

1 New Brunswick Board of Commissioners of Public Utilities

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5 In the Matter of an application by the NBP Distribution &
6 Customer Service Corporation (DISCO) for changes to its
7 Charges, Rates and Tolls

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10 Delta Hotel, Saint John, N.B.

11 September 28th 2005

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30 New Brunswick Board of Commissioners of Public Utilities

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In the Matter of an application by the NBP Distribution & Customer Service Corporation (DISCO) for changes to its Charges, Rates and Tolls

Delta Hotel, Saint John, N.B.
September 28th 2005

CHAIRMAN: David C. Nicholson, Q.C.

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BOARD COUNSEL: Peter MacNutt, Q.C.

BOARD STAFF: Doug Goss
John Lawton
John Murphy
Arthur Adelberg
Steve Garwood

Board Secretary: Lorraine Légère

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CHAIRMAN: Good morning, ladies and gentlemen. Sorry for the ten minute delay. But Mr. Hashey shared with Board counsel and I believe with all of you a proposed schedule going forward, which is very helpful. I had better get appearances on the record and then we will go back to that proposed schedule.

Mr. Morrison, who is here with the Applicant today?

1 - MR. MORRISON: Terry Morrison and David Hashey. And our
2 witness panel, Roch Marois, Neil Larlee and Malcolm
3 Ketchum.

4 CHAIRMAN: Thank you, sir. And the Canadian Manufacturers &
5 Exporters?

6 MR. PLANTE: Dave Plante appearing on behalf of CME New
7 Brunswick.

8 CHAIRMAN: Thanks, Mr. Plante. Conservation Council?
9 Eastern Wind? Enbridge?

10 MR. MACDOUGALL: David MacDougall appearing on behalf of
11 ENbridge Gas New Brunswick, Mr. Chair. And I am joined
12 today by Ruth Yorke of Enbridge.

13 CHAIRMAN: Thank you, Mr. MacDougall. The Irving Group?

14 MR. BOOKER: Mr. Chair, Andrew Booker and Thomas Storrington
15 for the Irving companies.

16 CHAIRMAN: Thanks, Mr. Booker. Jolly Farmer? Rogers Cable?
17 The self-represented individuals? And the Municipal
18 Utilities?

19 MR. GORMAN: Good morning, Mr. Chair and members of the
20 Board. Raymond Gorman appearing as counsel for the
21 Municipal Utilities. This morning I am joined by Charles
22 Martin and Pierre Roy from Edmundston Energy, Dana Young
23 and Jeff Garrett from Saint John Energy and our
24

1 consultant, Paula Zarnett.

2 CHAIRMAN: Good. Thanks, Mr. Gorman. Vibrant Communities?

3 MR. PEACOCK: Good morning, Mr. Chair. Kurt Peacock here.

4 CHAIRMAN: Good. Thank you, Mr. Peacock. And the Public
5 Intervenor?

6 MR. HYSLOP: Good morning, Mr. Chair. Peter Hyslop with Mr.
7 Knecht, Mr. Barnett, Ms. Young and Ms. Power. Thank you.

8 CHAIRMAN: Good. Thanks, Mr. Hyslop. Mr. MacNutt, who is
9 with you today?

10 MR. MACNUTT: I have with me today, Mr. Chairman, Doug Goss,
11 Senior Advisor, John Murphy, Consultant, Arthur Adelberg,
12 Consultant, and Steve Garwood, Consultant.

13 CHAIRMAN: Thanks, Mr. MacNutt. Okay. Back to the
14 tentative scheduling. It looks fine to me, Mr. Hashey,
15 with the exception, frankly, the Board would prefer if you
16 think that the schedule up to and including the 8th of
17 November is all meetable, that rather than having
18 submissions on the 9th and the 10th, that we go to the
19 next week.

20 MR. HASHEY: Yes, Mr. Chairman. I believe the problem with
21 the next week is that Mr. Gorman at least had a commitment
22 during the first part of the following week.

23 CHAIRMAN: That is the last week of hunting season, I

24 - 1022 -

25 believe, isn't it, Mr. Gorman?

1 MR. HASHEY: I don't think --

2 MR. GORMAN: I wouldn't know.

3 MR. MACDOUGALL: Mr. Chair, I am also unavailable on that
4 week because having -- we were trying to use the days in
5 the actual schedule. I am in another hearing all of the
6 following week.

7 CHAIRMAN: All right. That is the difficulty. And I
8 appreciate that. I guess the Board's experience in the
9 past has been that after the close of the record of
10 evidence, if there are a few days between then and the
11 time for summation, it gives the Board the opportunity to
12 review the evidence and I'm sure counsel as well, for the
13 parties, so that we are better prepared for the summation
14 and perhaps to lead counsel to address certain matters
15 that otherwise we would be playing a catch-up on. If we
16 can't do it, we cant do it.

17 The thought just crossed my mind, what about if we were to
18 simply go ahead with the evidence on the load forecast for
19 the 9th and 10th and then go over to November 21 and 22
20 for the submissions on CARD and then load forecast?

21 Anybody any thoughts on that?

22 MR. HASHEY: I guess from a personal preference, the 10th is
23 a day that I can't be here for medical reasons, not for -

24 1023 -

25 professional. But if you wish to do that, I am sure that

1 that would be fine. Mr. Morrison could be here. I don't
2 think the load forecast hearing should be long. We had a
3 discussion with the various counsel yesterday and I get
4 the sense that it won't be very, very extensive. But I
5 know there will be questions from the Board and others,
6 so, that's fine.

7 CHAIRMAN: Frankly, Mr. Hashey, I agree with you, because
8 as I think we have said before, we are just going to do
9 the test year load forecast in this portion of the hearing
10 so I can't anticipate that taking a great length of time.

11 MR. HASHEY: That would be fine. Can I make one other
12 comment?

13 CHAIRMAN: Yes, sure.

14 MR. HASHEY: Mr. Gorman had a commitment on a professional
15 matter on the 23rd and we would prefer that if we go into
16 November for the argument, rather than the 22nd and the
17 23rd, it might be the 21st and 22nd, which is the Monday,
18 Tuesday?

19 CHAIRMAN: I think I had asked if we were able to, to hold
20 all those dates. And I see on the calendar here, this
21 room is available on that entire week or most of it,
22 anyway. So I see nothing wrong with the 21st, 22nd.

23 MR. MACDOUGALL: Mr. Chair, again as I say, because those -

24 1024 -

25 days were not in the earlier hearing, I am actually in a

1 hearing that week, the week of the 14th and the 21st I am
2 totally unavailable because I am in another two week
3 hearing. So we were trying to stay within the actual
4 schedule of days. That is the difficulty I have.

5 CHAIRMAN: Oh I -- sorry, I misunderstood, Mr. MacDougall.
6 Because here on what I have is the 21, 22 is the load
7 forecast.

8 MR. MACDOUGALL: No, I had told counsel yesterday that we
9 would not have to participate in the load forecast hearing
10 and that is why that -- those two days were allowed for
11 the load forecast. Because not all parties need to
12 participate in that and that is the agreement we had made
13 with counsel. But I am not available on those days but
14 was not planning to be here for the load forecast, Mr.
15 Chair.

16 CHAIRMAN: All right. Thanks, Mr. MacDougall. Mr. Hashey,
17 we will go ahead with the schedule as is and as we get
18 closer to the end, we hopefully will be able to get a
19 little light between the end of the evidence in reference
20 to the CARD and the submissions. If nothing else, at
21 least a half a day. I would rather see a day at minimum
22 but we will go from there.

23 MR. HASHEY: Mr. Chairman, would that be for tentative -

24 1025 -

25 planning the 21st and 22nd for the load forecast rather

1 than the 22nd and 23rd? Would that be --

2 CHAIRMAN: That is certainly all right with the Board.

3 MR. HASHEY: It certainly would meet Mr. Gorman's
4 requirements. I think that would be fine with all the rest
5 of us.

6 MR. GORMAN: Mr. Chairman, just one other point. And that
7 is setting a time slot for Paula Zarnett to provide her
8 direct evidence. And we talked about November the 7th
9 amongst the parties and that seemed to work with
10 everybody. Is that acceptable to the Board?

11 CHAIRMAN: Oh yes. And that is on the schedule, Mr. Gorman,
12 and we will go with that schedule. That is fine. And as
13 I say, anything that would be done would be just to see
14 how much room we have got to manoeuvre a little bit with
15 available dates as we get closer to the event. But
16 certainly I understand that Ms. Zarnett is not on this
17 continent for some considerable length of time so we will
18 keep that in mind.

19 MR. GORMAN: Thank you.

20 CHAIRMAN: Anybody else have any difficulty with the
21 schedule as it now stands? Okay, if not, we will stick
22 with that. All right. Any other preliminary matters? If
23 not I guess, Mr. Gorman, it is a continuation of your
24 cross. - 1026 - Cross by Mr. Gorman -

25 MR. GORMAN: Thank you, Mr. Chairman and members of the

1 Board.

2 CROSS EXAMINATION BY MR. GORMAN:

3 Q.635 - Mr. Larlee, if I could just follow up on a line of
4 questioning from yesterday. Would it be fair to say that
5 Disco is recommending up to a 10 percent spread in the
6 rates to the two groups of customers served from the
7 transmission system that is not directly related to their
8 allocated costs?

9 MR. LARLEE: Do you have a reference that I could look at to
10 support that assertion?

11 Q.636 - Well, essentially the revenue to cost ratio being
12 recommended for wholesale was 1.05. And the revenue to
13 cost ratio being recommended for large industrial was .95.
14 Am I incorrect in saying that that is up to a 10 percent
15 spread?

16 MR. LARLEE: Well, I think the key here is that in both
17 cases the revenue to cost ratios fall within the range of
18 reasonableness approved by the Board of 95 to 105.

19 Q.637 - I appreciate your answer. But the question simply is
20 is it fair to say that you are recommending up to a 10
21 percent spread? I didn't ask you about the reasonableness
22 of it but about the spread.

23 MR. LARLEE: I wouldn't characterize it as a spread in

24 - 1027 - Cross by Mr. Gorman -

25 rates. It is a difference in the revenue to cost ratio.

1 Revenue to cost ratio for the large industrial class is
2 .953. The revenue to cost ratio for wholesale is 1.05.

3 Q.638 - Okay. So you do agree then that it is 10 points. Or
4 I guess I would characterize it as 10 percent.

5 Can you tell me then, if one group is 5 points or 5
6 percent over 1 and one group is 5 points or 5 percent
7 under 1, can you express that for me in dollar figures?

8 So first of all, with respect to the large industrials can
9 you tell me how much that 5 percent below 1 would
10 represent in dollar figures?

11 MR. LARLEE: The revenue to cost ratio is based on two
12 numbers, the revenue and the cost. Are you looking for a
13 difference in the cost between the classes or --

14 Q.639 - That is correct. I'm looking to see what the -- I
15 guess I'm going to characterize it as undercontribution
16 would be by the large industrials. What is the
17 difference?

18 MR. LARLEE: Again because the class is within the range 95
19 to 1.05, our position is it is not undercontributing, that
20 the class is within the range.

21 Q.640 - What would the 5 percent represent in dollar figures?

22 MR. LARLEE: Can you just clarify that? 5 percent of what
23 number?

2 Q.641 - Well, assuming that in an ideal world a revenue to
3 cost ratio for everybody would be 1, and the large
4 industrials are proposed to be at 95, based on the revenue
5 and cost information that you have prepared, what would
6 the difference be between 1 and the .95, in dollar figures
7 rather than in percentages?

8 MR. LARLEE: Well, I mean, if you look at schedule 6.1 of my
9 schedules --

10 Q.642 - And that is in exhibit A-3?

11 MR. LARLEE: Thank you. Exhibit A-3 under the schedules
12 tab.

13 Q.643 - Yes. So we are looking at schedule 6.1?

14 MR. LARLEE: Yes. This schedule provides the results of the
15 cost allocation study and also provides a summary of the
16 fully allocated revenue and the costs broken up into
17 supply costs, transmission costs and distribution costs,
18 and then provides the total and the revenue to cost
19 ratios.

20 Q.644 - All right. So there is no column there that would
21 show a dollar difference from 1 to the .95. So if I take
22 you to line 7, large industrial, fully allocated revenue
23 is 300,571,000?

24 MR. LARLEE: That is correct.

25 Q.645 - And the total cost under column 6 is 315,299,000?

2 MR. LARLEE: I believe it is column 5. But yes, that is
3 correct.

4 Q.646 - Sorry. Column 5. So what would the difference be
5 between those two columns? Wouldn't that be -- the
6 difference between the revenue and the cost for the large
7 industrials be somewhere in the order of 15,000,000?

8 MR. LARLEE: Yes. That is correct.

9 Q.647 - Now if I take you to line 10 of the same schedule,
10 that deals with wholesale, is that correct?

11 MR. LARLEE: Yes.

12 Q.648 - And if you do the same computation for wholesale, the
13 fully allocated revenue is 90,595,000. And in column 5
14 total cost is 86,295,000?

15 MR. LARLEE: Yes. That is what the schedule shows.

16 Q.649 - So the difference for wholesale would be -- and I
17 won't characterize it as an overcontribution, but a
18 difference in any event of somewhere just under \$4,000,000
19 -- sorry, over 4,000,000?

20 MR. LARLEE: Yes. It is a little over \$4,000,000.

21 Q.650 - Would it be fair to say then that on the basis of your
22 proposed revenue to cost ratio the large industrial then
23 would pay somewhere in the order of 16,000,000 less than
24 the cost to provide the service to them whereas the
25 wholesale would pay somewhere in the vicinity of 4,000,000

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more than the cost to provide the service to them?

MR. LARLEE: Based on the results of this study, yes, that is what it shows.

Q.651 - Thank you. Now if I could ask you to look at A-3, direct evidence of Mr. Marois.

Mr. Marois, I'm going to deal with your evidence now and direct these questions primarily to you. So good morning.

MR. MAROIS: Good morning.

Q.652 - We missed you yesterday.

MR. MAROIS: Thank you.

Q.653 - I don't think you missed us.

MR. MAROIS: No comment.

Q.654 - I'm going to refer you to page 10 of your evidence.

And specifically at line 9 you state that the overall average increase for large industrial customers is 0.3 percent, is that correct?

MR. MAROIS: That is correct.

Q.655 - This is the combined impact of the proposed fuel surcharge. So you agree that it is 0.3 percent.

But at line 17 you indicate that the remainder of the rate class, large industrial customers served from the transmission system, will see an average reduction of 0.1 percent, is that correct?

1 - 1031 - Cross by Mr. Gorman -

2 MR. MAROIS: That is correct.

3 Q.656 - So I guess when I was looking at the 0.3 percent --

4 and the way I had originally looked at this is I thought

5 that there was a small increase for industrial.

6 But in fact a certain class within the large industrial,

7 would it be fair to say, will actually receive a decrease?

8 MR. MAROIS: Yes. Well, I believe that is what lines 17 and

9 18 are saying.

10 Q.657 - Okay. If I could take you to page 7 of your evidence,

11 table 1. And this table shows revenue and rate increase

12 by rate class?

13 MR. MAROIS: Yes, it does.

14 Q.658 - And in looking at that chart, at least it is my view

15 that it does not reflect the fact that the largest

16 industrial customers are actually to get a decrease under

17 the rate proposal filed with this application.

18 Would you agree that that is not obvious from that chart?

19 MR. MAROIS: Well, I guess the same could be said about any

20 of these rates. Because these are rate classes. And the

21 same thing with residential.

22 For example, the large residential customers don't have

23 the same increase as the small ones. But what we are

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2 presenting in this table is the average for the rate class.

3 And additional detail is provided throughout my evidence.

4 Q.659 - Okay. But you would agree that the largest of the
5 customers are actually getting a decrease?

6 That is not on table 1. That is my point. You have to go
7 to page 10 of your evidence to see that. But the largest
8 subgroup, if you will, within that class are getting a
9 decrease.

10 MR. MAROIS: Well, I think it is important to understand the
11 two subsets of the large industrial class. And again if I
12 go back to page 10, is we have a large industrial class.
13 But in there you have got large industrial customers
14 connected to the distribution systems. And you have got
15 large industrial customers connected to the transmission
16 system.

17 And the purpose of the adjustment to the TBA rental charge
18 detailed from lines I guess 12 to 16 is to correct what we
19 consider to be an issue of cross-subsidization within the
20 class. So it brings the two types of customers closer
21 together in terms of cost recovery.

22 Q.660 - If I could ask you to turn to the direct evidence of
23 Neil Larlee. And Mr. Marois, I guess this is Mr. Larlee's
24 evidence. But I think you will be able to comment on it.

1 I want you to go to page 4.

2 MR. MAROIS: I have that.

3 Q.661 - Okay. And table 1 is reproduced at page 4. And the
4 resulting revenue cost ratio for all large industrials is
5 .95. You would agree with that?

6 MR. MAROIS: Yes. The last column there, the revenue to
7 cost ratio of proposed rates, yes.

8 Q.662 - Okay. And then if I look at the second to last
9 column, if in fact a level increase was given to all
10 classes, it in fact would have been at 99?

11 MR. MAROIS: Yes, for large industry.

12 Q.663 - Now the same table indicates a resulting revenue to
13 cost ratio for wholesale at 1.05?

14 MR. MAROIS: Yes.

15 Q.664 - And if a level increase were given to all classes it
16 would have actually come in at 1.03?

17 MR. MAROIS: That is correct.

18 Q.665 - So would you agree that -- and I don't want to get
19 into percentage. I'm going to get lost if I do. But
20 would you agree there is a 10 point difference between the
21 two revenue to cost ratios?

