

# Manitoba Hydro Presentation to CEAA Expert Review Panel

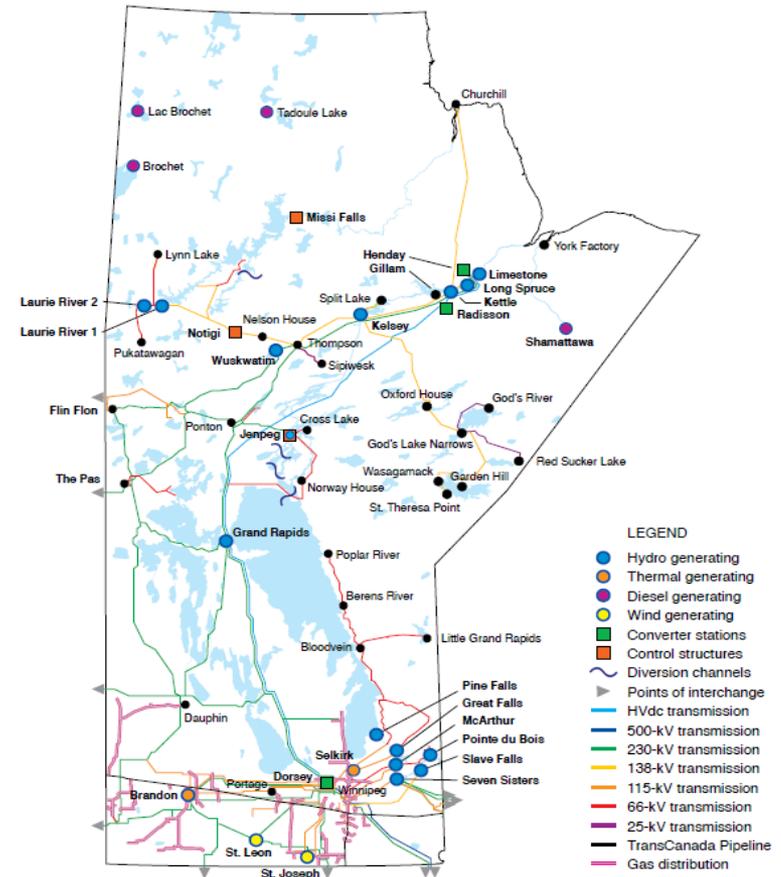
November 16, 2016

Robert D. Bettner  
Senior Counsel



# Manitoba Hydro System

- Core generation is from water power - 15 hydropower stations
  - 5,200 MW developed\*
  - 5,000 MW remaining potential\*
- 99% of electricity generated in Manitoba is renewable
- 260 MW contracted wind
- 2 thermal generating stations primarily for backup
- US import capability critical to meet seasonal peaks and provide backup in event of failure or prolonged drought



# CEAA 2012

- CEAA 2012 strikes an appropriate balance by focusing on projects likely to cause adverse effects without impairing or weakening environmental protection.
- Provides industry, stakeholders and indigenous groups with clarity of process, greater efficiency, improved timeliness and reduced duplication between federal and provincial processes through:
  - Simplified trigger mechanism – Designated Project List;
  - Reduced number of Responsible Authorities with each having requisite expertise;
  - Clear timelines for completion of assessment reviews;
  - Focusing assessment activities on larger projects in areas under federal jurisdiction and on activities that may have real environmental consequences; and

# CEAA 2012

- Removal of “Needs for and Alternatives to” analysis which is better performed by provincial bodies.
- **These improvements brought about through CEAA 2012 in comparison to previous legislation are important and should not be lost.**

# Environmental Regulation

- Similar to other hydro producers, Manitoba Hydro is rigorously regulated under both federal and provincial statutes.
- All large Manitoba Hydro projects are subject to Environmental Assessment under provincial legislation with some projects being assessed under federal legislation as well.
- Concurrent with statutory requirements Manitoba Hydro embraces the need to demonstrate environmental stewardship, maintain its social licence as a resource developer and engage with indigenous peoples in a respectful and mutually beneficial manner.
- **What is essential is a process which is:**
  - **Consistent, predictable and stable over time;**
  - **Efficient and timely;**
  - **Coordinated with provincial processes**
  - **Broadly supportable; and**
  - **Consistently applied by the three Responsible Authorities.**

