

New Brunswick Board of Commissioners of Public Utilities

Hearing July 4th 2001

10:00 a.m.

Saint John, N.B.

IN THE MATTER OF AN APPLICATION for a Local Gas Producer  
Franchise by the Potash Corporation of Saskatchewan Inc.

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IN THE MATTER OF AN APPLICATION for a Local Gas Producer Franchise by the Potash Corporation of Saskatchewan Inc.

CHAIRMAN: David C. Nicholson, Q.C.

COMMISSIONERS: Robert Richardson  
Jacques A. Dumont  
R. J. Lutes

BOARD COUNSEL William O'Connell, Esq.  
Ms. Collette d'Entremont

BOARD SECRETARY Lorraine Légère

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CHAIRMAN: Good morning. This is a hearing in reference to an application for a local gas producer franchise by the Potash Corporation of Saskatchewan Inc. A prehearing conference was held in Sussex some time ago and adjourned to this date.

Could I first have appearances please on behalf of Potash Corporation of Saskatchewan Inc.?

MR. ZED: Yes, Mr. Chairman. Peter Zed and Serena Newman appearing on behalf of the Potash Corporation, the applicant. And we are joined by Mr. Raoul Gauthier and George Bollman, both of the Potash Corporation.

CHAIRMAN: Thank you. Corridor Resources Inc.?

MR. MORRISON: Yes. Terrence Morrison and Norm Miller,  
Mr. Chairman.

CHAIRMAN: Thank you. Enbridge Gas New Brunswick Inc.?

MR. HOYT: Len Hoyt appearing on behalf of Enbridge Gas New  
Brunswick and joined by Rock Marois, general manager,  
corporate services.

CHAIRMAN: And Province of New Brunswick is represented by  
the Department of Natural Resources and Energy.

MR. BLUE: Ian Blue for the Province, sir. And with me is  
Don Barnett and Marion Rigby.

CHAIRMAN: And the Union of New Brunswick Indians?

MR. PERLEY: Ron Perley, Union of New Brunswick Indians.  
Darrell Paul, Nelson Sullivan and Norville Getty.

CHAIRMAN: Yes, I know. You haven't got enough mikes. How  
many mikes do we have?

Mr. Paul, just so we can -- Mr. Perley rather, just so  
that we can get what you are saying on tape, would you  
mind coming up towards the front here. And Mr. Morrison  
has his out that you can just speak into, okay.

So Mr. Ron Perley on behalf of the Union of New  
Brunswick Indians.

MR. PERLEY: Yes. I have with me Darrell Paul, Executive  
Director and Nelson Sullivan, Health Coordinator and  
Norville Getty, the Adviser.

CHAIRMAN: Okay. That is Darrell Paul. Second one --

sorry --

MR. PERLEY: Nelson Sullivan.

CHAIRMAN: -- my shorthand is terrible.

MR. PERLEY: Nelson Sullivan.

CHAIRMAN: And --

MR. PERLEY: And Norville Getty.

CHAIRMAN: -- Norville Getty.

CHAIRMAN: Great. Thank you. Now Board counsel?

MR. O'CONNELL: William O'Connell appearing as board  
counsel. And appearing with me Collette d'Entremont.

CHAIRMAN: All right. We do have a problem with the number  
of mikes, don't we? Okay.

The problem, Mr. Morrison, depending on who is doing  
the questioning, et cetera, we are going to have to play  
musical chairs.

MR. MORRISON: I appreciate that, Mr. Chairman. After I  
have made my remarks I will move to an unmiked position.

CHAIRMAN: All right. Thank you. Are there any preliminary  
matters?

MR. MORRISON: Yes, Mr. Chairman. You will recall, I think,  
that Corridor Resources sent a letter to the Board  
requesting that it be made a co-applicant in this matter.  
Corridor Resources wishes to withdraw that request.

Furthermore, Mr. Chairman, there has been I believe an  
issue with respect to the ownership interest of Potash

Corporation in the licence.

Corridor Resources acknowledges that Potash Corporation has earned a 50 percent interest in the licence. We believe that that is covered by the joint venture agreement.

However, to make the matter perfectly clear, Corridor is in the process of transferring a 50 percent interest in the licence to Potash Corporation. And when that documentation is finalized it will be filed with the Board.