22 MR. MAROIS: Well, I believe Mr. Larlee has already
23 responded to that question. One revenue to cost ratio is
24 1.05. And the other one is at 95. -

25 1034 - Cross by Mr. Gorman -

1 And the significance of the revenue to cost ratio is when
2 you compare them to the costs of that class, not when you
3 compare them to each other, from one rate class to the
4 other, so --

5 Q.666 - I'm not sure I understand what you mean?

6 MR. MAROIS: Well, I think it is obvious from this that
7 large industrial has a revenue to cost ratio of .95. So
8 that means that they are recovering 95 percent of the
9 allocated cost.

10 And the wholesale customers have a revenue to cost ratio
11 of 1.05. So they are recovering 105 percent of their
12 allocated cost.

13 And you are -- what I understood from your question, you
14 are just trying to get me to compare the revenue to cost
15 ratio of the wholesale with the large industry. I'm just
16 saying it has no meaning.

17 Q.667 - Well, Mr. Marois, do you agree that a revenue to cost
18 ratio for a particular class of service indicates whether
19 or not the costs incurred to provide that service are
20 recovered by the revenues received from the sale of that
21 service?

22 MR. MAROIS: Yes.

23 Q.668 - And do you agree that a ratio of 1 means that revenues
24 meet costs?

1 MR. MAROIS: Yes.

2 Q.669 - So I guess it flows from that that a ratio greater
3 than 1 means the class of service is being charged more
4 than the costs incurred to provide the service to it?

5 MR. MAROIS: Yes.

6 Q.670 - And a ratio of course of less than 1 means that the
7 customers of that service are not paying the full service
8 costs associated with providing that service?

9 MR. MAROIS: That is correct.

10 Q.671 - So if I could just compare the large industrials with
11 wholesale in table 1 at page 4 of Mr. Larlee's evidence,
12 could I conclude therefore that wholesale is being charged
13 5 percent more than the costs incurred to provide service
14 to it?

15 MR. MAROIS: Yes. I believe that is what I mentioned, yes.

16 Q.672 - And could I also conclude that large industrials are
17 not paying the full costs associated with providing that
18 service?

19 MR. MAROIS: That is correct. And as mentioned by Mr.
20 Larlee, both of these revenue to cost ratios are within
21 the reasonableness band that was approved by the PUB. And
22 that is within the Energy Policy.

23 Q.673 - Well, but what I asked you is whether or not the large
24 industrials are not paying the full costs associated

1 with providing that service.

2 I understand before your qualification your answer was
3 yes?

4 MR. MAROIS: That is correct.

5 Q.674 - I would like to talk to you a little bit about the
6 policy of NB Disco that would result in such a proposal.
7 It seems that there may be an issue as to whether or not
8 the ten point spread in the revenue to cost ratio
9 constitutes a subsidy or benefit because we had a little
10 bit of discussion about that previously. And I'm just
11 going to refer to a dictionary meaning of subsidy. The
12 Oxford English Dictionary defines subsidy as a grant or a
13 contribution of money.

14 So do you agree that by wholesale being charged more than
15 the costs incurred to provide service to it results in a
16 contribution?

17 MR. MAROIS: I cannot agree with that because you have to
18 look at the definition of cross-subsidization within the
19 specific context of this Board. And this Board has ruled
20 and that was supported by the Energy Policy that as long
21 as you are within a range of 95 to 105 there is no cross-
22 subsidy. So that's I think the relevant definition in
23 this context.

24 Q.675 - I guess yesterday we had some discussion and maybe it

25

1 ended up in a manner in which perhaps legal opinions were
2 going to be expressed back and forth. And I think what
3 the prior decision of this Board means may be a matter of
4 interpretation and a matter for argument before the Board
5 at the end of this hearing.

6 The question that I put to you is do you agree that by
7 wholesale being charged more than the costs incurred to
8 provide service to it results in a contribution to offset
9 classes that are not paying the full costs associated with
10 providing the service?

11 MR. MAROIS: In a very strict sense, yes.

12 Q.676 - So it would meet the dictionary definition of subsidy?

13 MR. MAROIS: I am responding to your comment that if you
14 recover an amount different than 1 there is either an over
15 or an under recovery of costs. I mean that's pure math.
16 But that I don't think is necessarily relevant in
17 assessing the reasonableness of the revenue to cost
18 ratios.

19 Q.677 - Well I guess that's up to the Board to determine. If
20 I could refer you back to your evidence, and I would like
21 to go to page 11. And on page 11 if we could look at
22 question 19 which appears at lines 9 through 16.

23 The question was, why is the large industrial rate class

1 - 1038 - Cross by Mr. Gorman -

2 receiving the lowest adjustment. And your response

3 was, Disco recognizes that in the province of New Brunswick

4 the survival of large industry is very important. Industry

5 provides significant jobs and other economic benefits. You

6 agree that I have accurately read your evidence?

7 MR. MAROIS: Yes, I do.

8 Q.678 - So are there any policy directions or directives from

9 the Province of New Brunswick upon which you would base that

10 statement?

11 MR. MAROIS: I believe there are. And I don't have the exact

12 quotes here because I think as part of the market

13 restructuring it was mentioned both by the market design

14 committee and the Energy Policy itself that maintaining

15 consistency from the rates prior to restructuring and after

16 was important.

17 But from our perspective, and I believe I elaborated on that

18 on Monday, is what we wanted to do here is be very

19 transparent as to what we did to the industrial rate. And

20 we believe -- this was the rationale that we used in

21 applying judgment in setting the industrial rate at the

22 bottom of the target range of 95 to 105.

23 So we firmly believe and continue to believe that by doing

24 so there is no cross-subsidization going on of the

25 industrial rate class, but we believe it was the prudent

2 and the right thing to do to put them at the bottom of the
3 reasonableness rate target range. So this is again
4 explaining our rationale for doing so.

5 Q.679 - Thank you. If I could refer you to exhibit A-17. I'm
6 referring to Disco UM IR-38. Do you have that document in
7 front of you, Mr. Marois?

8 MR. MAROIS: Yes, I do.

9 Q.680 - In that IR the question was posed to Disco -- very
10 similar question to what I have just posed to you. And your
11 response was that the revenue to cost ratios for large
12 industrial at .95 was consistent with the White Paper New
13 Brunswick Energy Policy, section 3.1.5.4.2.
14 And specifically if you look at the IR, page 2, question
15 number 9 is the question that was posed, and the answer
16 appears at the bottom of the same page. Perhaps you could
17 have a look at those.

18 MR. MAROIS: Yes, I see that.

19 Q.681 - Okay. Now can you tell me specifically from this --
20 from the Energy Policy what it is in that section that you
21 are relying on? I don't believe that the White Paper has
22 been entered into evidence. I would be prepared actually to
23 enter into evidence that section in order to follow-up with
24 this question.

25 CHAIRMAN: Mr. Morrison, any problem with that?

1 - 1040 - Cross by Mr. Gorman -

2 MR. MORRISON: No, Mr. Chairman.

3 CHAIRMAN: Okay. Mr. Gorman?

4 MR. GORMAN: I don't believe that I have enough copies of that
5 section for everybody. I certainly have enough for the
6 Board and the witness and hopefully for counsel. If not, I
7 will get enough copies for everybody else in the room. The
8 difficulty was that we entered the other day a White Paper,
9 it was a different White Paper, and I somehow thought this
10 may have been part of the pre-filed evidence. It isn't.
11 Although I think --

12 CHAIRMAN: Just give the Board enough to -- for two of us to
13 share and then spread the rest around. Mr. Gorman, does
14 this cover -- is this just 3.1.5.4.2?

15 MR. GORMAN: No, it isn't. What I in fact copied -- and this
16 came off of the Internet -- was section 3. I didn't want to
17 bring anything in the sense out of context in case there was
18 material that -- other material that I wasn't aware of that
19 might have related to it.

20 So in fact what I have copied is section 3 entitled
21 "Challenges and Opportunities". And if you look at page 12
22 of 15 in that document you get to the point -- the last
23 section, section 2, cross-subsidization in the current rate
24 structure.

25 CHAIRMAN: Okay. Well then I will mark as an exhibit UM-3,

1
2 the 15 page document which includes the -- which is part of the
3 White Paper on New Brunswick Energy Policy, including
4 section 3 and its subsections.

5 MR. GORMAN: Thank you.

6 Q.682 - Mr. Marois, perhaps I will give you a moment to read it
7 to refresh your memory on that.

8 MR. MAROIS: I am okay to proceed. We have also provided
9 additional information on this section in another IR. So we
10 are trying to dig out the reference. Once we have that I
11 will mention it.

12 Q.683 - Okay. If I can perhaps before I go to that section, IR
13 number 38 actually consisted of nine questions, all of which
14 when we were trying to dig out the same kind of information
15 with respect to policies or reasons for which the policy
16 might exist.

17 And would you agree that your answer to questions 1 through
18 8 essentially said you don't have any particulars to
19 provide?

20 MR. MAROIS: No. The questions were from our perspective
21 almost impossible to answer. We didn't have that
22 information.

23 Q.684 - Okay. But just -- you didn't -- you weren't able to do
24 that, and so the one that you could specifically reply to or
25 respond to was number 9 where you relied on the

2 White Paper.

3 MR. MAROIS: There was a specific response to number 9, yes.

4 Q.685 - So going to section 3.1.5.4.2 of the White Paper, can
5 you show me anywhere in that document where it is suggested
6 that large industrial -- the large industrial class in New
7 Brunswick should receive any benefit or contribution from
8 other classes?

9 MR. MAROIS: Well first of all, I think we have to go back to
10 the question that we were asked. So if we go back to IR-38,
11 question 9, we were asked, please provide the analysis,
12 research or government policy directives on the basis of
13 which you have concluded that, assuming the appropriateness
14 of a subsidy to large industrial business, such a subsidy is
15 more appropriate provided through electricity rates than
16 through taxes and government funding?

17 So this question implies that there is a subsidy. Our
18 response was that based on the Energy Policy there is no
19 subsidy. So that's why we refer to that section. And the
20 specific part of the section of the policy we referred to is
21 the bolded recommendation at the end which says, the
22 province will direct the Crown utility to eliminate -- and I
23 stress eliminate -- over time cross-subsidization between
24 customer classes to gradually provide rates that

1 - 1043 - Cross by Mr. Gorman -

2 are within the range of 95 to 105 percent of the actual cost of
3 providing the service.

4 So what that clearly says is that if you are within 95 and
5 105 there was no cross-subsidy. So that's -- that's exactly
6 what we wanted to answer is there is no cross-subsidy, so we
7 don't have to make reference to any policy decision allowing
8 cross-subsidy because there is none.

9 Q.686 - Mr. Marois, then perhaps you could -- if we go back to
10 question 9 on that IR that was posed to you and given the
11 response you have just given, is there anything in
12 government policy that you can point to that you can tell me
13 about that would indicate it's appropriate to charge the
14 large industrial class only 95 percent of the costs incurred
15 in providing service to them?

16 MR. MAROIS: I believe that this does that. It says as long
17 as we are within 95 to 105 there is no cross-subsidy. I
18 think it's very clear.

19 Q.687 - Would you agree with me that the section in the White
20 Paper -- if I look at the second full paragraph on the third
21 last line, it says, it may be prudent to gradually eliminate
22 the cross-subsidies before introducing retail competition.
23 Would you not agree that the intent of that section in the
24 White Paper was to eventually eliminate

25

1 - 1044 - Cross by Mr. Gorman -

2 cross-subsidies? I appreciate we have some difficulty here in
3 the sense that you and I don't agree maybe on the definition
4 of subsidy, but that the intent was to eliminate cross-
5 subsidies?

6 MR. MAROIS: Most definitely, and cross-subsidy is defined as
7 anything beyond the 95 to 105 range. And it's written in
8 black and white. I mean, I'm not inventing it.

9 Q.688 - Okay. But I think that the point -- let's go to where
10 this .95 to 105 came from, because we all know that it's a
11 guideline that was set out in the 1992 rate -- 1992 decision
12 that -- at which time the spread was much larger. But you
13 would agree that that decision now is in fact the very
14 reason perhaps that we are having this hearing today, is
15 that decision is somewhat out of date.

16 MR. MAROIS: I'm not going to comment if the decision is out
17 of date or not. One thing is for sure is the Energy Policy
18 dates back to 2001 and I firmly believe that having a range
19 of reasonableness when looking at range of cost ratio is
20 totally reasonable because cost allocation studies are not a
21 perfect science. There is always room for error or for
22 judgment.

23 And the other thing is try to reach revenue cost ratios
24 close to 1 is one objective. We always have numerous
25 objectives when you are setting rates. So as a

2 result, trying to target a revenue cost ratio of 1 many
3 jurisdictions have concluded that it's maybe nice in theory,
4 but again common sense must prevail and in practice it's
5 almost impossible.

6 Q.689 - Well I think you used the word judgment. And it seems
7 to me that if you are advocating that it's not considered to
8 be a subsidy, even though it would fit all of the
9 definitions of subsidy, that if it's not a subsidy if one
10 group gets to pay five percent less than their cost and
11 another group is made to pay five percent more, isn't that
12 then -- I think just to use your words, isn't that a matter
13 of judgment as to who gets the benefit and who has to pay
14 the extra?

15 MR. MAROIS: I don't think there is any specific mention of
16 that. Again what the target is is as long as you are within
17 95 percent to 105 of cost it's deemed to be that there is no
18 cross-subsidy. The same rationale applies if you are 95 or
19 if you are 105.

20 Q.690 - Well perhaps you are not understanding my question. I'm
21 not making it clear enough. Given that, you know, you are
22 talking about an acceptable range, nevertheless some people
23 in reality, never mind the range, some are paying more than
24 it costs to provide the service and some are paying less. I
25 think you have already agreed with that? -

1 1046 - Cross by Mr. Gorman -

2 MR. MAROIS: Well for example, let's use the example of the
3 wholesale customers. I don't think there was that much
4 judgment applied by Disco in this rate case to have them at
5 105. I mean, there is a contractual agreement in place that
6 states we are going to target 105. So I mean we are -- so
7 like you say, there is judgment applied as to where you want
8 people within the 95 to 105. In the case of the
9 Municipalities I think it was relatively easy.

10 CHAIRMAN: Mr. Gorman, could you wrap up this line of
11 questioning.

12 MR. GORMAN: Just one moment and I will do that. If I could
13 have just a moment, Mr. Chairman, I think I could probably
14 shorten this up.

15 CHAIRMAN: Sure. Take your time.

16 MR. GORMAN: Mr. Chairman, if I might, I would have just a
17 very few more questions on this matter. And I think i can
18 handle it with two or three questions.

19 CHAIRMAN: Good. Go ahead, Mr. Gorman.

20 Q.691 - Mr. Marois, when a utility does its class cost
21 allocation study, especially if there hasn't been any
22 adjustments in the relative level of rates between classes
23 for awhile, then it is obviously quite usual to find revenue
24 cost ratios that are different from 1, would you agree?

25

2 MR. MAROIS: Can you repeat the question?

3 Q.692 - Sure. When a utility does its CCAS and especially if
4 there haven't been any major adjustments in the relative
5 levels of rates between classes for awhile, then it would be
6 usual to find revenue cost ratios that are different from 1?
7 In other words, some would be higher, some would be lower,
8 they wouldn't all be at 1?

9 MR. MAROIS: Well generally speaking, it is common to have
10 revenue to cost ratios that are different than 1 no matter
11 the situation. I have rarely seen situations where you had
12 revenue cost ratios of 1.

13 Q.693 - Okay. So you are agreeing. And given that this Board
14 has established a range of reasonableness, if you do the
15 study and find that before any relative adjustments some
16 classes within the rang and some classes are outside the
17 range, would it be reasonable to give some priority to
18 moving the classes that are outside of the range respecting
19 of course the principles of gradualism?

20 MR. MAROIS: Well like we mentioned before, setting rates
21 requires using or trying to meet numerous objectives. And
22 one of the objectives is to try to bring their rates within
23 their reasonableness band but there are also other
24 objectives that you are trying to meet, such as

1 - 1048 - Cross by Mr. Gorman -

2 gradualism, such as other objectives, as we stated in my
3 evidence.

4 So definitely it s part of the objectives when you are
5 trying to bring rates within the reasonableness band.

6 Q.694 - So are you agreeing with the statement I made? I'm not
7 sure -- seems to me that was a yes or no answer is all that
8 I was looking for. Would you agree it would be reasonable
9 to give some priority to moving the classes that are outside
10 of the range first but respecting the principle of
11 gradualism?

12 MR. MAROIS: From a revenue to cost perspective, yes, that
13 would be a priority to try to bring the rates within the
14 band.

15 Q.695 - Okay. So would you agree then that the flexibility to
16 leave alone the classes that are in the range instead of
17 being required to move them immediately to 1 gives some
18 flexibility in the way that classes outside the range can be
19 addressed and then moving them into the range?

20 MR. MAROIS: Yes, from a pure mathematical perspective, yes.

21 Q.696 - So a range would be a good guideline then in that
22 respect?

23 MR. MAROIS: I don't think I understand your question.

24 Q.697 - Well if you were to use the range in that fashion, it
25 would be a good guideline. In fact in your evidence you

2 have talked about using the range. It is a good guideline to
3 have a range?

4 MR. MAROIS: Yes.

5 Q.698 - But would you agree that what you have done in your
6 proposal here with the large transmission industrials is to
7 make a specific deliberate adjustment that moves them away
8 from a revenue cost ratio of 1? In other words, it moves
9 them down from 1?