# Manitoba Hydro Perspective on Issues Identified by the Panel

- Environmental Assessment
  - A mechanism to collect, synthesize and present information on the potential environmental effects of a project to inform decision makers.
  - A means by which the interested public can learn about a project and make their views known.
  - Policy issues surrounding a project and other similar developments would be more appropriately dealt with through an SEA process.
  - A mechanism to engage indigenous peoples on project issues and identify their perspectives and incorporate traditional knowledge.
  - A predictive system which serves as the basis of monitoring and follow-up which determines additional monitoring, follow-up, adaptations required and any additional mitigative measures.
  - Proponent led one project, one assessment process

# Manitoba Hydro Perspective on Issues Identified by the Panel (2)

- Indigenous Considerations
  - Can not be prescriptive. Must develop from a relationship.
  - Manitoba Hydro has, in addition to project-specific agreements, other process agreement requirements to facilitate early pre-project engagement on future developments and annual discussions.
  - Successful engagement springs from ongoing relationships developed prior to any project specific process.
  - Relationships can also be forged from early ongoing project specific engagement on topics such as, project plans, training, business opportunities, involvement in crafting the EA document and ongoing involvement in monitoring activities .
  - Government must still meet its obligations to consult and can not minimize the duty under procedural delegation.
  - Government must still analyze rights and title issues.

# Manitoba Hydro Perspective on Issues Identified by the Panel (3)

- EIS Content
  - Must contain best proven science along with traditional knowledge.
  - TK can be blended into the EIS through joint studies or a series of separate chapters depending on the nature of the relationship and the will of the parties.
- Public Involvement
  - Proponents and governments can only provide opportunities.
  - Governments can make improvements to create and enhance searchable data bases
  - Manitoba Hydro generally has multiple rounds of public consultation and endeavour's to engage the public through a variety of media.
  - Opportunities exist at the provincial level (depending on the type of project) to participate in Manitoba Clean Environment Commission pre-hearing and hearing processes on project effects, Public Utilities Board processes on justification and comment opportunities on EIS documents and initial scoping documents.

# Improvements for Consideration

- Develop a formal process to amend *Decision Statement Conditions*. This would support adaptive management and allow more responsiveness to project alterations in the latter stages of engineering.
- Establish formal mechanisms to facilitate timely adjustments to monitoring programs as results require.
- Develop and implement policies to ensure that permit conditions emanating from other federal authorities are aligned with the findings of the Environmental Assessment and the conditions set out in the Decision Statement. This will require coordination with other concurrent reviews.

# Improvements for Consideration (2)

- Establish policies and procedures to regulate the ability to “stop the clock” on legislated timelines
- Governments should be encouraged to cooperatively undertake *Strategic Environmental Assessments* and *Regional Assessments* to provide better focus for proponent led project specific assessments.
- Review and update policies and guidance documents to provide clarity for all stakeholders on implementation of the *Calls for Action* and *Declaration of the Rights of Indigenous People*.
- Federal and provincial governments must resolve duplication issues and make greater use of delegation and substitution provisions and renew harmonization/cooperation agreements.

# Manitoba Hydro Recommendations

- CEAA 2012 is barely 4 years old. This review focus its recommendations on policy and process improvements versus, repealing, replacing or seeking major amendments to the Act.
- Moving back to the previous Act or implementing a new process fosters uncertainty and delay. There is no evidence to suggest that such retrograde steps would enhance environmental protection.
- The priority must be on fine tuning a responsive process through policy refinement, guidance and necessary regulatory improvements.

# Manitoba Hydro Recommendations (2)

- Above all the process must facilitate and encourage flexibility to accommodate regional differences, cultural differences and a variety of projects with varying effects.
- There can be no “one size fits all” if we are to meet the goals of:
  - promoting greater involvement and the forging of new relationships with indigenous peoples and communities; and
  - encouraging greater involvement of non-indigenous stakeholders.

# Conclusion

- Manitoba Hydro will through its written brief (to be filed) elaborate on the brief comments herein and would be pleased to respond specifically to any issues as requested by the Panel.
- Thank you for the opportunity to present today.
- Questions?