CHAIRMAN: Now Mr. Morrison, to be perfectly clear, when you say "licence" what do you mean?

MR. MORRISON: I believe that is the -- you will have to excuse me, Mr. Chairman, since I -- this is the four sections?

CHAIRMAN: I'm sorry. I don't understand. Explain that to me. Perhaps Mr. Zed --

MR. MORRISON: I think Mr. Zed is in a better position.

CHAIRMAN: -- can help us out here too. What are we talking about, Mr. Zed?

MR. ZED: Corridor is in possession of a licence to explore --

CHAIRMAN: Granted by the Province?

MR. ZED: -- under the Oil and Gas Act. It is licence number 98-07, I believe -- 09, I'm sorry. And we just --

excuse me, Mr. Chairman.

CHAIRMAN: No. That is all right. I just -- I'm not familiar with that legislation. And I just want it on the record what we are talking about.

MR. ZED: Corridor has a licence to search under the Oil and Gas Act. And it is licence number 98-09. And that licence relates to I believe 52 sections in Corridor, four of which are covered by a joint venture agreement with the Potash Corporation of Saskatchewan. A copy of that agreement will be made available shortly to the Board.

Corridor I understand has agreed to transfer a 50 percent interest in the licence with respect to those four sections to the Potash Corporation of Saskatchewan. And presumably I have a copy of the almost completed transfer document.

When it is completed and filed, the Province will then I understand issue a revised licence showing them as joint holders of the licence with respect to those sections. And I understand that Mr. Morrison has undertaken to file a copy of that with the Board.

Recent amendments to the Oil and Gas Act which were proclaimed I believe June 1st would allow the holder of such a licence, upon finding oil or natural gas, to actually produce it. It eliminates the need which was formerly in place to apply separately for a production

licence.

MR. BLUE: Mr. Chairman, just a matter of clarification. I simply wanted to say, Mr. Chairman, that the amendments which Mr. Zed referred to have not yet been proclaimed and will not be until the regulations under them have been prepared.

MR. ZED: I'm sorry.

CHAIRMAN: Okay. Thank you, Mr. Blue.

MR. ZED: So then I guess, Mr. Chairman, until they are proclaimed, once production -- before production can commence for a period beyond I believe 60 days, there has to be a further application for a production licence.

But we are assuming that those amendments will be proclaimed before production begins. And if not we will avail ourselves of the procedure under the current regulations and the current Act.

CHAIRMAN: The definition of the local gas producer in our governing legislation says means a person having the right to remove gas from a well in New Brunswick. And produce and production have corresponding meanings.

One would almost believe that that right is a condition precedent in making an application of this nature.

MR. ZED: Well, Mr. Chairman --

CHAIRMAN: I don't want to get into legal argument now. But



it comes from the licence and what is the licence. And therefore how does the Board have jurisdiction, you know.

We are here today and tomorrow and if necessary on Friday. So I'm not suggesting we not go ahead.

But to me that is one of the things that has to be proven to the satisfaction of the Board, is that even though -- you know, from what I'm gathering is that the licence to explore, which is what Corridor presently has, will be assigned on a 50/50 basis to your client.

But then that has to be converted into -- or in addition to that they have to have the right to produce. And that is something that is tied up in the amendments Mr. Blue has just spoken to, as I understand it. Am I correct in that?

MR. ZED: Well, I believe under the current legislation there is a right to produce for a limited period of 60 days under the Oil and Gas Act. So technically speaking there is a right to produce under the existing legislation.

And I believe the 60-day period is merely to cover off the situation where you have somebody who explores and has to go through the process of applying for a separate exploration licence.

And that 60 days would cover off that interim period.

So there is a right in the holder of that licence to

produce.

CHAIRMAN: Yes. Okay. Now after my having disrupted your presentation, Mr. Morrison, do you want to restate that?

MR. MORRISON: My only point in raising the matter, Mr. Chairman, is to indicate to the Board that as far as Corridor Resources is concerned, the Potash Corporation has both a contractual -- has a contractual right to a 50 percent interest in the licence as it relates to those four sections. And I just state that as our position for the record.

CHAIRMAN: And those four sections include the existing three wells that have been drilled, is that correct?