10 MR. MAROIS: Yes, I would agree with that.

11 Q.699 - And you have done the same with the wholesale class in
12 the sense that you have moved them up?

13 MR. MAROIS: As compared to an across the board increase, yes,
14 there was an adjustment from 1.03 to 1.05.

15 MR. GORMAN: Thank you, Mr. Marois and thank you, Panel
16 members, those are my questions.

17 CHAIRMAN: Thank you, Mr. Gorman. Someone refresh my memory
18 as to -- are we back to Mr. MacDougall now?

19 MR. MACDOUGALL: No, Mr. Chair, I am done with this Panel. It
20 is my understanding was it goes to the next in the order
21 which is possibly the Public Intervenor. But I am complete.

22 CHAIRMAN: I can't see you, Mr. Public Intervenor. You are
23 hidden by the camera.

24 MR. HYSLOP: That's all right, Mr. Chair. My understanding

2 is I think Mr. Peacock has a few questions. But I am prepared
3 to go with policy questions directed towards Mr. Marois
4 while he is here and there will be other cross examination
5 next week with regard to the application -- particular
6 aspects of the CCAS?

7 CHAIRMAN: From that I hear that perhaps it is Mr. Peacock
8 that should be next. Mr. Peacock?

9 MR. HYSLOP: Yes, I think that is correct.

10 CHAIRMAN: Okay. Mr. Peacock, as soon as the Municipal
11 Utilities move their material, would you like to come
12 forward to that microphone?

13 CROSS EXAMINATION BY MR. PEACOCK:

14 MR. PEACOCK: Thank you, Mr. Chair. Vibrant Communities Saint
15 John has about 10 or so questions. But before we start I
16 should suggest that unfortunately I don't possess the
17 brilliant legal mind that is found among some of the other
18 intervenors here. So if I stumble along, I promise I will
19 try and stumble along as efficiently as possible.

20 CHAIRMAN: In my experience, I have seen some brilliant legal
21 minds do a lot of stumbling so don't be in the slightest bit
22 concerned. Go ahead, Mr. Peacock.

23 MR. PEACOCK: Okay, thank you. The majority of our questions
24 relate to the interrogatories that we had filed earlier,
25 both volume 1 and volume 2 of the -- or IR-1 and

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IR-2.

The first group of questioning deals with the declining block rate. In documents as well as in testimony, Disco officials have expressed interest in eventually eliminating the declining block rate for the residential class. Given that quite a few Intervenors in the room appear to support this policy, is the concept of gradualism the only barrier to eliminating the declining block rate completely within the next twelve months?

MR. MAROIS: I would say yes.

Q.700 - If I can refer you to our submitted evidence on the issue of poverty. Our evidence highlights the fact that a number of Saint Johners living in poverty are often found in apartments which generally consume less electricity than single unit residential homes.

As a result, we believe that the elimination of the declining block rate would affect owners of large homes to a much larger degree than it would renters who live in small apartments. Would you agree with this analysis?

MR. LARLEE: The way the declining block rate is structured now, the current rates with the end block coming in to play at greater than 1300 kilowatt hours would imply that most apartment dwellers would never -- would never move into that declining block rate. So in effect, flattening

2 the rate would benefit apartment dwellers or small consumption
3 users. The converse would be true for large users which
4 would tend to be larger homes, electrically heated larger
5 homes.

6 Q.701 - Thank you. So extending this argument it would be fair
7 to say then that declining block rate effectively rewards
8 those consumers of electric heat who are fortunate enough to
9 live in large homes, at least in comparison to those who
10 live in small apartments?

11 MR. LARLEE: I wouldn't use the word reward. As all
12 consumers, whether they are large or small, consume more
13 electricity, their bills go up. Everyone's bills go up with
14 more consumption.

15 It is simply the rate of increased consumption and the
16 dollars per kilowatt-hours. But the rate is lower for
17 people who consume more.

18 Q.702 - Okay. So effectively then, residents of say a 5,000
19 square foot home could face a potential lower unit cost of
20 electricity than say residents of a 700 square foot
21 apartment?

22 MR. LARLEE: Under the current declining block rate structure,
23 yes, that is true. So I wouldn't say potentially.

24 Q.703 - Okay.

1 MR. LARLEE: I don't want to confuse the issue that -- under a
2 flat rate structure. But this is the current rate structure
3 on larger consumers. Usually larger homes have a lower per
4 unit cost, yes.

5 Q.704 - Okay. Thank you. The second batch of questions deals
6 with the energy service charge, the monthly service charge
7 that is applied to all Disco residential accounts.

8 In our IRs to Disco we have expressed concern with the fact
9 that the monthly service charge for residential customers of
10 NB Power is higher than the charge applied by most utilities
11 in Canada.

12 We feel this is an important element of the rate design
13 because it is applied to all ratepayers prior to one
14 kilowatt-hour of consumption.

15 In its response Disco noted that the charge is higher in
16 part because New Brunswick has a low population density. In
17 fact New Brunswick has the fourth-highest population density
18 in Canada. And provincial utilities with a much lower
19 population density still offer a lower monthly service
20 charge.

21 Does Disco wish to elaborate on its explanation as to why
22 New Brunswickers face a relatively high monthly service
23 charge? Or does it consider its written explanation as
24 sufficient?

1 MR. LARLEE: Yes. I would like to elaborate on that response.

2 And let's get it out so everyone can refer to it. It is in

3 A-11. And it is VCSJ IR-1. Oh, my apologies, A-17.

4 CHAIRMAN: The Board is finding after two days of these

5 volumes we are all suffering from some form of arthritis or

6 pulled muscles up here. That was A-17. And what was the

7 reference?

8 MR. LARLEE: Disco VCSJ IR-1. If you look at the second last

9 paragraph of the response, I believe this is what

10 Mr. Peacock is referring to.

11 "Compared to other provinces, New Brunswick has lower

12 population density and thus requires more kilometers of

13 distribution system on a per customer basis."

14 What I should have said there was "Compared to other

15 provinces, New Brunswick has lower population density on a

16 customer per kilometer basis and thus requires more

17 kilometers of distribution system per customer."

18 The point being is that New Brunswick doesn't have a large

19 urban population. And our urban population is very small in

20 comparison to other urban centers. We have three urban

21 centres in the province, two serviced by Disco. Whereas

22 other provinces like Nova Scotia and Saskatchewan tend to

23 have much larger urban areas.

24 - 1055 - Cross by Mr. Peacock -

25 Although there is an unpopulated area in the province, in

1 the center of the province, we have population scattered
2 around all of the perimeter in small communities. So as a
3 result we have a lot of distribution system on a per
4 customer basis.

5 That is what is really driving our customer cost that we see
6 in the cost allocation study. And as a result we feel that
7 it is justified on a cost causation basis to have the
8 service charge where it is, albeit the service charge is
9 still below the customer cost.

10 Q.705 - Thank you. That explains it a bit. Although in our own
11 research we found that Saskatchewan is a good province to
12 compare New Brunswick to in that its urban centres are also
13 what you would consider small. Plus it has a much smaller
14 population density than New Brunswick. They have thousands
15 of kilometers of distribution to put throughout the north
16 and south. What we found interesting was they still managed
17 to maintain a lower monthly service charge.

18 Have you had much chance to look at the service charges in
19 other provinces?

20 MR. LARLEE: Yes. I'm familiar with what the service charges
21 are in other provinces.

22 Q.706 - Okay.

23 MR. LARLEE: And I don't disagree with you. Our service

24 - 1056 - Cross by Mr. Peacock -

25 charge is among the higher end of service charges compared to

1 residential service charges in Canada.

2 Q.707 - Thank you. In our evidence we attempted -- in our
3 written evidence we had attempted to make the case that
4 energy poverty is a real issue in many New Brunswick
5 households.

6 To assist us in our argument we requested -- and
7 specifically this deals with question 5 in our first IR
8 submission. We requested to see recent historical totals in
9 the number of residential disconnections due to arrears.
10 Will Disco be providing us with that information?

11 MR. LARLEE: Can you provide us with that IR reference one
12 more time please?

13 Q.708 - It is Question 5 in our first IR submission. I believe
14 that was the July submission. Or your office had responded
15 in July. I believe it is in volume 1.

16 MR. MORRISON: If I'm not mistaken, Mr. Chairman -- I have no
17 problem with the question. But I think the response, and I
18 haven't looked at it, was going to be dealt in the revenue
19 requirement part because it is really more a revenue
20 requirement issue.

21 However, I mean, if the witnesses are prepared to answer it
22 today then I have no -- I don't want to derail

23

24 - 1057 - Cross by Mr. Peacock -

25 Mr. Peacock.

1 CHAIRMAN: No. Let's take a look at the IR. It is in what
2 exhibit number? A-11? If you have those -- if you have the
3 exhibit number, Mr. Peacock, it makes it easier for us to
4 find it. Okay. A-11.

5 MR. PEACOCK: I apologize for making everyone search their
6 binders.

7 MR. MAROIS: Sir, our intention is to provide the information.
8 It is just that we have proposed that we deal with this as
9 part of the next segment.

10 CHAIRMAN: Now Mr. Peacock, that truly is part of the tariff
11 itself, the interest rate that can be charged. So it is a
12 matter that should probably be argued in the full rate
13 hearing itself later.

14 MR. PEACOCK: Okay. Thank you. I look forward to receiving
15 your response.

16 I'm not quite sure if my next group of questioning will in
17 fact be related to this -- to today's session. If not I can
18 certainly push it forward. It deals with the effective
19 demand side management on the rate design.

20 Would that be appropriate to be discussed today?

21 MR. MORRISON: Yes.

22 MR. PEACOCK: Okay. Thank you.

23 Q.709 - Vibrant Communities noted with some interest -- and I

24 - 1058 - Cross by Mr. Peacock -

25 guess right now the best -- if I need to refer to a document it

1 is the 10 year load forecast. I don't think it was in a
2 binder. I think it was -- yes, that is it right there,
3 wonderful. It is not nearly as heavy as the binders.
4 We noted that in the demand forecast for the residential
5 class that demand side management measures had a relatively
6 small effect in comparison say to penetration of natural gas
7 or other factors.

8 Would Disco agree that a proactive conservation campaign may
9 lessen the residential demand to a greater degree than that
10 assumed under its forecast, particularly if older housing
11 stock is targeted?

12 MR. LARLEE: When you refer to a proactive DSM program, I'm
13 taking that as sort of active measures where there re
14 subsidies or discounts to customers to actually take on DSM
15 measures.

16 These are the types of DSM programs that aren't included in
17 the load forecast. And I believe in some areas they have
18 had some success with those programs.

19 Q.710 - Okay. Thank you. Would Disco agree that a lack of new
20 investments in residential efficiency could make New
21 Brunswick households more vulnerable to future energy
22 shocks?

23

24 - 1059 - Cross by Mr. Peacock -

25 MR. LARLEE: I think the thing to remember here is that the

1 more efficient you use electricity, whether it is for
2 residential or any other purpose, the more efficiently we
3 use it, the more protected we are from energy shocks.

4 The best way to guard yourself from an increase in price is
5 to use less. And I believe that has been one of the tenets
6 of our energy advisers over the years to our customers.

7 Q.711 - Further in that argument, would Disco agree that a lack
8 of investment in demand side management at the aggregate
9 level would ultimately make New Brunswick's provincial
10 economy less competitive than those provincial economies
11 whose utilities and/or governments have offered substantial
12 financial incentives to help reduce demand?

13 MR. MAROIS: I guess we would tend to agree with you as long
14 as the measures implemented are cost-effective, which is
15 always a challenge.

16 I mean, some measures over time unfortunately have not
17 demonstrated results. But if you have got good measures,
18 well designed, and they do turn into positive results, then
19 definitely it is a value-added initiative.

20 Q.712 - Okay. My final -- our final question deals with
21 actually our response to your IRs to our evidence. And
22 specifically I believe it was your first question

23

24 - 1060 - Cross by Mr. Peacock -

25 discussing the Province's potential energy efficiency agency

1 that was of course recently announced by the Energy
2 Minister.

3 We noted with some interest Lisa Hrabluk's column in The
4 Telegraph Journal that highlighted the fact that government
5 hoped that other partners would join with them in terms of
6 offering energy efficiency.

7 So our question is does the utility plan to offer DSM
8 incentives beyond what it is now being offered through your
9 education and energy auditor programs? Or do you expect the
10 new provincial energy efficiency agency to have sole
11 responsibility for all new conservation programs?

12 MR. MAROIS: Currently that is a difficult question to answer.

13 Because we don't know much about the proposed energy
14 efficiency agency from a detailed point of view.

15 So I think once we know more and once we better understand
16 its proposed role, then we will be able to determine where
17 we fit in.

18 At a minimum we see ourselves supplying information and
19 knowledge to this agency. Because at the end of the day it
20 is the utility who interfaces with the customer on a regular
21 basis that has the most information.

22 Q.713 - I just realized there was one question I had forgot to
23 ask. And it relates not just to demand side management

24 - 1061 - Cross by Mr. Peacock -

25 but also to the testimony given the other day dealing with the

1 fact that Disco is constantly aware of customer impacts in
2 terms of rate design and what not.

3 Given that Disco officials have mentioned in their previous
4 testimony that customer impacts are actively considered in
5 the utility's rate planning, does the utility have any plans
6 to actively address energy poverty in the months following
7 the proposed rate increase?

8 MR. MAROIS: I guess as you say, such considerations are taken
9 into account when designing rates. And that is one of the
10 reasons why some of the changes -- I think we seem to all
11 agree that we want to make take time, because they are
12 factored in.

13 I guess the current view is addressing social issues is
14 really more of the role of the Province than the role of the
15 utility. So there are no specific measures being considered
16 by the utility at this stage.

17 MR. PEACOCK: Thank you.

18 CHAIRMAN: Thank you, Mr. Peacock. There was no stumbling
19 there, sir. We will take a 15 minute recess.

20 (Recess - 10:35 a.m. - 10:50 a.m.)

21 CHAIRMAN: It's my understanding that Mr. Plante has no
22 questions. So Mr. Hyslop.

23

24 CROSS EXAMINATION BY MR. HYSLOP:

- 1062 - Cross

25 by Mr. Hyslop -

1 Q.714 - Thank you, Mr. Chair. Good morning, members of the
2 Board and Panel members. My questions today are confined to
3 issues of I will use the broad scope of policy, largely
4 directed to you, Mr. Marois, but to the other Panel members
5 from time to time.

6 And I would like to start, if I could, by asking you to flip
7 to exhibit A-16. I would refer you to Disco PI IR-57. I
8 refer specifically to the question D, or more specifically
9 to the answer to question D, and that question -- or the
10 answer states, the PPA pricing is based on public policy
11 decisions with respect to risk allocation and capital
12 structures. The public policy decisions were arrived at
13 after a complex process and based upon advice and
14 recommendations to government from financial advisors and
15 industry experts. Disco is not in a position to comment on
16 the rationale for these public policy decisions and to do so
17 would require Disco to speculate upon and interpret public
18 policy.

19 Mr. Marois, I would ask you to confirm that that is the
20 answer with respect to the PPAs today?

21 MR. MAROIS: Yes, it is.

22 Q.715 - Yes. And also, Mr. Larlee, would you confirm that that
23 is your answer?

24 - 1063 - Cross by Mr. Hyslop -

25 MR. LARLEE: Yes, that's the response.

1 Q.716 - And, Mr. Ketchum, could you confirm that that would be
2 your answer as well?

3 MR. KETCHUM: Yes, it would.

4 Q.717 - Mr. Marois, I believe that you earlier testified that
5 you were not involved in the creation and development of the
6 peak power purchase agreements, is this correct?

7 MR. MAROIS: Yes, it is correct.

8 Q.718 - Right. And, Mr. Larlee, from your earlier answer I take
9 it you weren't involved in the development of the PPA
10 agreements?

11 MR. LARLEE: No, I wasn't.

12 Q.719 - And, Mr. Ketchum, would that hold true for you as well?

13 MR. KETCHUM: Yes, it would.

14 Q.720 - Okay. Does anyone on the Panel -- would they happen to
15 know if members of the Public Utilities Board staff may have
16 been involved in the development of these power purchase
17 agreements?

18 MR. MAROIS: Not that we are aware of.

19 Q.721 - Thank you. And there is a reference there to financial
20 advisors and industry consultants. I take it that in large
21 part these financial advisors and industry consultants were
22 persons outside of the NB Power scope of operations? Would
23 I be correct in assuming that or do we -

24 1064 - Cross by Mr. Hyslop -

25 know?

1 MR. MAROIS: It is correct.

2 Q.722 - Thank you. And as I also understand -- and this is as
3 far as I am going to dare go in view of your earlier answer.

4 But a large part of these PPAs was involved in the
5 corporate restructuring and refinancing of the old New
6 Brunswick Power Corporation, would that be essentially
7 correct?

8 MR. MAROIS: It would be, yes.

9 Q.723 - Thank you. I know this has been visited a few times and
10 I'm going to put a little bit of a spin on it during the
11 cross of -- during my cross but I do want to talk about the
12 elimination of the declining block rate for the residential
13 class.

14 And, Mr. Marois, we are having a little bit of trouble
15 pinning you down, but -- and I don't seriously pretend to be
16 any smarter than my good friends, Mr. Coon and Mr.
17 MacDougall, but when they asked you what Disco's plan for
18 the elimination of the residential declining block and the
19 General Service II class your answer was that it depended on
20 a number of factors, that's correct?

