receipt of social assistance struggle with energy poverty. Ms.  
13 Galbraith’s evidence is set out below:  
14

15           *“MS. EMILY GUGLIELMIN: And so, I think I would like to ask a few questions*  
16           *about the Neighbours Helping Neighbours and the Income Assistance*  
17           *Program more specifically. Manitoba Hydro trialed a program to allow*  
18           *provincial social assistance recipients access to the Neighbours Helping*  
19           *Neighbours grant. And I understand this resulted in approximately 45*  
20           *grants awarded during the trial period or 26 percent of grants. Is that*  
21           *correct?*  
22

23           *MS. COLLEEN GALBRAITH: That is correct.*  
24

25           *MS. EMILY GUGLIELMIN: Does this indicate to Manitoba Hydro that social*  
26           *assistance recipients may still struggle with energy poverty or an energy*  
27           *burden?*  
28

29           *MS. COLLEEN GALBRAITH: Not necessarily. The recipients that received the*  
30           *grants are -- are provided cash directly for them to administer as to how*  
31           *they would allocate the funds. And as I've commented before, people make*  
32           *choices in how they would allocate the funds, particularly maybe around in*

---

<sup>14</sup> Transcript, December 1, 2025, at pp. 2299-2230.

1           *this case paying for the utility bill. So, I don't know that I could infer that*  
2           *conclusion.*"<sup>15</sup>

3

4       Ms. Galbraith's evidence regarding choices made by customers who receive a Neighbours  
5       Helping Neighbours ("NHN") grant was that she could not necessarily agree that social  
6       assistance recipients also in receipt of a NHN grant struggle with energy poverty or an  
7       energy burden.

8

9       Later, Ms. Guglielmin posed a question to Ms. Galbraith about choice versus energy  
10      poverty and erroneously implied that Ms. Galbraith's earlier evidence had been specific  
11      to First Nations on reserve customers:

12

13           *"MS. EMILY GUGLIELMIN: And I've heard you say earlier, you can't affirm --*  
14           *you can't confirm that the amount of arrears and the proportion of the*  
15           *amount of arrears for First Nations on reserve customers is attributable to*  
16           *energy poverty. I think I heard you say it came down to choices. But my*  
17           *question is that Manitoba Hydro doesn't have the data to assess what's*  
18           *coming down to choice versus what's coming down to energy poverty. Is*  
19           *that correct?*

20

21           *MS. COLLEEN GALBRAITH: On an individual customer level? That is correct.*

22

23           *MS. EMILY GUGLIELMIN: But do you agree that things like write-offs,*  
24           *arrears and disconnected accounts can be utilized as metrics of bill*  
25           *affordability?*

26

27           *MS. COLLEEN GALBRAITH: They could be considerations for it. Correct.*"<sup>16</sup>

28

29      Overall, Ms. Galbraith's evidence demonstrates that Manitoba Hydro cannot determine  
30      energy poverty levels of its customers as it does not collect customer income information.

31

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<sup>15</sup> Transcript, December 1, 2025, at pp. 2341-2342.

<sup>16</sup> Transcript, December 1, 2025, at pp. 2363-2364.

Manitoba Hydro urges the PUB to reject AMC's argument that Manitoba Hydro believes First Nations customer arrears are high because those customers are choosing not to pay their bills. That was not Ms. Galbraith's evidence and is certainly not Manitoba Hydro's position. As stated by Manitoba Hydro in its final written argument:

*"Understanding energy burden, both on- and off-First Nations, is important to Manitoba Hydro for targeting supports to customers who need assistance with paying their energy bills. Energy burden is a complex, multifaceted issue influenced by numerous empirical and contextual factors including housing age and quality, heating source, household size, and climate."<sup>17</sup>*

**4. MIPUG'S INTERPRETATION OF THE APPLICABILITY OF RATE CAP TO A RECONSIDERATION OF RATES APPLICATION UNDER S. 39.4(1)**

While the PUB is not required to make a determination on whether the 4% maximum rate cap applies to a reconsideration of rates application as it is a hypothetical future proceeding, Manitoba Hydro submits that MIPUG's analysis supporting its argument that the 4% rate cap would apply is flawed. In particular, Manitoba Hydro submits that MIPUG's interpretation could produce absurd consequences. As noted by the Supreme Court of Canada in *Rizzo & Rizzo Shoes*:

27 [...] It is a well established principle of statutory interpretation that the legislature does not intend to produce absurd consequences. According to Côté, *supra*, an interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or if it is incompatible with other provisions or with the object of the legislative enactment (at pp. 378-80). Sullivan echoes these comments noting that a label of absurdity can be attached to interpretations which defeat the purpose of a statute or render some aspect of it pointless or futile (Sullivan, *Construction of Statutes, supra*, at p. 88).<sup>18</sup>

<sup>17</sup> Manitoba Hydro's Written Final Argument: Vol 4, at pp. 13-14 [Exhibit No. MH-47-4].

<sup>18</sup> *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27.

MIPUG submits, at page A-10 and page 2-7 of its final written argument, that in a reconsideration process, a 4% rate cap applies for two reasons.

First, MIPUG argues that because s. 39 of *The Manitoba Hydro Act* (the “Act”) applies in a reconsideration of rates, it includes the rate rules the PUB must apply in the approval or variation of rates, which includes Rule 2(d) in s. 39(5). MIPUG argues, as a result, the Act incorporates s. 39.2(1) (the rate cap) by reference in a reconsideration process.

However, MIPUG ignores the fact that subsection 39.4(3) explicitly references sections 39 and 39.1 of the Act in a reconsideration and adjustment of rates.<sup>19</sup> Rule 2(a) in section 39(5) references “the policies set out in section 39.1”. It does not make sense that the legislature would explicitly include one of the Rules set out in section 39(5) (the requirement that the PUB take into account and be guided by the policies set out in section 39.1<sup>20</sup>), but not another (the requirement that the PUB take into account and be guided by the maximum general rate increase allowed for a fiscal year determined under section 39.2<sup>21</sup>), and intend for both to apply in a reconsideration application. Such a result would lead to an absurdity. Manitoba Hydro submits that if the legislature had intended the rate cap to be a constraint on a reconsideration process, it would have specifically referenced section 39.2(1) in the same manner as it references section 39.1.

Second, MIPUG argues that because the 4% maximum rate increase cap under subsection 39.2(1) applies as a test from one fiscal year to the next, and not to any specific rate change, the 4% maximum rate increase applies to the reconsideration process. Manitoba Hydro points out that if the PUB approves a 4% rate increase for any fiscal year, it would render the reconsideration process moot even if a “material difference” arises between the corporation's actual or projected financial results, determined on a cumulative basis since the beginning of that period, and the financial results projected for that period in the rate application for that period. Given the extraordinary circumstances for which the reconsideration process is reserved,<sup>22</sup> Manitoba Hydro submits that such a result cannot be what was intended by the legislature.

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<sup>19</sup> *The Manitoba Hydro Act*, s. 39.4(3).

<sup>20</sup> *The Manitoba Hydro Act*, s. 39(5), Rule 2(a).

<sup>21</sup> *The Manitoba Hydro Act*, s. 39(5), Rule 2(d).

<sup>22</sup> Manitoba Hydro’s Written Final Argument, Vol. 2, at pp. 58-60 [Exhibit No. MH-47-2].