MR. MORRISON: That is correct. And my only other comment, Mr. Chairman, is that we would like to go on record as supporting this application.

CHAIRMAN: Okay.

MR. MORRISON: And if there is nothing further I will remove myself from the miked table.

CHAIRMAN: Counsel any comments on what Mr. Morrison has just addressed the Board on? I see a number of heads saying no, that you don't.

So go ahead, Mr. Morrison. Find a chair.

We are just going to have to get rid of those comfortable chairs in the back and put in the good old oak ones and we could seat about 20 more people.

Okay. Any other preliminary matters at all?

MR. ZED: No, Mr. Chair.

CHAIRMAN: There is just one matter that the Board will address before we ask you to call your first witness, and that has to do with the Union of New Brunswick Indians.

And we have reviewed your evidence that has been filed on behalf of the Union and nothing that I have to say on behalf of the Board should be interpreted as not being appreciative of the Union's position and your point of view and what you are attempting to achieve.

But I simply want to reiterate what it was that we attempted to explain in Sussex and that is that there that we outlined for you that if you wished to challenge the constitutionality of the Gas Distribution Act of New Brunswick, the procedure that you would follow to do so, and Mr. Perley on behalf of the Union chose not to do that at that time.

So I simply reiterate here now that most of the substance of your pre-filed evidence goes to one of two things, and one is the land claims issue, and this Board has no jurisdiction to adjudicate the reference to that. That is a matter that if adjudication is necessary it goes to the court system.

And the second thing has to do with the subsurface rights, which are a natural gas rights, et cetera in the

province and again, that is the Province of New Brunswick's jurisdiction and that is -- and Mr. Zed has just mentioned the legislation that covers that. Again, that -- the Board has no jurisdiction pursuant to that Act. So we have no legal authority to be able to adjudicate in reference to land claims or to subsurface rights.

Now it is our intention, as I mentioned in Sussex, that all of us in this room are New Brunswick citizens and you as a New Brunswick citizen, that is the Union of New Brunswick Indians, has a perfect right and we welcome your appearance before the Board. But at some point we do have to stick to what is relevant in our proceedings. However, your evidence has been prefiled, we accept that. That is on the record and we will see how things go.

I just wanted to explain that up front that that is our legal jurisdiction.

All right. Mr. Zed?

MR. ZED: Mr. Chairman, I would ask Mr. Raoul Gauthier and Mr. George Bollman to take the stand.

RAOUL GAUTHIER, GEORGE BOLLMAN, sworn:

DIRECT EXAMINATION BY MR. ZED:

Q.1 - Gentlemen, in turn for the benefit of the court reporter, could you please state your name and then spell it?

MR. GAUTHIER: R-a-o-u-l G-a-u-t-h-i-e-r.

MR. BOLLMAN: George B-o-l-l-m-a-n.

Q.2 - And, Mr. Gauthier, you are employed by the Potash Corporation of Saskatchewan, the applicant?

MR. GAUTHIER: Yes, I am.

Q.3 - And what is your position with the applicant?

MR. GAUTHIER: General Manager of the New Brunswick division.

Q.4 - And you, Mr. Bollman?

MR. BOLLMAN: Senior Process Engineer. I have been looking after the surface facilities for this gas project.

Q.5 - And, Mr. Gauthier, the application and the IR's -- response to the IR's were prepared under your direction?

MR. GAUTHIER: Yes, they were.

Q.6 - Under your authority?

MR. GAUTHIER: Yes, they are.

Q.7 - And on behalf of the applicant?

MR. GAUTHIER: Yes.

Q.8 - Mr. Gauthier, I have just handed you a document. Do you recognize that document?

MR. GAUTHIER: Yes, I do.

Q.9 - Could you identify it please?

MR. GAUTHIER: It is the Farmout Agreement between Corridor and PCS.

Q.10 - And if you direct your attention, please, to page 13, I

believe. The signature page.

MR. GAUTHIER: Which page?

Q.11 - Sorry, your pages aren't numbered.

MR. GAUTHIER: Which section?

Q.12 - Okay. If you look at the signature page of the agreement?

MR. GAUTHIER: Yes, sir.

Q.13 - And do you recognize those signatures?

MR. GAUTHIER: Yes, I do.