21 MR. MAROIS: Yes.

22 Q.724 - Right. And you also said that it's difficult at this
23 stage to try to establish a specific plan into the future,

24 - 1065 - Cross by Mr. Hyslop -

25 is that correct?

1 MR. MAROIS: That's correct.

2 Q.725 - Right. And also I think you indicated in your evidence
3 because this is a one year proposal there is not much that
4 can really be done at this particular time, is that correct?

5 MR. MAROIS: That's correct.

6 Q.726 - But you were in agreement in general with the concept
7 that the policy of trying to remove the residential
8 declining block and the GS II customer class were reasonable
9 policies to be pursued in keeping with principles of
10 gradualism and judgment as we go forward.

11 MR. MAROIS: Definitely. And It's reflected in our proposal,
12 I believe.

13 Q.727 - I believe it is. And as my memory serves me these
14 issues have been around for a number of years and even in
15 1992 there was some discussion of what to do with the
16 declining blocks and the GS II sector, would that be
17 correct?

18 MR. MAROIS: That would be correct.

19 Q.728 - Right. And I take it since 1992 and the general
20 instructions that were given by the Board the position of
21 the utility is to leave it with us as we go through, it's
22 kind of the considerations that we would keep in mind, is

23

24 - 1066 - Cross by Mr. Hyslop -

25 that correct?

1 MR. MAROIS: Yes, that would be a fair statement.

2 Q.729 - Thank you. And now as part of the filings in this
3 matter there are three other proposals I think that have
4 been put in evidence with respect to the declining block
5 rate, one from PI, one from EGNB and one from the PUBs. And
6 I'm wondering, Mr. Marois, have you given any thought to
7 which of those might be your second choice?

8 MR. MAROIS: You would have to refresh my memory on which is
9 which.

10 Q.730 - Well I won't go, but I'm going to try to get a little
11 plug in for mine if you don't mind. Now I would ask you if
12 you might turn up exhibit P-2 at page 45. Exhibit P-2 is
13 the Public Intervenor's pre-filed evidence. Do you have
14 that, Mr. Marois?

15 MR. MAROIS: Yes, we do.

16 Q.731 - Okay. I would ask you to turn up page 45. Thank you,
17 Mr. Ketchum.

18 MR. MAROIS: I have that.

19 Q.732 - Thank you. I think everybody else does as well. And at
20 the bottom of page 45 there is a table, IEC-4, which is our
21 proposed rate and tariff relating to the declining block.
22 And in that we are proposing based on the March 31st numbers
23 a three percent increase to the first 1,400

24 - 1067 - Cross by Mr. Hyslop -

25 kilowatts and it would appear on the face of it a 17.3 percent

1 increase over on the second block. Do you see that, Mr.
2 Marois?

3 MR. MAROIS: Yes, I do.

4 Q.733 - Right. And as a result of that you asked a couple of
5 questions of us in -- and I perhaps am going on, but you
6 would agree that this perhaps is more aggressive than the
7 proposal that Disco has in this particular proceeding?

8 MR. MAROIS: It appears more aggressive, yes.

9 Q.734 - Yes. Okay. Now you were good enough to ask me some
10 questions in the interrogatories, and you could turn up
11 exhibit PI-3 which is our responses to interrogatories.

12 MR. MAROIS: We have it.

13 Q.735 - And I will be referring specifically to IR-17.

14 MR. MAROIS: My apologies. Yes.

15 Q.736 - I'm referring to PI Disco IR-17.

16 CHAIRMAN: What page?

17 MR. HYSLOP: Page 16, Mr Chair.

18 Q.737 - Now you were good enough to ask me a couple of questions
19 and I have some questions about your questions. In part A
20 you indicated that approximately five percent of residential
21 customers are very large and will see impacts of greater
22 than 10 percent under our proposal.

23 Can you indicate to me what do you consider to be a

24 - 1068 - Cross by Mr. Hyslop -

25 really large residential customer in terms of annual kilowatt

1 hour consumption.

2 MR. LARLEE: Our residential class includes domestic
3 customers, homes and apartments, but it also includes
4 churches and farms. So when we get into very large
5 residential customers we are talking about some pretty large
6 customers and they usually fall into the category of
7 churches and farms.

8 Q.738 - I see.

9 MR. LARLEE: We are talking about customers with consumptions
10 in the order of 100,000 kilowatt hours a year.

11 Q.739 - So that would be approximately five times of the average
12 -- and I'm going to use the word "resident" with quotations
13 -- the average true residential type customer, would that be
14 correct, Mr. Larlee?

15 MR. LARLEE: Yes. Just to differentiate it, I might refer to
16 them as domestic customers versus the residential class.

17 Q.740 - Okay. So that's better than me trying to put quotes
18 around residential. Thank you. So for the domestic
19 customers then part of the residential class includes a
20 number of other things that really aren't the true domestic
21 class, living and personal shelter, is that

22

23

24 - 1069 - Cross by Mr. Hyslop -

25 correct, Mr. Larlee?

1 MR. LARLEE: That's correct.

2 Q.741 - Right. And these would be the people that you would be
3 referring to as the very large customers in the question
4 that you put to me?

5 MR. LARLEE: To a large part, although personal homes can get
6 very large.

7 Q.742 - Yes.

8 MR. LARLEE: So there is always exceptions and there is always
9 a lot of variety in any rate class.

10 Q.743 - Do you ever match up the income levels of people that
11 own these very large homes to those homes, Mr. Larlee? Ever
12 been an analysis done of that?

13 MR. LARLEE: No, there would be no reason to do that for rate
14 design purposes.

15 Q.744 - No, I wouldn't have expected so. But if I might make a
16 general observation, people that own very large homes
17 generally have -- are relatively well to do, or would that
18 be too much of a generalization for you to accept?

19 MR. LARLEE: I think common sense might lead you in that
20 direction.

21 Q.745 - Okay. And that's where I'm going from. I could very
22 well be wrong. I don't know. So there is also in here
23 something about churches and farms. And the churches and

24 - 1070 - Cross by Mr. Hyslop -

25 farms, they are -- you know, large farms, they are quite a

1 difference in their use pattern than there would be in a
2 domestic home, would there not, Mr. Larlee? Do you agree
3 with me on that in terms of their consumption patterns?

4 MR. LARLEE: Well yes and no. Again there is quite a bit of
5 variety in the farms as well. For instance, in chicken
6 hatcheries there is a very high summer time load because of
7 ventilation, whereas in potato storage houses, there is --
8 if they are electrically heated there would be a winter time
9 load. So again it depends on sort of the type of
10 installation.

11 Q.746 - Other than farms and churches, is there any other little
12 sub-category as it were that -- besides the domestic homes
13 that you include in the residential sector, Mr. Larlee?

14 MR. LARLEE: There is, but in both cases they are
15 grandfathered. In other words, new installations aren't --
16 new installations aren't classified as residential, they are
17 classified as general service. And those are special care
18 facilities, generally nursing homes, and institutions that
19 are charities, for instance, non-profit organizations like
20 church halls that are separately --

21 Q.747 - Lions Club.

22 MR. LARLEE: -- Lions Clubs, these types of things, yes.

23 - 1071 - Cross by Mr. Hyslop -

24 Q.748 - Sure. And you said they were grandfathered and that I
25 understand means those that are there still have the benefit

1 of being there, but you are not adding anyone to it?

2 MR. LARLEE: That's correct. And the policies that deal with
3 that and those classes are all laid out in the rate
4 schedules policy manual.

5 Q.749 - Sure. I understand that. I have read some of that.

6 And that if they make a change in their electric system they
7 can be re-classified even if they are grandfathered, is that
8 correct?

9 MR. LARLEE: That's correct, yes.

10 Q.750 - Okay. So, you know, you mentioned a little bit about
11 potato houses and I don't want to sound glib here, but my
12 father-in-law in fact is a potato farmer. He has 300 acres
13 of potatoes, four very large potato houses, 100 head of beef
14 cattle and several barn cats. We have two cats and that's
15 the extent of similarity I see between my operation and my
16 father-in-law's.

17 So that's a long way of asking the obvious question, can you
18 tell me how farms, churches and some of these other groups
19 ended up into the residential class?

20 MR. LARLEE: The rate classes -- particularly the residential
21 rate classes has a lot of history to it, and I

22

23 - 1072 - Cross by Mr. Hyslop -

24 haven't been around for the entire history of the class

25 obviously. But my understanding through reading some of the

1 documents is that farms in particular were put into the rate
2 class to encourage rural electrification.

3 There was at one time an active policy at NB Power for -- to
4 encourage rural electrification, particularly after the
5 Second World War, to get electricity out into the rural
6 areas. I believe the government at the time thought that it
7 would be good for the province. And as part of that to make
8 sure there was no barrier for farms to convert, they were --
9 they were classified on the residential rate.

10 Q.751 - And I'm sure if we were to look at the history of
11 everything else, we could probably find some reasons that
12 seemed appropriate at the time for them being inserted into
13 that. Would I be correct there, Mr. Larlee?

14 MR. LARLEE: Are you referring to churches now?

15 Q.752 - Perhaps.

16 MR. LARLEE: Yes.

17 Q.753 - Are there other classes too where you would have this
18 type of historical result with regard to the way the
19 different anomalies fitted in?

20 MR. LARLEE: I think all classes are the way they are because
21 of history. Again gradualism comes into play, so

22

23 - 1073 - Cross by Mr. Hyslop -

24 the classes are gradually altered and changed over time, as we
25 are doing with the general service all electric rate class.

1 But when it comes to the residential class, like I said,
2 there was an explicit rural electrification policy that
3 resulted in that.

4 Q.754 - We have talked from time to time about the decision of
5 this Board, the cost allocation and rate design process
6 decision, April 15th 1992. And if I might, Mr. Larlee, I
7 would like to read to you a paragraph under the heading
8 "Equity" on page 22. It says, "NB Power's testimony
9 indicates that a degree of subsidization may now exist
10 within certain rate classes, and that its level and form of
11 rates have been shaped by historical objectives and those
12 objectives may no longer be appropriate today." That's at
13 page 22, second paragraph.

14 MR. LARLEE: Yes. That is the second paragraph on page 22.

15 Q.755 - Right. And in paragraph 4, the Board indicated as
16 follows. "The Board considers that the proper course is to
17 improve equity through a process of gradual adjustment."
18 That would be the first sentence in paragraph 4.

19 MR. LARLEE: Correct.

20 Q.756 - And to date, Mr. Larlee, the focus I suggest has been on
21 gradual adjustments through rates.

22

23 - 1074 - Cross by Mr. Hyslop -

24 What I'm going to suggest to you, would it not be
25 appropriate to start looking at gradual adjustments through

1 changes to classifications of customers to take some of
2 these historical anomalies out of the soup?

3 MR. LARLEE: Well, I think our rate design proposals are
4 trying to do just that by flattening the rate structure.

5 Q.757 - I don't want to get into --

6 MR. LARLEE: We are making adjustments to the residential
7 rates that are going to make it more equitable between the
8 very large customers and the smaller customers.

9 Q.758 - Well, I have another suggestion. Why don't we take some
10 of this residential customers who aren't domestic customers
11 out and create a separate sub-class for them and apply
12 appropriate rates to them so we can get on in dealing with
13 the matters of declining block rate within the true domestic
14 users of the electricity system.

15 Would that not be another way to attack the problem, Mr.
16 Larlee?

17 MR. LARLEE: That would be another way to attack the problem.

18 But you still end up with the same difficulty. In other
19 words, your large -- let's call your new class, your large
20 residential -- or let's call it the large residential class
21 -- you would still have the same issue of gradually moving
22 that class away from their current

23 - 1075 - Cross by Mr. Hyslop -

24 rate.

25 So I don't -- by creating more rate classes doesn't solve

1 the problem. The problem that we have is in the residential
2 rate. And I think we have to get the rate flat before we
3 can sort of take on other issues within that rate class.

4 Q.759 - I suggest if you moved all the heavy large users out of
5 the residential class, could you not more aggressively
6 remove the declining block rate for the domestic users?
7 Isn't that an option, Mr. Larlee?

8 MR. LARLEE: It would -- it would not alter the impact to the
9 domestic users. But what it would do is it would allow you
10 to take a slower approach to the very large users.

11 Q.760 - And a quicker approach to the smaller users, I suggest?

12 MR. LARLEE: Conceivably. But again you would have to look at
13 the impacts to those.

14 Q.761 - Thank you very much.

15 MR. HYSLOP: I want to move on to another issue dealing with
16 competitive markets. And although there was an exhibit put
17 in by my friend, Mr. Gorman, part of his exhibit isn't in
18 mine. So we have made copies.

19 And I would like to pass out a section of the New

20

21

22

23 - 1076 - Cross by Mr. Hyslop -

24 Brunswick Energy Policy, White Paper starting at page 18 under

25 the heading 3.1.3.2 "Establishing a Workably Competitive

1 Market."

2 CHAIRMAN: I will mark that, Mr. Hyslop.

3 MR. HYSLOP: Sure. Thank you very much, Mr. Chair.

4 CHAIRMAN: And that will be PI-4.

5 Q.762 - The witnesses have a copy, Mr. Marois. Did we give you
6 a copy?

7 MR. MAROIS: We have got the Energy Policy.

8 CHAIRMAN: PI-4 for the record is a two-page excerpt from the
9 New Brunswick White Paper on Energy Policy, pages 18 and 19.

10 Q.763 - Now Mr. Marois, what I would like to refer you and the
11 panel to is the footnote number 9 at the bottom of the page,
12 of page 18 in exhibit P-4.

13 And this reads as follows. I'm going to go through it part
14 by part. "Navigant Consulting, Inc. prepared a report that
15 evaluated the conditions for achieving a competitive
16 wholesale market in New Brunswick. The report indicated" --
17 and I want to emphasize -- "that all of the five following
18 conditions would need to be met if a competitive market is
19 to be achieved in New Brunswick."

20 You would confirm that is how it reads, Mr. Marois?

21 MR. MAROIS: Yes.

22

23 - 1077 - Cross by Mr. Hyslop -

24 Q.764 - And the first point is that "An RTO", which would be a
25 Regional Transmission Operator, "is established that

1 encompasses New Brunswick, New York, New England, and Quebec
2 and this RTO reduces the pancaking of transmission tariffs
3 and minimizes wheeling through tariffs."

4 Is that what it says, Mr. Marois?

5 MR. MAROIS: Yes.

6 Q.765 - And my understanding is, at least in this point in time
7 in the development of the competitive market, the
8 establishment of a regional RTO has not yet occurred?

9 MR. MAROIS: That is correct.

10 Q.766 - And my understanding in fact is that beyond perhaps even
11 the most early of preliminary negotiations, the development
12 of a regional RTO is -- that is about as far as we have gone
13 with that objective.

14 Would that be correct, Mr. Marois?

15 MR. MAROIS: My understanding is there has been discussions
16 amongst parties. And they weren't able to work out some of
17 the fundamental challenges of developing such an RTO.

18 Q.767 - You would agree with me that establishing of this
19 particular factor for the competitive market is dependent on
20 parties and conditions beyond the control of New Brunswick
21 Power, is that correct?

22 MR. MAROIS: Definitely.

23 - 1078 - Cross by Mr. Hyslop -

24 Q.768 - Right. And you are going to have to arrange from buy-in
25 from a lot of big players all along northeastern North

1 America to cause this to occur, is that correct?

2 MR. MAROIS: Yes. And it will also depend in great part on
3 market conditions generally.

4 Q.769 - Thank you. I want to refer to number (2) which reads
5 for the record "Electricity generation and transmission are
6 separated either corporately or through an RTO structure,
7 and operated independently."

8 I would like to break that down if I might,

9 Mr. Marois. First would you confirm that that is what it reads?

10 MR. MAROIS: Yes.

11 Q.770 - And I do understand that as of October 1st 2004
12 electricity generation and transmission have been separated
13 out legally through the formation of new corporate entities.

14

15 Is that correct, Mr. Marois?

16 MR. MAROIS: Yes. And in addition there has been the
17 formation of the System Operator.

18 Q.771 - And also the Transmission Operator I believe, yes.

19 And also, however, with the exception of the System
20 Operator, they still are not operated completely
21 independently because of the common board of directors of

22 - 1079 - Cross by Mr. Hyslop -

23 each of these corporations.

24 Am I correct there, Mr. Marois?

25 MR. MAROIS: I didn't hear the opening.

1 Q.772 - Okay.

2 MR. MAROIS: With the exception of the System Operator, is
3 that what you said?

4 Q.773 - Yes, with the exception of the --

5 MR. MAROIS: Yes.

6 Q.774 - -- System Operator? Okay. Thank you. The third
7 condition reads "A second 345 kilovolt transmission tie line
8 with New England is developed to increase New Brunswick's
9 integration into the greater Northeast power market."
10 You would confirm that that is how that reads,
11 Mr. Marois?

12 MR. MAROIS: Yes.

13 Q.775 - Right. And I do understand that there has been some
14 ongoing discussions with the 345 kilovolt transmission line
15 being established.

16 But that has not occurred as of the time of this hearing, is
17 that correct?

18 MR. MAROIS: The line is not built. But there has been more
19 than discussions. It is a project. And it has received
20 various levels of approvals. And it is progressing.

21

22 - 1080 - Cross by Mr. Hyslop -

23 Q.776 - Sure. And what would be the time line, in your best
24 guess or opinion, as to when we might actually have the 345
25 kilovolt tie line in place?

1 MR. MAROIS: Subject to check it is in 2007.

2 Q.777 - Okay. Thank you very much. This next one is -- I wish

3 I had it a couple of months ago. But under point (4) "The

4 Crown utility's non-utility generation contracts and

5 entitlements to the Courtenay Bay project are conveyed to a

6 distribution company or the contracts are restructured so

7 that these resources participate as competitive suppliers in

8 the Northeast power market."

9 Have the non-utility -- my understanding is that the non-

10 utility generation contracts were not transferred to a

11 distribution company but were in fact transferred to the

12 generation company.

13 Is that correct, Mr. Marois?

14 MR. MAROIS: That is correct. I think what is important here

15 -- and I didn't want to throw off your line of questioning.

16 But there has been a sequence of events as you know.

17 Subsequent to the Energy Policy there was a Market Design

18 Committee. And the Market Design Committee was the entity

19 that recommended the structure of the market.

20 Q.778 - Well, in any event, Navigant Consulting who was to

21

22 - 1081 - Cross by Mr. Hyslop -

23 talk about the creation of the perfect competitive market in

24 this province said they should go to the distribution

25 company, didn't they, Mr. Marois?

1 MR. MAROIS: That appears to be the case here.

2 Q.779 - Right. And they said, at least in their opinion, was
3 that if you didn't have that condition it would be hard to
4 develop the competitive market. Because they said --
5 indicated that all of the five conditions would need to be
6 met. Is that correct?

7 MR. MAROIS: That is what is stated in the document, yes.

8 Q.780 - Thank you. The fifth condition is "If all New Brunswick
9 fossil and hydro generation units are owned by one party,
10 then the hydro resources must not be price setting and there
11 must be restrictions that prevent the owner of these hydro
12 units from using them to physically withhold electricity."
13 Have there been restrictions put in place, Mr. Marois, that
14 prevent the owner of the hydro units from using them to
15 physically withhold energy?

16 MR. MAROIS: Not to my knowledge.

17 Q.781 - Okay. Thank you. Now, Mr. Marois, I will speak to you
18 briefly if I could as part of this competitive market type
19 line of questioning about exit fees. And I do appreciate
20 that my good colleague, Mr. MacDougall, asked

21 - 1082 - Cross by Mr. Hyslop -

22 you a few questions on this. But as I understand exit fees,
23 they are to apply when a wholesale customer or someone who
24 leaves electricity directly off the transmission line leaves
25 the system the recommendations under the White Paper are

1 that they pay an appropriate exit fee, is that correct?

2 MR. MAROIS: And it's also part of the new Electricity Act.

3 Q.782 - Yes.

4 MR. MAROIS: There are specific provisions on this.

5 Q.783 - Right. And so it has actually been legislated that
6 these fees would have to be paid.

7 MR. MAROIS: Yes.

8 Q.784 - Right. And the purpose of this is so that the former NB
9 Power capital costs that they have invested in various
10 facilities, they are not stuck with these costs without a
11 place to sell their electricity?

12 MR. MAROIS: Well I believe what is mentioned in the Act is
13 really to keep the remaining customers, those that stay with
14 the distribution company, keep them whole.

15 Q.785 - Yes. Okay. And as I do understand and I certainly do
16 appreciate that you have been busy with regulatory affairs
17 this year, but as yet an application has not been filed to
18 this Board for the approval of exit fees?

19 MR. MAROIS: That is correct.

20

21 - 1083 - Cross by Mr. Hyslop -

22 Q.786 - And am I being too noseiy I guess to ask when you might
23 be expecting this to occur?

24 MR. MAROIS: We don't have a specific time line.

25 Q.787 - Okay. Now would you agree with me -- and I think you

1 agreed with Mr MacDougall's point but just so that I am
2 clear -- that in the absence of approved and published exit
3 fees, a wholesale or transmission customer would be taking
4 some risk if he was to go out in the market to find an
5 alternate source of his electricity. Would you agree to
6 this?

7 MR. MAROIS: Yes. It's an unknown factor, yes.

8 Q.788 - Yes. Once you know the cost you can make your decision
9 but right now we don't know the cost.

10 MR. MAROIS: It's somewhat of a catch 22 because depending on
11 who leaves could influence the exit fee. So it's hard to
12 set a fee in advance without knowing who is going to leave.

13 Q.789 - Sure. Well it's part of the issue I guess that will be
14 before this Board some day. Also I want to discuss very
15 briefly with you section 80 of the Electricity Act, and I
16 would perhaps read the appropriate section into the record.

17 It provides, where the standard service supplier is of the
18 opinion that the electricity purchased under the power
19 purchase agreements entered into with the Generation

20

21 - 1084 - Cross by Mr. Hyslop -

22 Corporation, the Nuclear Corporation or any other person on or
23 before the commencement of this section, and the electricity
24 it is required to purchase pursuant to this Act, is not
25 sufficient to meet its long-term obligations to supply

1 electricity to its customers itself, in its capacity as
2 distributor, the standard service supplier shall issue a
3 request for proposals for the supply of electricity.

4 Now as I understand that section, Mr. Marois, and you can
5 certainly correct me if I am wrong, the idea is when Disco
6 reaches the day it needs more electricity, the legislation
7 provides that it would have to go out and issue a request
8 for proposals. Is that correct?

9 MR. MAROIS: That is my understanding as well.

10 Q.790 - Right. And the idea of this is not to have a captive
11 seller in the other closed corporations but to allow any
12 generator who wants to get in the game the opportunity to do
13 so?

14 MR. MAROIS: It's to make it an open and transparent process.

15 Q.791 - Sure. And also I believe that this requires that the
16 Board approve this process of the RFPs under section 80,
17 subsection 2.

18 MR. MAROIS: That is correct.

19

20

21 - 1085 - Cross by Mr. Hyslop -

22 Q.792 - Right. But to your knowledge has this section been
23 proclaimed in force and effect as of this date?

24 MR. MAROIS: I don't believe it has.

25 Q.793 - Subject to check.

1 MR. MAROIS: Subject to check.

2 Q.794 - Thank you. But, you know, I was thinking yesterday when
3 Mr. Larlee testified that he didn't expect to need new
4 generation capacity here in New Brunswick until about
5 2014/2015, Mr. Larlee?

6 MR. LARLEE: Yes.

7 Q.795 - So rather the real question is whether section 80 is
8 enacted or not, the issue is somewhat academic if you are
9 not going to be out looking for new electricity, would that
10 be correct?

11 MR. MAROIS: Based on what we know today it's somewhat of a
12 long time away, but you never know what could happen to
13 existing facilities, for example, or significant increase in
14 load. So it's a moving target.

15 Q.796 - We might find gold on Mount Carleton and have a big
16 mining boom. There is no question. I hear your point
17 exactly, Mr. Marois. Now as part of this reorganization and
18 restructuring there are in evidence some power purchase
19 agreements, Mr. Larlee and Mr. Marois?

20 MR. MAROIS: Yes.

21 - 1086 - Cross by Mr. Hyslop -

22 Q.797 - Yes. And look, I'm going to tell you, I had a hard time
23 reading the first part of all of it, but I think I did get
24 the gist of a couple of things and maybe you could confirm
25 that to me.

1 And I understand that under the Coleson Cove tolling
2 agreement for the next 25 years that there is a requirement
3 to take capacity of 995 megawatts at \$6,708 per megawatt per
4 month. Is that generally the gist of the tolling agreement,
5 Mr. Marois?

6 MR. MAROIS: Well the numbers you are quoting I don't remember
7 offhand, but --

8 Q.798 - I will back it up. The numbers aren't important. But
9 essentially you are taking a big piece of the electricity
10 out of Coleson Cove for the next 25 years?

11 MR. MAROIS: Yes.

12 Q.799 - Yes. And I guess if a better deal comes along for you,
13 you are not in a position really to get away from that
14 tolling agreement. Is that correct, Mr. Marois?

15 MR. MAROIS: The Coleson Cove tolling agreement really flows
16 through the vesting agreement we have with Genco. It's kind
17 of a sub-set. And Disco has the ability of reducing its
18 nominations under the Genco vesting agreement. But once you
19 have reduced it, there is no guarantee you can get it again
20 at the same condition. So -- but technically

21 - 1087 - Cross by Mr. Hyslop -

22 there is a way of reducing our --

23 Q.800 - Okay. Well I was going to talk to you about the Genco
24 agreement and as I understand that, you are taking
25 approximately 2,400 megawatts of capacity under the Genco

1 agreement for the next 25 years, subject however to reduce
2 it on giving 12 months notice. Would that be correct, Mr.
3 Marois?

4 MR. MAROIS: That sounds correct, and subject as well to the
5 reduction in the production of any plants.

6 Q.801 - Sure. Plant blows up then you can't produce it. I
7 understand that point. And, you know, as I understand it,
8 the Genco capacity of around 2,400 megawatts, that's the
9 lion's share of the capacity of the whole system, isn't it,
10 Mr. Marois?

11 MR. MAROIS: It is virtually all of the base capacity.

12 Q.802 - Sure. Sure. Mr. Larlee, if these questions are more up
13 your alley, it's not necessary that you confer. If you want
14 to go on the record I don't have a problem with that. And
15 you have a nuclear power purchase agreement as well, I
16 understand.

17 MR. MAROIS: That is correct.

18 Q.803 - Right. And I'm not going to get into the price of this
19 one, but I think my friend Mr. MacDougall indicated
20 yesterday in his cross examination that for the next 25

21 - 1088 - Cross by Mr. Hyslop -

22 years you are buying essentially all the output of the nuclear
23 facility under this purchase power agreement, Mr. Marois?

24 MR. MAROIS: That is correct.

25 Q.804 - So it would seem to me that you have pretty well got

1 your supply of electricity for the next little while pretty
2 solidly covered in your power purchase agreements, Mr.
3 Marois?

4 MR. MAROIS: Unless something happens, yes, we do have energy
5 for the foreseeable future.

6 Q.805 - Thank you.

7 MR. MAROIS: And capacity.

8 Q.806 - So you are not really shopping for a better deal out
9 there today, are you?

10 MR. MAROIS: Well we are going to be shopping soon for
11 renewable energy as per the government targets, but -- so
12 that's going to add to our supply mix.

13 Q.807 - That's about 400 megawatts over the next ten years, I
14 understand? I could be wrong there.

15 MR. MAROIS: Yes. For wind it's about -- in total it's about
16 1,700 gigawatt hours over ten years.

17 Q.808 - Okay. If we could turn up exhibit -- oh gee -- I think
18 it's -- I apologize, Mr. Chair. It would be exhibit A-16.
19 And I refer you to Disco PI IR-36.

20

21 - 1089 - Cross by Mr. Hyslop -

22 Now there has been some discussion in the interrogatories
23 and in the evidence as to the requirement to have accurate
24 research and data with regard to load research itself. And
25 in response to interrogatories here in Part A, you indicate

1 you as follows, Mr. Larlee. Replacement electronic meters
2 for the residential load research contributors have been
3 ordered and are expected to arrive in the fall of 2005. It
4 is anticipated that these meters will be installed prior to
5 the end of 2005. Is that correct, Mr. Larlee?

6 MR. LARLEE: Yes, that's correct.

7 Q.809 - And how many meters would we be talking about and for
8 what classes?

9 MR. LARLEE: This is referring specifically to the residential
10 class and it's in the order of 200 meters.

11 Q.810 - And do you consider 200 meters as being a satisfactory
12 sample to establish the information that you need for this
13 class?

14 MR. LARLEE: Yes. For the statistical sample, we have
15 developed a residential class and there is a report in the
16 evidence --

17 Q.811 - Sure.

18 MR. LARLEE: -- that outlines the techniques used that we feel
19 we are getting a statistically valid example using

20

21 - 1090 - Cross by Mr. Hyslop -

22 that number.

23 Q.812 - Sure. And I appreciate that your experts on

24 electricity, but one of the reasons you would be wanting to
25 acquire this information and one of the main reasons would

1 be for future rate applications to assist the Board with
2 information with regard to the consumption patterns and
3 amounts of the various classes that are participating in
4 rate applications?

5 MR. LARLEE: And cost allocation studies, yes.

6 Q.813 - Yes. Okay. So it's an important part of a cost
7 allocation study?

8 MR. LARLEE: Yes.

9 Q.814 - To have accurate information?

10 MR. LARLEE: Yes.

11 Q.815 - Have you consulted with the Public Utilities Board at
12 all with regard to the parameters of the samples that -- and
13 studies that you will be -- and research you will be
14 completing?

15 MR. LARLEE: Not to my recollection, no.

16 Q.816 - And you are aware that in the early '90s after these
17 rate hearings, there was some effort to work with the Board
18 to be sure that this type of research could be carried out
19 with -- shall we say parameters agreed to and thought
20 through?

21 - 1091 - Cross by Mr. Hyslop -

22 MR. LARLEE: Again, not to my knowledge. The program was
23 embarked upon after the 1992 CARD hearing as a result of the
24 directives from that.

25 Q.817 - Well let's get to it. I don't want to talk about old

1 history and what I think are problems there, but what I
2 really want to know is in the future, when you undertake
3 this load research, would you be willing in order to work
4 with the Public Utilities Board staff in establishing
5 parameters that would be agreed to for the development of
6 accurate information for future cost allocation studies, Mr.
7 Larlee?

8 MR. LARLEE: We will certainly willingly follow any Board
9 directives related to research --

10 Q.818 - Well --

11 MR. LARLEE: -- and if they include direct work --

12 Q.819 - -- if the Board --

13 MR. LARLEE: -- and discussions with the staff --

14 Q.820 - Sure.

15 MR. LARLEE: -- then I have no difficulty doing that.

16 Q.821 - So if the Board ordered you to work with them in the
17 development of this research, you would do it?

18 MR. LARLEE: Absolutely.

19 Q.822 - And if they didn't order it, you kind of make your own
20 decision about it?

21 - 1092 - Cross by Mr. Hyslop -

22 MR. LARLEE: Well, we would seek their input if we thought it
23 would be helpful.

24 MR. HYSLOP: Just one moment, Mr. Chair. I have got another
25 handout that I would like to present to the witnesses, Mr.

1 Chair.

2 CHAIRMAN: While I am marking that, Mr. Larlee, I took a
3 year's statistics at university, and I won't tell you how
4 long ago that was, but it strikes me that 200 meters is not
5 a good sample. Now would you comment on that?

6 MR. LARLEE: It is surprising, I agree. But I am not a
7 statistician, but I do have on my staff some people who are
8 very good at statistics.
9 Essentially what happens is we take a certain amount of
10 information. If you have a sample of customers or a
11 population and you know something about them, you can use
12 that information to chop them up into bits. Then you simply
13 take a sample of each of the bits.
14 So in the case of the residential class, we can chop up that
15 class based on their energy consumption. Then once we have
16 them basically let's say homogenized by energy consumption,
17 then we only have to take very few samples within each
18 group. It's called stratifying the class. And that's the
19 technique we used. It's a stratified sample. That's right.

20

21 - 1093 - Cross by Mr. Hyslop -

22 And it's within each of these chunks then we choose the
23 customers randomly. So it's a random stratified sample of a
24 class. And instead of requiring a sample in the order of a
25 thousand or more, we are able to do it with 200 and still

1 gain accuracies in the order of 5 percent, 19 times out of
2 20.

3 CHAIRMAN: I will ask you to give us an undertaking that you
4 will file with us before this hearing concludes some
5 literature describing what you have just told us to be an
6 acceptable size and samples, so we are able to assess what
7 you just said.

8 MR. LARLEE: Very good.

9 CHAIRMAN: Thank you. Now, Mr. Hyslop, has given a single
10 piece of paper with what looks like to be an example on it.
11 And it will be PI-5. Go ahead, Mr. Chair.

12 MR. HYSLOP: Thank you, Mr. Chair.

13 Q.823 - This goes back again to our discussion of declining
14 block rates, Mr. Larlee. And I was doing some doodling last
15 night and put down these numbers and I said isn't this
16 interesting. I don't know if it's important, but at least
17 it seemed interesting. So I thought I would take you
18 through it and maybe you can help me a little bit.

19 What I did is I said if I have got an average customer that
20 has about 2,000 kilowatt hours a month, and I

21 - 1094 - Cross by Mr. Hyslop -

22 appreciate you got -- I guess you call it a load curve where
23 they have more in winter months -- but I am going to assume
24 2,000 kilowatt hours in a month. And I said well what would
25 you pay if you -- for that electricity based on your March

1 31st rate?

2 So I did the calculations. And I said well, I would pay
3 \$155.30. And I tried to do the math right, and I encourage
4 you to take all these calculations subject to check. Do you
5 understand that part of the calculation and how I came to
6 it, Mr. Larlee?

7 MR. LARLEE: Yes, I do.

8 Q.824 - And what I did is I applied the first block rate and
9 then I applied the second block rate on the remainder. You
10 see how I did that?

11 MR. LARLEE: Yes.

12 Q.825 - Yes. Okay. So I said well, you know, what rate would I
13 have to pay if -- rather than having two blocks, I had a
14 flat block rate? So I took the 155.30 and I divided it by
15 the 2,000 kilowatt hours and I came up with 7.765 cents per
16 kilowatt hour?

17 MR. LARLEE: Yes. So what you have there is the average
18 energy charge for that bill.

19 Q.826 - Well look, if you didn't have two different blocks, you
20 could send me a bill that said 2,000 kilowatt hours at

21 - 1095 - Cross by Mr. Hyslop -

22 7.765 cents for \$155, that would be the same amount, just a
23 different way of getting there, right, Mr. Larlee?