Q.14 - And whose signatures are they?

MR. GAUTHIER: They are Norm Miller's and Mr. Garth Moore, the President of PCS Potash.

Q.15 - And at the bottom of the page it says c.c., that is copied to you?

MR. GAUTHIER: Yes, it is.

Q.16 - Okay. Would you mind turning back to paragraph numbered 5 in the agreement itself. Essentially what is paragraph 5 in your own words?

MR. GAUTHIER: What paragraph 5 tries to explain is that PCS drilled a test well, brine exploration well -- brine injection well last -- starting last July, August. By drilling the well and paying for the entire cost of the well, if oil and gas or hydrocarbons were encountered of economic volumes, that PCS would earn a 50 percent interest in four sections of land within the Corridor

exploration block.

Q.17 - And your activities -- what was the result of your activities in doing the testing?

MR. GAUTHIER: The brine injection well or the testing for brine injection well was not successful but we did encounter substantial volumes of hydrocarbons, natural gas.

Q.18 - You will note in paragraph 5 (b), it indicates cost of drilling and evaluating the proposed well shall be borne 100 percent by PCS?

MR. GAUTHIER: Yes, that's correct. We have completed our obligations under this agreement. We drilled the well. Now further expenditures concerning natural gas will be borne 50/50 by both parties.

Q.19 - And if you look at the next paragraph numbered 6, it is entitled "Interest Earned on Completion of Test Well Funding Commitment". Is it your testimony that you have completed your commitment?

MR. GAUTHIER: Yes, we have.

Q.20 - And what is the result of you completing your commitment?

MR. GAUTHIER: We earn 50 percent of the oil and gas rights in those four sections of land.

Q.21 - And that is the 50 percent interest that was the subject of our earlier discussion with the Board in terms

of the licence, 9809?

MR. GAUTHIER: That's correct.

MR. ZED: No further questions of the witness.

CHAIRMAN: All right. Now you have no further questions of the witness, either one? I'm just -- you know, are you not going to give a brief overview of what the applicant is requesting?

MR. ZED: We can do that, Mr. Chairman --

CHAIRMAN: Well, some --

MR. ZED: -- if it will help clarify the matter.

CHAIRMAN: Yes.

MR. ZED: Yes.

CHAIRMAN: Yes. Just a two or three paragraph effort to rather focus us again on what we have read previously.

MR. ZED: Certainly.

CHAIRMAN: And we can go from there. What is your intention? Are you -- do you want to put this document in evidence?

MR. ZED: Well, Mr. Chairman, we received a request from the Board staff to bring some documentation to deal with the issue of our right to produce. And we were unable to secure an assignment of the licence in time for today's hearing. And so it was our intention really to offer this as an exhibit, if the Board is so inclined.

CHAIRMAN: Okay. Does counsel opposite have anything they



wish to say?

MR. BLUE: Mr. Chairman, the Province would like this marked as an exhibit. The Province also would like the application, the IR's, the IR responses to be marked as exhibits. You don't have to do that now, but if at some point the Board could designate exhibit numbers for them.

CHAIRMAN: I felt very negligent when I got in here, I realized that Mr. MacNutt had in cooperation with NB Power produced a rather elaborate scheme of exhibit marking. And I had not introduced it into this process.

But certainly the formal application the interrogs and their responses will form part of the exhibit, and will be given an exhibit number, no problem there.

MR. BLUE: And this as well?

CHAIRMAN: Well that certainly will be my inclination.

Board counsel, any comments at all on this being an exhibit?

MR. O'CONNELL: No, I agree.

CHAIRMAN: Okay. Mr. Hoyt, any problem with this being marked as an exhibit?

MR. HOYT: No problem.

CHAIRMAN: And for the sake of the record, the Union of New Brunswick Indians have withdrawn after the Board indicated that their prefiled evidence was part of the record, as Mr. Goss has indicated to me and he was chatting with

- Messrs. Gauthier, Bollman - direct by Mr. Zed - 28 -  
them.

All right. Well on that basis then -- I'm just trying to get some sequential exhibit numbers here. I suggest that the Board will mark the formal application as A for applicant, A-1.

And that the, let me see, Corridor Resources did not file any interrogatory is my recollection.

MR. LUTES: No.