24 MR. LARLEE: That's correct. But there is an additional
25 charge, the monthly service charge, which you haven't

1 included.

2 Q.827 - Yes. I am ignoring that for the purposes of this
3 example.

4 MR. LARLEE: Just for clarity sake.

5 Q.828 - Sure. So I said well, you know, let's see what happens
6 if we have a warm winter, I get to go golfing in January,
7 and instead of having 2,000 kilowatt hours, it's 10 percent
8 less consumption. So it goes down to 1,800 kilowatt hours.
9 And so I did the calculation again. I had 1,400, which is
10 your first block and 400 at the second block rate and I got
11 142.08. Is that correct, Mr. Larlee? Subject to check on
12 my numbers?

13 MR. LARLEE: That looks fine.

14 Q.829 - Right. And I say well if I took that 7.765 cents, would
15 NB Power get the same amount of money? And when I did that
16 calculation, I got 137.70. Do you see that calculation, Mr.
17 Larlee?

18 MR. LARLEE: Yes, I do.

19 Q.830 - Yes. So I said gee, if it's a flat block rate, poor old
20 NB Power has just lost \$4.38 on me in that particular
21 - 1096 - Cross by Mr. Hyslop -
22 month. Would those calculations be correct, Mr. Larlee?

23 MR. LARLEE: Yes, I believe so. Yes.

24 Q.831 - So in other words, if we start flattening the rate and
25 you get a warm winter, there is a risk to your revenue

1 stream?

2 MR. LARLEE: I think it's an accepted fact that flat block
3 rates are more volatile and I believe it's -- I can't
4 remember in which Intervenor's evidence, but there is a
5 description of some of the rationale for declining block
6 rates and that's one of them, but it does -- it does
7 stabilize the utility's revenue.

8 However, you would have to look at this -- there is the
9 other side of the ledger here in that when we do have warm
10 weather, our energy costs go down. So yes, there is
11 increased volatility but it is offset by -- any change in
12 revenue is offset by the change in Disco's cost because of
13 lower fuel requirements.

14 Q.832 - Sure. But not all your costs are variable. A lot of
15 them are fixed, is that correct, Mr. --

16 MR. LARLEE: That is true, yes.

17 Q.833 - Yes. You know, I hear where you are coming from and I
18 know there is an offset. So look, the rest of the
19 calculation there, I said if we have a warm winter you can
20 lose 15 million in your revenue. I'm not going to really

21 - 1097 - Cross by Mr. Hyslop -

22 take you through that. But you would agree with me and I think
23 you said to even in your evidence that it was admitted that
24 a declining block, one of the advantages for the utility is
25 it does protect against risk in declining revenues. Would

1 that be correct, Mr. Larlee?

2 MR. LARLEE: It has a tendency to stabilize revenues. It is
3 less volatile.

4 Q.834 - Yes. Okay. Thank you very much.

5 MR. MAROIS: Just for the record though, that was not a factor
6 in our rationale for a rate proposal.

7 Q.835 - I didn't suggest it was, Mr. Marois.

8 MR. MAROIS: No, but I just want to put it on the record, and
9 I think if at one point in time we do get to a flatter rate
10 or even an increasing block rate, if the risk ever becomes
11 an issue we need to tackle it either through the variance
12 account like is done in other utilities or -- and just to
13 comment on your table, I know you didn't want to talk about
14 it, but I think the 15 million is misleading because you use
15 12 months and even though we don't have nice weather here I
16 think winter usually doesn't last 12 months. So --

17 Q.836 - No. I don't suggest it does, but sometimes in April I
18 think it has, so your point is well taken, Mr. Marois. Just
19 for the record, I just thought we should have made

20

21 - 1098 - Cross by Mr. Hyslop -

22 that point. Mr. Chair, I have got about one more line of
23 questioning, probably 20 minutes to half an hour.

24 CHAIRMAN: We will break for lunch and come back at quarter
25 after 1:00.

1 MR. HYSLOP: Thank you very much.

2 (Recess - 12:00 p.m. - 1:15 p.m.)

3 CHAIRMAN: Any preliminary matters, Mr. Morrison?

4 MR. MORRISON: No, Mr. Chairman.

5 CHAIRMAN: Okay. Go ahead, Mr. Hyslop.

6 MR. HYSLOP: Thank you, Mr. Chair. I have got one last line
7 of questioning which I hope won't take too long. Mr. Chair,
8 at this time I have another exhibit I would like to pass
9 out.

10 Thank you, Mr. Chair. I have passed out what hopefully
11 isn't the most sophisticated exhibit we will receive during
12 this hearing. But I want -- I have passed it out so that we
13 can explore this concept of a vertically-integrated utility.

14 CHAIRMAN: Can I interrupt and give it a number and --

15 MR. HYSLOP: Sure.

16 CHAIRMAN: -- we will go on from there. It is less complex
17 than the last one. And it is PI-6.

18 MR. HYSLOP: Thank you, Mr. Chair.

19 Q.837 - This, Mr. Marois, is my best guess at a

20

21 - 1099 - Cross by Mr. Hyslop -

22 vertically-integrated utility. And just to go through it, at

23 the top I have identified the Province of New Brunswick.

24 And there is a little line down to NB Power.

25 And as I understand it, prior to October 1st 2004 all of the

1 shares of NB Power were owned by the Province of New
2 Brunswick.

3 Is my understanding correct?

4 MR. MAROIS: I don't think there were shares. But we were a
5 crown corporation.

6 Q.838 - Okay. So your owner was the Province of New Brunswick?

7 MR. MAROIS: Yes.

8 Q.839 - Yes. There were no minority owners?

9 MR. MAROIS: No.

10 Q.840 - No? Okay. And NB Power ran an electricity company,
11 correct?

12 MR. MAROIS: That is correct.

13 Q.841 - And included in that electricity company there would be
14 -- some of the things they do is they have produced
15 electricity generation, correct?

16 MR. MAROIS: Correct.

17 Q.842 - And they would transmit electricity, correct?

18 MR. MAROIS: Correct.

19 Q.843 - And they would -- I guess the formal word in the
20

21 - 1100 - Cross by Mr. Hyslop -

22 industry is they would sell it or distribute it to the
23 customers, correct?

24 MR. MAROIS: Correct.

25 Q.844 - So I have shown that on your -- my little chart here as

1 a generation function, transmission function and
2 distribution function, correct?

3 That is what you did essentially in the broadest stroke of
4 the terms?

5 MR. SOLLOWS: Yes.

6 Q.845 - And I have put in brackets there something called a
7 business unit. And I understand from some of the evidence
8 that each of these functions was within NB Power itself,
9 what was referred to as a business unit?

10 I think that is the terminology you folks like to use.

11 MR. MAROIS: Yes. The company was structured in business
12 units a couple of years ago --

13 Q.846 - Yes. Okay.

14 MR. MAROIS: -- in anticipation of restructuring.

15 Q.847 - Sure. Okay. And just so I get it right, like most
16 companies NB Power would have a board of directors?

17 MR. MAROIS: Yes.

18 Q.848 - Right. And I'm not sure of this. But you can help me.

19 I understood that we had gentlemen or ladies that were the
20 vice-president in charge of the different things

21 - 1101 - Cross by Mr. Hyslop -

22 that NB Power would do. Is that correct?

23 So we would have a vice-president of Generation?

24 MR. MAROIS: Yes.

25 Q.849 - And a vice-president of Transmission?

1 \ MR. MAROIS: Yes.

2 Q.850 - And a vice-president of Distribution?

3 MR. MAROIS: Yes.

4 Q.851 - And within NB Power I take it -- and maybe, Mr. Larlee,
5 you can help here a little bit. Because as part of a cost
6 allocation study you would start off by functionalizing the
7 costs and the assets and depreciation, et cetera into
8 different functions.

9 So I assume you had assets of the corporation that would be
10 identified as being Generation assets. Would I be correct
11 there?

12 MR. LARLEE: You are referring to when the utility was fully
13 integrated and we were doing cost allocation studies?

14 Q.852 - Sure. That would be correct. Yes.

15 MR. LARLEE: That is right.

16 Q.853 - Yes.

17 MR. LARLEE: The functionalization is just split up the
18 assets.

19 Q.854 - Yes. And you split some of the assets into Transmission
20 assets?

21 - 1102 - Cross by Mr. Hyslop -

22 MR. LARLEE: Correct.

23 Q.855 - And some into Distribution assets?

24 MR. LARLEE: Correct.

25 Q.856 - And you had one president over everything, I expect?

1 MR. MAROIS: Yes.

2 Q.857 - Okay. And I showed NB Coal down there. Because I did
3 understand there was a subsidiary corporation, NB Coal. Was
4 that true at October 1st 2004? Or I guess on September 30th
5 2004?

6 MR. MAROIS: Yes.

7 Q.858 - Okay. So we have got an owner. We have got common
8 management of the Generation function, correct, by the board
9 of directors? One board of directors would look after the
10 Generation function?

11 MR. MAROIS: Yes.

12 Q.859 - One board of directors would be responsible for the
13 Transmission function, correct?

14 MR. MAROIS: Well, prior to October 1st it was one board of
15 directors.

16 Q.860 - Yes. Okay. So they looked after all those functions.
17 Now what I would like you to do if you would is turn up
18 exhibit A-2, the evidence of Sharon MacFarlane. And I'm
19 referring to page 5. Do you have that, Mr. Marois?

20 MR. MAROIS: Yes, I do.

21 - 1103 - Cross by Mr. Hyslop -

22 Q.861 - Okay. And at the top of this figure 1, this I
23 understand from the evidence depicts the reorganized NB
24 Power group of companies that appeared on October 1st 2004.

25

1 At the very top we have the Province of New Brunswick?

2 MR. MAROIS: That is correct.

3 Q.862 - Right. And my understanding, either through
4 shareholdings or some other method, the Province of New
5 Brunswick is still the owner of this electric utility, for
6 lack of -- for the use of a generic term. Would that be
7 correct?

8 MR. MAROIS: Sorry, what are you referring on that?

9 Q.863 - Okay. What I'm getting to, there is the Province of New
10 Brunswick. And underneath that is the Minister of Energy --

11 MR. MAROIS: Yes.

12 Q.864 - -- correct? And then underneath that there is Holdco --

13 MR. MAROIS: Yes.

14 Q.865 - -- correct? And if I'm correct, my understanding that
15 the shares of Holdco are owned through the Minister of
16 Energy by the Province of New Brunswick, am I correct?

17 MR. MAROIS: Yes. And through the Electric Finance
18 Corporation.

19 - 1104 - Cross by Mr. Hyslop -

20 Q.866 - Correct. Yes. And the Electric Finance Corporation had
21 to do with the reorganization of the capital structure of NB
22 Power, correct?

23 MR. MAROIS: Yes.

24 Q.867 - And am I correct that the Minister of Finance, the New
25 Brunswick Electric Finance Corporation are dealing

1 specifically with issues of finance and the reorganization
2 of the -- and structuring of what used to be NB Power debt?

3 MR. MAROIS: Yes.

4 Q.868 - Okay. Thank you. And now the Holdco takes care of what
5 we might call the operational side of the company, is that
6 correct, Mr. Marois?

7 MR. MAROIS: Well, Holdco is responsible for all aspects of
8 the company.

9 Q.869 - Okay.

10 MR. MAROIS: It is the company --

11 Q.870 - It is the company?

12 MR. MAROIS: -- the holding company, yes.

13 Q.871 - Right. And a moment ago we talked about assets, Mr.
14 Larlee, that we identified as being Generation assets.
15 Would those generation assets have been transferred by
16 transfer agreement to the Genco company?

17 MR. MAROIS: By transfer orders to the Genco corporation, to

18

19 - 1105 - Cross by Mr. Hyslop -

20 the Colesonco corporation and the Nuclearco corporation.

21 Q.872 - Yes. Okay. And I note that there is a new company,
22 Nuclearco, that looked after one particular part of what
23 used to be the Generation assets, correct?

24 MR. MAROIS: Yes.

25 Q.873 - Right. And the Transmission assets that we had on my

1 little exhibit, they were transferred by transfer order to
2 Transco?

3 MR. MAROIS: Yes.

4 Q.874 - Right. And the bulk of the distribution assets that we
5 had on my previous exhibit were transferred to Disco, is
6 that correct?

7 MR. MAROIS: That is correct.

8 Q.875 - Right. And I understand that Holdco has a board of
9 directors?

10 MR. MAROIS: Yes, it does.

11 Q.876 - And each of these other companies has a board of
12 directors?

13 MR. MAROIS: Yes, they do.

14 Q.877 - And with the possible exception of the vice-president of
15 each of those companies, the board of directors of each of
16 those companies are the same as Holdco.

17 And they are the same between themselves, is that true?

18

19 - 1106 - Cross by Mr. Hyslop -

20 MR. MAROIS: The board of directors are all different. But
21 they have the same members.

22 Q.878 - Same members? Okay.

23 MR. MAROIS: And the vice-presidents of the companies are not
24 part of the board of directors.

25 Q.879 - Okay. And we have a -- just so I understand that, the

1 same people are the board of directors of each of these
2 companies?

3 MR. MAROIS: Yes.

4 Q.880 - Right. Albeit they act as a separate board for each
5 company?

6 MR. MAROIS: Yes. Because these are all legally --

7 Q.881 - Right. And we have a President of Holdco?

8 MR. MAROIS: -- legal entities.

9 Q.882 - We have a President of Holdco. There is a President of
10 Holding Company?

11 MR. MAROIS: Yes.

12 Q.883 - I'm not going to get into names. I don't think it
13 matters. And I understand the same person is also the
14 President of Disco, Transco, Nuclearco and Genco?

15 MR. MAROIS: Yes.

16 Q.884 - Yes. And would it be correct that -- although I guess
17 there has been some reappointments. And I congratulate you
18 on becoming the Vice-president of Disco.

19 - 1107 - Cross by Mr. Hyslop -

20 But essentially the day after, on October 1st at least, the
21 people that were the Vice-president of each of these little
22 departments on September 30th became Vice-presidents of
23 these new corporations, is that correct?

24 MR. MAROIS: Yes. There was a process. But you are correct.

25 Q.885 - Okay. And down at the bottom there under Genco I have

1 put in NB Coal. So they made NB Coal a subsidiary of Genco,
2 is that correct, Mr. Marois?

3 MR. MAROIS: Yes. And the same for Coleson.

4 Q.886 - Right. So we have got common ownership between my
5 little scheme we had before and this one, New Brunswick --
6 Province of New Brunswick?

7 MR. MAROIS: Yes.

8 Q.887 - We have got -- although we have more sets of board of
9 directors, we have got the same people acting as the board
10 of directors on all of these corporations?

11 MR. MAROIS: Yes.

12 Q.888 - Yes. So the management of this big block on figure 1 of
13 Mrs. MacFarlane's evidence is just the same group of people
14 managing the whole structure, correct?

15 MR. MAROIS: In different roles but the --

16 Q.889 - Yes.

17 MR. MAROIS: -- same people, yes.

18

19 - 1108 - Cross by Mr. Hyslop -

20 Q.890 - Are these people in conflicts of interest if they are on
21 more than one board of directors, Mr. Marois?

22 MR. MAROIS: Well --

23 MR. MORRISON: I don't think he can answer that question, Mr.
24 Hyslop.

25 MR. HYSLOP: Okay. I will leave it. They are there anyhow.

1 Q.891 - And we have got the same type of assets distributed out
2 to the appropriate corporations that we discussed before,
3 correct?

4 MR. MAROIS: Yes. I guess a significant difference from the
5 past, as you have acknowledged in your questions, is these
6 are different companies. But also one thing you left out, I
7 think, is they are all governed by a new Act.

8 Q.892 - Well, I appreciate they are governed by a new Act. But
9 that is what I'm trying to get at.

10 Now where I see all of this is that as far as the day-to-day
11 management and business affairs of these corporations, you
12 know, if this is a vertically-integrated business unit on
13 exhibit PI-6, which is to produce, transmit and sell
14 electricity -- and I want you to think big here -- if we
15 take this whole scheme on figure 1 and make it a
16 comprehensive scheme, isn't that a unified business unit to
17 generate, transmit and distribute electricity, Mr. Marois?

18

19 - 1109 - Cross by Mr. Hyslop -

20 MR. MAROIS: Well, I think it is an unfair question. Because
21 if you think big enough you could almost say this of any
22 corporation.

23 When I used to work for Enbridge in New Brunswick we were a
24 distinct corporation responsible for our own bottom line.
25 But if you think big enough, Enbridge across Canada is

1 responsible for distributing natural gas.

2 So I think it is kind of an unfair question. Because at
3 each corporation's level it is very different than in the
4 past.

5 Q.893 - Well, I just want you to think in terms of operations
6 only, okay, not in the finance or not in the legal sense of
7 having different corporations.

8 Just in terms of operations, Mr. Marois, I'm going to
9 suggest to you that there is no operational difference
10 between NB Power and the new NB Power group of companies.

11 Would you agree with that?

12 MR. MAROIS: I don't.

13 Q.894 - You don't agree with that?

14 MR. MAROIS: No.

15 MR. HYSLOP: That's all I have. Thank you very much, Mr.
16 Marois, and Panel. And thank you, Mr. Chair. That
17 completes my questioning except for next week I guess when
18 we will be back with Mr. Knecht with Mr Ketchum and Mr.

19 - 1110 - Cross by Mr. Hyslop -

20 Larlee on the cost allocation study.

21 CHAIRMAN: Thank you, Mr. Hyslop. My understanding is that
22 only Board staff has some questions remaining, is that
23 correct, Mr. MacNutt?