CHAIRMAN: Enbridge Gas New Brunswick has filed an interrogatory. Those interrogatories with the responses will be Exhibit E-1.

And Corridor Resources didn't file, so the next would be the Province, and that will be P-1, the interrogs with their responses.

And then U-1 will be the Union of New Brunswick Indians interrogatories and their responses.

Any other --

MR. HOYT: Mr. Chair, EGNB filed evidence as well.

CHAIRMAN: Yes. Okay. All right that EGNB filed evidence so that will be E-2 that evidence. And there were interrogs on that evidence, were there not?

MR. ZED: Yes, there were, Mr. Chairman.

CHAIRMAN: Okay. I have forgotten the Board, but I will come back to that.

So the applicant interrogs of EGNB will be A-2.

And then the Board had interrogs, correct?

MR. GOSS: Of the applicant.

CHAIRMAN: Yes. That will be B for the Board, 1, and the responses to them. So this document which is --

MR. HOYT: Excuse me, Mr. Chair --

MR. ZED: Mr. Chair, if we -- if we were asked any IR's from the Board, we didn't respond to them.

CHAIRMAN: I have one comment to make about this exhibit that we are going to put in. It is that only actuaries make it more difficult to find pages than whoever drafted this. I will say no more. I love sequentially numbered pages.

Anyhow, this is the agreement which is headed on Corridor Resources Inc. paper. And there is probably close to a hundred pages. And that will be applicant 3, A-3. Okay.

MR. ZED: Mr. Gauthier, for the benefit of all present perhaps you could briefly summarize the application purpose and the scope of the application, the scope of the operation you are intending?

MR. GAUTHIER: Yes. The discovery of natural gas gave us an opportunity to use -- to burn natural gas at our processing facility near Penobsquis instead of a number 2 fuel oil which we currently use.

In order to be able to do that, we need to put in a

- Messrs. Gauthier, Bollman - direct by Mr. Zed - 30 -  
pipeline from the McCully wells to our site. That was the  
basis for the application for a local producer gas  
franchise.

So in essence what we want to do is take our gas and  
use it at our plant, in a nutshell.

Q.22 - And what sort of volumes could you conceivably use in  
your present operations?

MR. GAUTHIER: The -- if we replace the entire amount of  
number 2 fuel oil, we would burn approximately on average  
about two and half million cubic feet of natural gas per  
day. Would you like that in metric?

CHAIRMAN: Yes, I will accept that challenge.

MR. GAUTHIER: 66,000 cubic metres per day.

CHAIRMAN: How about MMBTU's. All right. I jest.

Q.23 - So the essence of your application then, it's to be  
used solely for your facility?

MR. GAUTHIER: Yes. Yes, our application -- in our  
application we stress that it is for our purposes only.  
PCS's purposes only and that's all we want.

Q.24 - Do you have any interest in distributing the gas to any  
other parties, third parties?

MR. GAUTHIER: No. No, we don't and we stress that to  
various groups. We are not interested in distributing gas  
to anybody else except PCS.

Q.25 - And if you were to find gas in excess of your needs,

have you made any definite plans?

MR. GAUTHIER: No, we haven't. But if we have, you know, excess gas that's saleable, that's of good quality, we can sell it to whoever wants it.

Q.26 - But that's -- is that within your distribution system or outside of your distribution system?

MR. GAUTHIER: That would be outside the distribution system.

Q.27 - So that has nothing to do with the application?

MR. GAUTHIER: No, it does not.

Q.28 - And, in fact, that excess gas is not presently available?

MR. GAUTHIER: That's correct.

Q.29 - And do you have any idea how much gas you have available to you to suit your present needs?

MR. GAUTHIER: Yes. Our preliminary testing on the number 1 and 2 wells indicates we have approximately 2.7 million cubic feet per day available.

Q.30 - And how does that marry up with your requirements?

MR. GAUTHIER: Well it's just slightly more than our daily commitments average.

Q.31 - And have you done any sort of preliminary investigation as to how much excess gas you would need to do something else with it? I mean obviously an extra cubic foot isn't going to matter here or there. But --

MR. GAUTHIER: It would be better for us to have available to us an excess of three or four million per day. Because these wells need -- we have to do maintenance on them. So if we shut one down one day, the other two need to produce. So we need substantially more than two and a half to supply our needs on a consistent basis.