24 MR. MACNUTT: That's my understanding, Mr. Chairman, yes.

25 CHAIRMAN: Okay. Do you want to move up.

1 MR. MACNUTT: Thank you, Mr. Chair.

2 CHAIRMAN: While that move is occurring I just had a follow-up
3 question for Mr. Larlee from the metering of this morning.

4 The smart meter that you need to do time of day analysis, et
5 cetera, runs about \$300. Is that correct?

6 MR. LARLEE: Yes. I think in our evidence we estimated \$250
7 installed per meter.

8 CHAIRMAN: So the entire cost for your 200 meters would be
9 about \$60,000, HST included?

10 MR. LARLEE: That sounds about right.

11 CHAIRMAN: Thank you.

12 CROSS EXAMINATION BY MR. MACNUTT:

13 Q.895 - Good afternoon, Mr. Chairman and Panel and witnesses.

14 We have a few questions, about six in total, on -- six lines
15 of questions, if you like. The first line of questions has
16 its genesis in -- with respect to the concept of must run.

17 And I'm going to ask you to start by turning up PUB IR-87 in
18 exhibit A-12, and I will repeat

19 - 1111 - Cross by Mr. MacNutt -

20 that. That's exhibit A-12, PUB IR-87. Now --

21 CHAIRMAN: Mr. MacNutt, wait until we get the volume out. We
22 will make a lot of noise up here doing that. And what IR?

23 MR. MACNUTT: Exhibit A-12, PUB IR-87.

24 Q.896 - Now the starting point for this series of questions is

25 the response in PUB IR-87. In that response Disco provided

1 information relating to power costs and interruptible power
2 selling prices on January 26th 2005.

3 On page 2 of that response there is a table showing a
4 forecast peak load hour for January 2005, hour eight on
5 January 26th 2005. Under the heading "Sources of Supply"
6 there is a list of the sources of supply.

7 The first source in the list is purchases, 145 megawatts.
8 The remainder of the list is comprised of the names of
9 various generation stations and the megawatts provided by
10 those stations. Our focus is on purchases.

11 I'm now going to ask you to turn up PUB IR-124(E), which is
12 in exhibit A-17. And I will repeat, exhibit A-17 -- where
13 is that list? You have got it. Why don't I have it?

14 CHAIRMAN: What is the IR, Mr. MacNutt?

15 MR. MACNUTT: IR-124(E). PUB IR-124(E) was a follow-up IR to
16 the previous PUB IR-87. The question put was, what are

17

18

19 - 1112 - Cross by Mr. MacNutt -

20 the sources of purchases and why was that source presented as
21 the first item in the list which appears to be ordered to
22 show a cost hierarchy of supply.

23 And we note that in the response to PUB IR-124(E) it is
24 stated, the sources of purchases are Grandview, Frasers
25 Cogenerator, St. George Pulp & Paper and Musquash. The

1 generation supply from these resources is considered must
2 run in the generation dispatch.

3 The response also suggested that the response to Public
4 Intervenor IR-39 which is in exhibit A-16 would be
5 informative, but we will address that later. Please don't
6 turn it up now. First we are concentrating on the phrase
7 "must run" as used in that response to PUB IR-142(E) I just
8 read to you. Why are those power sources listed as must
9 run?

10 MR. MAROIS: It is because of the contractual obligation that
11 Genco has with those suppliers that they must take the power
12 if the power -- that the power that has been generated.

13 Q.897 - So you are suggesting that Genco has a contract with
14 each of Grandview, Frasers Cogenerator, St. George Pulp &
15 Paper and Musquash which requires Disco to take power from
16 them in a particular timing and manner?

17 MR. MAROIS: Not Disco. Genco.

18

19 - 1113 - Cross by Mr. MacNutt -

20 Q.898 - Genco. Sorry. I stand corrected.

21 MR. MAROIS: Yes. And I believe that that was clarified in
22 one of the responses to an IR. Maybe it's the 124, but
23 that's the case, yes.

24 Q.899 - Okay. So I will ask you this anyway in light of your
25 explanation. What is the criteria for selecting a "must

1 run" generation source?

2 MR. MAROIS: What do you mean by what is the criteria?

3 Q.900 - Well you identified that the obligation exists because
4 of the contract. Was there any underlying rationale behind
5 identifying contracting with -- Genco contracting with those
6 particular generators?

7 MR. MAROIS: You mean why they entered into must runs?

8 Q.901 - Yes.

9 MR. MAROIS: Must take?

10 Q.902 - Yes.

11 MR. MAROIS: I cannot answer that unfortunately. These
12 contracts have been in place for a while. I presume -- I
13 mean they are the result of negotiations, so I do not know
14 why these contracts are structured the way they are
15 structured, if that's what you are asking.

16 Q.903 - Are you aware of anything in -- you can't answer it. Is
17 it -- could other members of the Panel perhaps assist. Is
18 there any criteria or analysis available in the

19 - 1114 - Cross by Mr. MacNutt -

20 evidence that has been filed in this hearing that would answer
21 that question?

22 MR. LARLEE: Not that I am aware of.

23 Q.904 - Do you know whether or not Disco had any role in those
24 contracts and identifying those plants as being must run?

25 MR. MAROIS: My understanding is all of these contracts were

1 executed prior to restructuring. So as part of
2 restructuring they were all assigned to Genco. So Disco did
3 not exist per se when these contracts were entered into.

4 Q.905 - Now looking at these contracts from Disco's point of
5 view, is Disco convinced that all these units must be
6 designated and used as must run for reliability purposes?

7 MR. MAROIS: I guess from Disco's perspective what is -- we
8 are not -- the only thing Disco is aware of is the fact that
9 these contracts exist and that they are must takes, so that
10 that influences the dispatching of these units.

11 MR. MACNUTT: As mentioned earlier in the line of questioning,
12 Mr. Chairman, I stated that PUB -- excuse me -- Public
13 Intervenor IR-39, which is in exhibit A-16, also touches on
14 this subject matter. Perhaps we could turn that up now.
15 Exhibit A-16, PI IR-39.

16 CHAIRMAN: Mr. MacNutt, you have just set a record. You have
17 got the three largest volumes out all at once.

18

19 - 1115 - Cross by Mr. MacNutt -

20 MR. MACNUTT: Oh, good.

21 CHAIRMAN: What was the Public Intervenor IR?

22 MR. MACNUTT: PI IR-39.

23 CHAIRMAN: Thank you.

24 Q.906 - The response to PI IR-39(A) (III) states that the
25 capacity factor for the Bayside Private Power Plant is 95

1 percent during November through March. Is that not correct?

2 MR. MAROIS: Yes, bracket 2 indicates that response, yes.

3 Q.907 - Sub 2, fine. So that is a correct statement for the

4 paragraph. You would agree that that response indicates

5 that the capacity factor for the Bayside Private Power Plant

6 is 95 percent during November through March? Is that not

7 correct?

8 MR. MAROIS: That is what is indicated, yes.

9 Q.908 - Thank you. Is this plant designated must run by the SO

10 for system reliability reasons during this or any other part

11 of the year?

12 MR. MAROIS: I don't know the answer to your question, sorry.

13 I can undertake to get it.

14 Q.909 - Yes, would you please?

15 MR. MORRISON: Just so I am clear, Mr. Chairman, the

16 undertaking is to determine whether the SO considers Bayside

17 for -- uses Bayside for reliability?

18

19 - 1116 - Cross by Mr. MacNutt -

20 MR. MACNUTT: Dispatching Bayside as a part of the system

21 reliability -- for system reliability reasons during the

22 part of the year November through March or any other part of

23 the year?

24 Q.910 - Now is the Bayside -- do you know if the Bayside plant

25 is dispatched out of normal economic order to meet in-

1 province loads during the period of April through October?

2 MR. MAROIS: I believe I have the answer but I would prefer
3 verifying so again I will undertake to -- so could you
4 please repeat the question?

5 Q.911 - The second one is -- I guess I will turn it around.

6 Could you undertake to advise us if the Bayside plant is
7 dispatched out of normal economic order to meet in-province
8 loads during the period April through October?

9 And if I could just add to the -- an additional note for the
10 first undertaking with respect to the plant being designated
11 must run by the SO. Could you include in that undertaking
12 to advise us if there -- if the plant was in fact
13 specifically operated as a must run plant at any time during
14 the previous two years?

15 Now going to deal with -- I will give you the topic, which
16 is variances between records of export sales. And the
17 starting point for this is PUB IR-103(1), which is in
18 exhibit A-12. I will repeat that. Exhibit A-12, PUB

19 - 1117 - Cross by Mr. MacNutt -

20 IR-103.

21 CHAIRMAN: And the IR number, Mr. MacNutt?

22 MR. MACNUTT: PUB IR-103(1).

23 Q.912 - Now PUB IR-103 requested Disco to provide the past 15
24 years of monthly net sales history for a, firm exports to
25 the US, b, non-firm exports to the US, c, firm exports to

1 other Canadian provinces and d, non-firm exports to other
2 Canadian provinces.

3 The response provided the information in two tables. One
4 was table 1, which are export sales and megawatt hours as
5 available from a combination of data from New Brunswick
6 Power Generation and the NBSO.

7 And the second, table 2 was a forecast of export sales. I'm
8 now going to ask you to turn up PUB IR-126, which is in
9 exhibit A-17. Repeat exhibit A-17.

10 CHAIRMAN: Just give us the volume, Mr. MacNutt, and then give
11 us the IR. But also if we had it up before, tell us to
12 leave it there, if you could, sir. We could keep our
13 arthritis at a minimum. What is the IR number?

14 MR. MACNUTT: I don't know if I can provide you that assurance
15 that it may not come back up again.

16 CHAIRMAN: Well make your best efforts.

17 MR. MACNUTT: Thank you, Mr. Chairman.

18 CHAIRMAN: What is the IR number?

19 - 1118 - Cross by Mr. MacNutt -

20 MR. MACNUTT: A-17, A-17. Sorry, yes, you are there. PUB-
21 126.

22 Q.913 - Now PUB IR-126 was a follow-up question with respect to
23 the response to PUB IR-103(1) in which Disco was asked to
24 explain why the estimated firm sales to the US during fiscal
25 year 2006, which is in table 2, are substantially higher or

1 approximately double as compared to the actual amounts for
2 the last 12 months shown in table 1?

3 The response stated and I quote "Table 1 and table 2" I
4 omitted a little bit, "were incorrect and have been
5 revised." And the new tables were provided in the response.
6 Now to simplify this, an attempt to simplify this, we have
7 taken the liberty of summarizing the information for the
8 months of January 1997 and November 2004 into a single table
9 for ease of reference. Now this table was circulated to all
10 participants and the Applicant on the morning of -- Monday
11 morning. And indicated to Disco counsel at the lunch hour
12 that we would be referring to this table.

13 I am going to show it to the Panel and ask if they recognize
14 it. And if the information from the IR as mentioned has
15 been accurately summarized in the table.

16 And your answer to my question -- you have seen that

17

18

19 - 1119 - Cross by Mr. MacNutt -

20 table provided to you earlier?

21 MR. LARLEE: Yes. I looked at the table. And it does appear
22 to summarize the data as indicated.

23 MR. MACNUTT: I move to introduce the document -- mark the
24 document as an exhibit, Mr. Chairman.

25 CHAIRMAN: Any more copies for the Board, Mr. MacNutt? It

1 will be marked PUB-3.

2 MR. GORMAN: Mr. Chairman, just for clarification, I'm not
3 sure what it is that you just marked as PUB-3, what the
4 document was.

5 CHAIRMAN: Do you have a copy for the other parties?

6 MR. GORMAN: I know some documents were circulated earlier.
7 But we are just not sure what it is that was submitted to
8 the Board.

9 CHAIRMAN: Mr. MacNutt, describe it, sir?

10 MR. GORMAN: Thank you.

11 MR. MACNUTT: Thank you. It is a one-page document entitled
12 at the top "NB Disco CARD Hearing" with a place for an
13 exhibit number. It is entitled "Nonfirm Sales to the
14 U.S. and other Provinces." At the top of the table there is a
15 heading "Data From IR 103" and in the right-hand column
16 "Data From IR 126."

17 And the two dates are January 1997 and November 2004 with a
18 summary of the megawatt-hours for the four brackets

19 - 1120 - Cross by Mr. MacNutt -

20 or categories of sales that I read out at the opening of the
21 questioning.

22 Just a note of clarification. If you go to the heading
23 where it is January 1997 and then below it November 2004,
24 that notwithstanding the title of the document as being
25 "Nonfirm Sales", in fact both firm and nonfirm are shown in

1 the categories.

2 Now I will go on to the questions.

3 Q.914 - Now would you confirm that the numbers submitted in the
4 original table 1 -- and this is going back to exhibit PUB IR
5 103 (1) were in most instances approximately double the
6 amounts of the numbers shown in the revised table 1 and
7 summarized in PUB exhibit PUB-3?

8 MR. LARLEE: Yes.

9 Q.915 - Would you agree with me that in a number of cases the
10 original numbers were exactly double the revised numbers?

11 MR. LARLEE: Yes.

12 Q.916 - Which set of numbers were used, original or revised, to
13 set the revenue and risk-sharing clauses of the PPA's
14 between Disco and Genco?

15 MR. LARLEE: I am not familiar with the details on how those
16 risk-sharing arrangements were made. But I believe that the
17 PPA's were based on forecasts of export sales.

18 So neither of these -- neither of these sets of data

19 - 1121 - Cross by Mr. MacNutt -

20 would have been used. That would be my understanding.

21 Q.917 - Now you have indicated that it is your understanding
22 that the underlying data used in dealing with PPA's was
23 forecast. Would not those forecasts have relied on such
24 information as is contained in PUB-3?

25 MR. MAROIS: Maybe we should respond in maybe two stages. I

1 think it would be important we explain what we believe
2 happened in terms of the error. And then that maybe would
3 be useful in alleviating.

4 But again I reiterate that my understanding as well is that
5 when you set an export target you use a forecast. Because
6 things change so much from the past. It depends on your
7 capacity. It depends on the load, depends on -- so it is
8 truly a forecast.

9 But again we would like to explain what happened to these
10 figures.

11 Q.918 - Yes, please.

12 MR. LARLEE: Yes. When we responded to IR 103, the first set
13 of data, we first tried to get the data from NBSO. They did
14 not have it immediately available. So in lieu of using that
15 we sourced some data from StatsCanada.

16 Subsequent to that NBSO was able to produce the data they
17 had to generate some adhoc reports and so forth. And they
18 did produce the data and produce the data that we see

19 - 1122 - Cross by Mr. MacNutt -

20 in the response to IR 126, which is the correct data.

21 We have yet to determine why the StatsCanada data is almost
22 double what the actual data is. But we will undertake to do
23 that.

24 Q.919 - Yes. Would you give us that undertaking?

25 CHAIRMAN: Excuse me, Mr. MacNutt, just for a second.

1 Mr. Marois, just going back to what you just said about
2 projections into the future, certainly in the meagre
3 experience I have in projections, nobody is going to project
4 into the future unless they look at the history. I mean,
5 that is the basis from which -- and then you bring in
6 factors that you see on the horizon. That is in auto
7 insurance. That is in just about anything you can name.
8 Are you trying to say that they would not be referring to
9 historical data at all if they projected what export sales
10 may be on a firm or nonfirm basis for instance into the U.S.

11 MR. MAROIS: In all honesty I do not know the process they
12 follow to establish the forecast. But the PPA does
13 reference a five-year forecast. So I can undertake to try
14 to obtain more information. But it is definitely a
15 forecast.

16 CHAIRMAN: Okay. Sorry, Mr. MacNutt. Go ahead.

17 MR. MACNUTT: No. I'm waiting on Mr. Marois. He is making

18

19 - 1123 - Cross by Mr. MacNutt -

20 notes in respect to the undertaking I assume.

21 Q.920 - Thank you. Was either set of numbers used, original or

22 revised, to estimate the potential benefits of the second

23 transmission line to Maine to serve the New England market?

24 MR. MAROIS: We don't know that.

25 Q.921 - Could you undertake to determine that for us as well

1 please?

2 MR. MAROIS: Yes.

3 Q.922 - Now I hate to be a bear on this, but I am going to ask a
4 few more questions along the same lines.

5 During what period of time were the original numbers used as
6 data in NB Power's and/or Disco's operations?

7 MR. LARLEE: This data, as far as I know, was assembled solely
8 for the purpose to answer this IR. I am not aware of Genco
9 having used it anywhere else.

10 Like I said, the data used to respond to IR 126 required
11 that an adhoc report be written within the NBSO. I think
12 that indicates to me that the data was assembled for the
13 first time for this IR.

14 Q.923 - But as a part of the undertaking you are going to get to
15 the bottom of it and advise us?

16 MR. MAROIS: So what was the last question?

17 Q.924 - Well, the last question was during what period of time

18

19 - 1124 - Cross by Mr. MacNutt -

20 were the original numbers used as data in NB Power's and Disco's
21 operations?

22 And I'm going to -- another question, new, a follow-on from
23 that. Were either set of numbers, the original revised,
24 used in the presentation of information and calculations in
25 this CARD hearing?

1 MR. LARLEE: Well, rather than go on, I think we can answer
2 that last question. We didn't use either sets of these
3 numbers in any of the evidence assembled for this CARD
4 hearing.