Q.32 - And if you happen to end up with less gas than you need, how does that affect the plans?

MR. GAUTHIER: We -- our plans are to install only five pieces of equipment at our plant. We plan on installing dual burners. That means we can transfer from natural gas to number 2 fuel oil at a moment's notice on each piece of equipment.

Q.33 - So I guess to lead you a bit, that means if you have half enough gas to satisfy your daily needs, you will burn that gas and in addition burn number 2 fuel for the remainder of your energy needs?

MR. GAUTHIER: That is correct. We will burn 1.3 million is enough for us to justify this project.

Q.34 - And you have been assured of more than that already?

MR. GAUTHIER: Yes.

Q.35 - Do you intend to do further exploration in the area?

MR. GAUTHIER: Yes. We have a commitment with -- a joint venture agreement with -- a sort of licence with Corridor, a separate block, for further exploration.

Q.36 - And separate exploration, I mean, I envision separate wells. You already have three wells?

MR. GAUTHIER: That is correct. In the four sections spelled out in the farmout agreement.

Q.37 - And how do you intend to transport gas from the wells, plural, to the facility?

MR. GAUTHIER: Through what we call gathering lines. These are lines that would transport the raw unrefined natural gas to a central processing facility which cleans up the gas. Takes out the water, any liquid, hydrocarbons so we have what we call pipeline quality gas.

Q.38 - And the location of the processing facility will be more particularly set out in your construction application if you were to receive a franchise. But can you tell the Board for interest's sake where generally it's located?

MR. GAUTHIER: The plant -- or at least our preliminary location is very close to the number 1 and 2 wells. The first two wells drilled. But we have removed it from the environmentally sensitive area of the river valley up on the plans.

Q.39 - And roughly how far is it from the wells?

MR. GAUTHIER: About 700 metres.

Q.40 - And how far is the processing facility just to put it in perspective from your plant?

MR. GAUTHIER: About two kilometres.

Q.41 - About two kilometres. So if you are successful in this phase of the application you will be filing a construction application setting that out in particular detail as required?

MR. GAUTHIER: Yes.

MR. ZED: Mr. Chairman, nothing further by way of general --

CHAIRMAN: All right. We will probably have some questions after. Enbridge? Mr. Hoyt, do you want to come up to the mike?

CROSS BY MR. HOYT:

Q.42 - Mr. Bollman, Mr. Gauthier, I would like to refer you from time to time to the evidence and the interrogatories. I'm just wondering if you have copies of those available?

MR. GAUTHIER: I have the interrogatories in front of me. I don't have the evidence.

MR. ZED: Do you have the application with you?

Q.43 - So I would like to begin by picking up on some of the questions that Mr. Zed was asking concerning the location of facilities and the wells and so on. And I think that it would be useful if you could turn to appendix ii of your application and the two maps that are found there.

MR. GAUTHIER: Yes, sir.

Q.44 - So I would like to just confirm that the location of the McCully well, the well number 1, I think it is referred to, is located up in the upper right-hand portion



of the map. And I'm referring to the map that folds out?

A. That's correct.

Q.45 - And you indicated that there are other wells that are currently being drilled or planned to be drilled?

MR. GAUTHIER: Yes. Since the application was submitted we have drilled a second well from that same site using directional drilling. And we are currently drilling a third well some -- well one and a half kilometres to the southeast, I guess it is.

Q.46 - This map, does it have north straight up?

MR. GAUTHIER: Yes.

MR. ZED: Mr. Chairman, if it would clarify, we prepared two maps, one showing the site, it is the same as the site map in here except it has the McCully 2 added. And a second page showing the location of McCully 3 in relation to 1 and 2. So Mr. Hoyt is welcome to use that. I don't mind circulating it.

MR. HOYT: I think this should work for now. But if there is additional detail that shows up on those then, you know, I have no problem referring to any of them.

Q.47 - So in terms of the new well that you are drilling, where would it be located in relation to the McCully well?

MR. GAUTHIER: The southeast.

Q.48 - And about a mile and a half, kilometre and a half?

MR. GAUTHIER: Well a kilometre and a half.

Q.49 - And is there a possibility of drilling other wells in the area?