5 Q.925 - I didn't hear you. I'm sorry.

6 MR. LARLEE: We didn't use either sets of these numbers for
7 any of the evidence assembled for the CARD hearing.

8 Q.926 - Because that was where I was going next. To the extent
9 that either set of numbers were used in any of the
10 calculations or portions of evidence in this hearing, that
11 you would advise us and provide corrected pages. But you
12 appear to be uncertain as to whether or not either the old
13 set or the new set were used in any other calculations or
14 exhibits or evidence. As a part of the previous
15 undertakings could you confirm that they in fact were not
16 used elsewhere in the evidence?

17 MR. MAROIS: Well, we are talking about data dating back to
18 '97 and '04. So I think -- okay, we will look into it.

19 - 1125 - Cross by Mr. MacNutt -

20 But I guess what we are saying is as part of this evidence it is
21 not reflected in it.

22 Q.927 - Thank you. I am now going on to a series of questions.

23 And the heading is "Seasonally Differentiated Rates." And
24 panel, if you have exhibit A-17 out, keep it out, in keeping
25 with the Chairman's admonition.

1 I am not going to get -- just keep -- if you would keep it
2 there for a moment. This is a follow-up on Disco's earlier
3 testimony concerning seasonal rates.

4 Now Mr. Marois or panel, do you recall the question put by
5 Mr. Morrison in direct examination when he asked if Disco
6 agreed with the position of Dr. Rosenberg, suggesting
7 implementation of seasonal rates?

8 MR. KETCHUM: Yes. I recall that question.

9 Q.928 - Now would you please turn up page 806 of the transcript
10 for September 26th 2005. Do you have a copy of Monday's
11 transcript available to you?

12 If you just scan down page 806. Now Mr. Ketchum stated on
13 page 806 that he didn't have a problem with seasonal rates
14 and had actually recommended a cautious movement towards
15 seasonal rates in the 1993 Reed Consulting Group Study, is
16 that not correct?

17 MR. KETCHUM: That's correct.

18 Q.929 - Now Mr. Ketchum also stated that Disco has elected to

19 - 1126 - Cross by Mr. MacNutt -

20 reflect marginal cost principles in rate design by moving to
21 flatten the residential rate and to consolidate the general
22 service rates, and those changes would provide the kinds of
23 price signals that seasonal rates are intended to provide,
24 is that correct?

25 MR. KETCHUM: Yes, that's what we said.

1 Q.930 - Thank you. And Mr. Ketchum said further over on page
2 807 of the transcript, and I quote, "And it was Disco's view
3 that it made sense to take care of that issue first and then
4 again perhaps take up the issue of moving to seasonal rates
5 in a measured way." Is that not correct?

6 MR. KETCHUM: Yes, that's correct.

7 Q.931 - Now I'm not clear from that testimony the extent of
8 Disco's support for seasonal rates. To make this clearer,
9 if we are to assume hypothetically that the declining block
10 problem and the general service consolidation issue were to
11 magically disappear and everything else remain the way it is
12 today, would you have any objection to the introduction of
13 seasonality into the rate structure? Either or perhaps both
14 of you would like to comment.

15 MR. MAROIS: Well I guess from my personal perspective, maybe
16 I would add one thing to your opening statement. You said
17 if the second block magically -- the issue was magically
18 resolved, and I think also if we had the proper

19 - 1127 - Cross by Mr. MacNutt -
20 revenue to cost ratio, because I guess our belief is that it's
21 like starting -- like walking if we are running. If we can
22 get the residential rate and the general service rate at the
23 right level, the right structure, then you can start fine
24 tuning them and make them better.
25 I guess I would not be reluctant to considering it further.

1 My concern with seasonal rates is the additional complexity
2 that it introduces and the complexity from both the utility
3 but also from the customer's perspective. So my preference
4 would be to start by correcting the current rates that are
5 in place and then considering moving maybe to something more
6 refined.

7 MR. KETCHUM: That's precisely what I was going to say.

8 Q.932 - Now by complexity are you referring to two rate changes
9 a year?

10 MR. MAROIS: Well by complexity if you are talking about a
11 seasonal rate you are at least talking about two rates for
12 the year. And with typical residential customers I mean I
13 think each time you add another level of complexity to the
14 rates it's not viewed as being something positive. So
15 that's what I mean. It adds elements to the rates that the
16 customers need to understand.

17 Q.933 - Now is it your testimony that Disco is prepared to
18 support the introduction of seasonality into the rate

19 - 1128 - Cross by Mr. MacNutt -

20 structure once the residential declining block and general
21 service consolidation is addressed, again assuming
22 seasonality is cost justified?

23 MR. MAROIS: Well I think my answer is maybe a bit more
24 subtle, but I think we should look at it more before saying
25 I support it fully. But definitely from a timing

1 perspective it's not something I would see as doing now.

2 MR. KETCHUM: I would just add too that I think that an
3 examination of the cost differentials during different
4 seasons -- re-examination of that under the PPA structure
5 would be something that would be undertaken as well.

6 MR. LARLEE: I will chime in here too. I think it's also
7 important to remember the customer impacts, that we do have
8 approximately 60 percent of our customers that are
9 electrically heated. Going to seasonal rates would have an
10 impact on those customers, so that has to be taken into
11 consideration.

12 Q.934 - Thank you. Now I'm going to ask you to go to exhibit
13 EGNB-2, that is the exhibit we marked yesterday I believe it
14 was, and it's responses to IRs. Exhibit EGNB-2 and I'm
15 directing your attention -- and in EGNB-2 I direct your
16 attention to EGNB Disco IR-1.

17 Now that response indicates that there is an average
18 difference in energy cost of \$10 to \$14 per megawatt

19 - 1129 - Cross by Mr. MacNutt -

20 between winter months and other months. Is that not correct?

21 MR. KETCHUM: That's Dr. Rosenberg's number, I believe.

22 Q.935 - But you would agree that that statement appears in that
23 response?

24 MR. KETCHUM: It does indeed.

25 Q.936 - Do you agree with Dr. Rosenberg's conclusion as to that

1 energy cost differential?

2 MR. KETCHUM: We haven't had a chance to review that in enough
3 detail to form an opinion or understand what is behind that
4 and whether or not that's something that we think we would
5 see on an ongoing basis.

6 Q.937 - Would you undertake to in fact review that material and
7 advise us if you would agree to Dr. Rosenberg's conclusion
8 as to that energy cost differential?

9 MR. KETCHUM: Yes. Certainly.

10 Q.938 - Okay. Now if it turns out that that is correct, does --
11 do you, Dr. Ketchum, believe that the differential is large
12 enough to warrant sending seasonal price signals to
13 customers assuming bill impacts are kept within reasonable
14 limits?

15 MR. KETCHUM: I don't have a Ph.D. I wish I did, but I don't.
16 But that aside if it turns out that that is the case, you
17 know, I think that that's a substantial

18

19 - 1130 - Cross by Mr. MacNutt -

20 differential. And if that's the case going forward it would
21 warrant looking at seasonal rates in a measured way, as Mr.
22 Marois has described.

23 Q.939 - Mr. Marois, would you agree that that differential is
24 substantial?

25 MR. MAROIS: It appears to be, yes.

1 Q.940 - Now would you agree that the only groups of customer
2 that will receive better price signals from the phasing out
3 of the residential declining block and general service II
4 rate will be the electric space heat and all electric
5 general service customers?

6 MR. KETCHUM: Would you repeat that question, sir, please?

7 Q.941 - Yes. Would you agree that the only group of customer
8 that will receive better price signals from the phasing out
9 of the residential declining block and the general service
10 II rate will be electric space heat and all electric general
11 service customers?

12 MR. LARLEE: By phasing out the declining block structure and
13 closing the all electric rates, those are indeed the
14 targeted groups, the electric heat customers. But there is
15 also the other aspect of the rate design which is to move
16 the revenue to cost ratio of electricity up to closer to the
17 target range. And that will impact all customers in the
18 class, send a better price signal to all customers.

19 - 1131 - Cross by Mr. MacNutt -

20 Q.942 - Will changing the revenue to cost ratios improve
21 seasonal pricing?

22 MR. KETCHUM: Not by itself. That wouldn't give a seasonal
23 price signal, no, not necessarily.

24 Q.943 - Do you have an opinion as to whether rates that send
25 seasonal price signals are desirable for other customers?

1 MR. KETCHUM: Based on the assumption that a seasonal rate is
2 in fact or would in future be sending a better price signal,
3 then something of that sort could be beneficial to all
4 customers.

5 Q.944 - Is there any reason not to implement that for those
6 classes at this time?

7 MR. MAROIS: I guess I come back to my previous response, that
8 I believe we should start by correcting the current rates to
9 the issue of declining block, to the issue of the general
10 service rate, the issue of the rates not being -- not having
11 the proper revenue cost ratios.

12 I think if we do that first it's going to be cleaner, and
13 then move on to this -- consider moving on to the seasonal
14 rate. But I repeat my concern about complexity. I do
15 believe -- I find when you talk about rate design, rate
16 structures, certain things sound really good in theory, in
17 concept, but in practice often it's a different story.

18

19 - 1132 - Cross by Mr. MacNutt -

20 I mean everybody in this room for example seem to agree that
21 we should eliminate the declining block rate. Sounds so
22 simple, why aren't we doing it? Because of practical
23 considerations. So at the end of the day we have to weigh
24 the theory with the practical considerations.

25 Q.945 - What practical reasons would weigh against doing it for

1 the industrial classes now?

2 MR. KETCHUM: I think what you are getting at is, you know,
3 reflecting seasonal cost differences, and again that's
4 something that needs to be studied. The industrial
5 customers don't -- aren't the real culprits here in terms of
6 driving the costs, however, in terms of load factor on an
7 annual basis, the peak is driven by the electric heating
8 customers. We know that. So that that would naturally be
9 the first target for better price signals.

10 Q.946 - I would like to move to a new topic. And essentially
11 this is -- captioning might -- called Voltage Differential
12 Rates.

13 Now, I am going to ask you do you recall in your direct
14 examination by Mr. Morrison, on Monday, September 26th, Mr.
15 Larlee, the statement that there will be time to assess
16 other aspects of the non-residential classes once Disco has
17 accomplished the merger of the GS I and GS II

18

19 - 1133 - Cross by Mr. MacNutt -

20 classes? And if you like that statement appears in the
21 transcript for September 26th at page 791, lines 4 to 6.

22 MR. KETCHUM: Sorry. Could have that reference again? 791?

23 Q.947 - Yes. On page 791, lines 4 to 6. Now when you say there
24 that there will be time to assess those issues is Disco --

25 MR. LARLEE: Excuse me. I just -- I would like to read that

1 section. It's not just exactly what I said.

2 Q.948 - Okay. Please go ahead?

3 MR. LARLEE: Once the -- I will just go for the transcript at
4 line 4, once that's done and I think that will be the time
5 to assess other aspects of the non-residential rate class.
6 Not that there will be time, but that will be the time.

7 Q.949 - Perhaps I misspoke then. Now when you say that there
8 will be time to assess those issues is Disco agreeing that
9 issues related to the structure of those classes should be
10 studied?

11 MR. LARLEE: The context of what I was talking about there was
12 we basically feel that the first order of business is to
13 correct the anomaly that is the general service all electric
14 rate. Once that's accomplished, the customer impacts of any
15 work that we would do within the general service and small
16 industrial class, essentially they are -

17 1134 - Cross by Mr. MacNutt -

18 the customers on the distribution system that aren't residential
19 will be considerably less.

20 Previously we did look at merging the small industrial and
21 general service classes because it was felt that
22 differentiating between customers solely based on what they
23 are doing with the electricity as opposed to when they are
24 using it or how much they are using it didn't make a lot of
25 sense. So it seems to me that once we do correct this

1 anomaly with the all electric rate that we will revisit that
2 again.

3 Q.950 - Now would one of the issues that you would consider be
4 whether or not to subdivide the classes by voltage?

5 A. I think that once we -- once we remove the definition of
6 small industrial and general service and created a single
7 class, we would -- we would definitely look at voltage as a
8 way of breaking that class up. We would also look at other
9 ways.

10 Certainly we would look at the fact that many of the general
11 service customers now don't have demand meters. Or a large
12 percentage of that class don't have demand meters because
13 they are below 20 kilowatts. So the size of the customer
14 can come into play as well. Based on our existing rate
15 structure, you know, 20 kilowatts or a 60 kilowatt break off
16 between say a small industrial class -- -

17 1135 - Cross by Mr. MacNutt -

18 a small general service class versus a medium size or other
19 general service customers would make sense.

20 So it -- my thinking would be that if examine both
21 differentiation based on size and differentiation -- and/or
22 a differentiation based on service voltage.

23 Q.951 - Thank you. Now have you reviewed the direct evidence of
24 Energy Advisors? And in particular I direct your attention
25 -- that's in exhibit PUB-1. And I direct your attention to

1 page 71 at table 6. That's PUB 1 -- exhibit PUB-1. And if
2 you would turn to page 71. Okay.

3 MR. HYSLOP: Excuse me. What was the page reference, please?

4 MR. MACNUTT: Coming up. Pages 71 and 72. 71 for text and
5 page 72 for table 6.

6 Q.952 - Now at that point in the direct evidence of Energy
7 Advisors, it is suggested that GS I and GS II customers
8 taking service at primary service voltages have revenue cost
9 ratios below 0.2, is that not correct?

10 MR. LARLEE: That is what their analysis indicates, yes.

11 Q.953 - Now is it intuitive that the revenue cost ratios are
12 this low?

13 MR. LARLEE: No.

14 Q.954 - Does this mean that there may be a problem with their
15 data?

16

17 - 1136 - Cross by Mr. MacNutt -

18 MR. LARLEE: There may be a problem with the data or there may
19 be a problem with the analysis.

20 Q.955 - If there is significant cost differences in serving
21 customers at different voltages and creating separate sub-
22 classes would have large rate impacts, do you believe it
23 makes sense to abandon the idea or would it make more sense
24 to attempt to address the problem of rate impacts through
25 gradual changes?

1 MR. LARLEE: I can't accept the revenue to cost ratios on this
2 table at face value. And I haven't had the opportunity to
3 look at the analysis in detail. I think until that's done,
4 I really have difficulty commenting on how I would react to
5 these numbers.

6 Q.956 - Now in light of your response would you therefore
7 undertake to examine the material in more detail and confirm
8 the accuracy of the Energy Advisors' analysis and advise of
9 any deficiencies in it?

10 MR. MORRISON: The only caveat I would put on that, Mr.
11 Chairman, is that we may be testing some of the evidence of
12 Energy Advisors during the cross examination period and
13 until that's done and we get the responses to whatever
14 questions we are going to put to Energy Advisors, an
15 analysis may be premature?

16 CHAIRMAN: All right. Mr. MacNutt, I am going to take a

17 - 1137 - Cross by Mr. MacNutt -

18 five-minute break right now, because -- and then when you come
19 back consider what Mr. Morrison has just said and maybe just
20 want to rephrase the undertaking. The reason for that being
21 it's my understanding that no one else will have questions
22 after today of Mr. Marois, is that correct?

23 MR. MORRISON: That's my understanding, Mr. Chairman.

24 CHAIRMAN: There are two or three questions up here. And we
25 would like to get them in this afternoon, so we won't have

1 to have Mr. Marois back. If it turns out later on in the
2 hearing it's necessary, we will do so. But I think to save
3 him that time, so we will take a five-minute recess.

4 During the break the secretary pointed out to me that in
5 fact there was previously a PUB-3 which I believe was the
6 response -- a volume of responses to interrogatories. But
7 Mr. MacNutt introduced a new PUB-3 or which I erroneously
8 marked as PUB-3, which was the -- a table showing the data
9 derived from IR-103 and IR-126. So that document in fact
10 should be PUB-4.

11 Mr. MacNutt and I had a brief conversation during the break,
12 and it's my understanding that the questions that he has
13 don't necessarily have to have Mr. Marois present, is that
14 correct, Mr. MacNutt?

15 MR. MACNUTT: No. A number of the questions I have remaining
16 do involve Mr. Marois and if you like, I will

17 - 1138 - Cross by Mr. MacNutt -

18 get on with him directly.

19 CHAIRMAN: We don't know what you said, Mr. MacNutt.

20 MR. MACNUTT: I said -- I suggested --

21 CHAIRMAN: Do you want to question Mr. Marois or not?

22 MR. MACNUTT: I am going to question Mr. Marois. I have
23 several questions for him.

24 CHAIRMAN: Okay. That has changed since the break.

25 Q.957 - Now, Mr. Marois, would you please provide estimates of

1 the revenue cost ratios to GS I and GS II primary and
2 secondary using your own methodology, using your own data?

3 MR. LARLEE: During the break I took a look at our cost
4 allocation study just to see what level of detail we had to
5 do just that, to break out the general service classes by
6 voltage level, primary voltage and secondary voltage.
7 And my preliminary assessment is we are going to have to do
8 a little bit of analysis on basic customer data in order to
9 estimate the revenue split and estimate some of the demand
10 allocators within the study. So to do that is going to take
11 some time.

12 CHAIRMAN: Mr. MacNutt, I just had an opportunity to caucus
13 with some of my Board members and there appears to be more
14 questions of Mr. Marois, including yours, that I didn't
15 understand were going to be had. So we are 3:00 now and I'm
16 afraid, Mr. Marois, we will have to ask you to come

17 - 1139 - Cross by Mr. MacNutt -

18 back on Tuesday morning.

19 MR. MAROIS: I will be here.

20 CHAIRMAN: So we will break now and reconvene at 9:15 on
21 Tuesday morning.

22 (Adjourned)

23 Certified to be a true transcript of the proceedings of this
24 hearing as recorded by me, to the best of my ability.

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Reporter

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