MR. GAUTHIER: Yes.

Q.50 - And how far afield could those wells go?

MR. GAUTHIER: It depends on the geological information that we obtain with each well. The permeability of the horizon. All those affect future locations of wells.

Q.51 - I guess what I'm trying to get a sense of though is once you determine where the well head facilities are going to be located, how far are some of these wells could be located from those facilities? I mean, is there a limit in terms of how far you would run a pipe to those facilities?

MR. GAUTHIER: Yes. And it's an economic thing and it's a - - there is a -- if the gas contains water, that could freeze up the gas in the pipe, so there is an economical distance where you can't say the raw gas can be transported to the facility. You may need a new facility.

Q.52 - And what would you estimate that distant likely?

MR. GAUTHIER: I can't speculate on that. I don't know. That's up to oil and gas experts.

Q.53 - Could it be 50 --

MR. GAUTHIER: And I'm not an expert. Pardon?

Q.54 - Could it be 50 kilometres?

MR. GAUTHIER: Sorry, I can't answer that.

Q.55 - So just then describe how the gathering system works, if there are two or three or four wells? How does that gathering system then work?

MR. GAUTHIER: The gas is allowed to flow in the line. We have to heat it first to prevent hydrates. Hydrates are - it's like a slush. It's frozen natural gas. So to prevent that we would have to heat the gas, maybe add things like methadol, so each well, each natural gas discovery is different. So depending on what we find we have to take action or some measure of action.

Q.56 - So when you refer to McCully gas throughout the application and interrogatories, what does that mean?

MR. GAUTHIER: Well we called McCully number 1. We needed a name, right. It was close to the McCully Station Road, so we called it McCully. Now we could drill 10 wells and call them McCully. The distance -- the area, it's difficult to say how big it is. So it's a McCully field, that's a better description.

Q.57 - But the lines that are part of your production network that feed into this -- the well head facility, they are not part of your distribution system, correct?

MR. GAUTHIER: That's correct. The gathering lines are not part of the distribution system.

Q.58 - I would like to refer now to some of your responses to a couple of the interrogatories. The first one I would

like to turn to is your response to the Department of Natural Resources interrogatory 3 (a).

MR. GAUTHIER: Well again we have to reiterate that. At this time we do not have sufficient gas for sale beyond our needs. If in the future -- and I said this originally or a few moments ago, if there is gas for sale, saleable gas that -- for people or any customer that wants to buy it, we would be willing to sell it, not distribute it.

Q.59 - Okay. You got a bit ahead of me though, because that is not the aspect of that question that I wanted to ask you about.

It is the statement in the middle that indicates that it is not the intent of PCS to provide distribution services other than to its own facility as noted in the application. And I would also reference page 1 of the PCS application where it indicated in the second paragraph from the bottom, that PCS has determined there exists a sufficient flow of natural gas to justify their seeking a local gas producer franchise for the limited purpose of utilizing available gas in their existing facility.

So is it your understanding that if your application as it is proposed is accepted, that the only customer no longer to be served by Enbridge is your facility?

MR. GAUTHIER: Unless we are bound by the Board's decision to service any other customers, that's all we wanted to do

was to serve ourselves.

Q.60 - So in terms of what you propose in your application, it is only to serve yourself?

MR. GAUTHIER: That's what we are requesting.

Q.61 - Okay. I would like to just -- to have you turn to -- it's schedule A to Enbridge's evidence. I apologize because you probably haven't got that with them.

CHAIRMAN: Schedule A to EGNB's evidence.

Q.62 - And I would like you to just refer to the second condition in schedule A which provides that the franchise is solely for the purpose of allowing PCS to distribute local McCully natural gas to PCS' existing facility located at Penobsquis, New Brunswick solely for use by that facility.

Are you prepared to accept that condition as part of your -- the franchise that you are applying for here today?

CHAIRMAN: I'm sorry, Mr. Hoyt. Will you repeat that? We were struggling to try and get it.

MR. HOYT: I'm sorry. I'm referring to condition number 2 in schedule A to Enbridge's evidence.

CHAIRMAN: All right. Just hold on, make sure we all got it. Okay. Go ahead, sir.

Q.63 - So the condition would say that the franchise is solely for the purpose of allowing PCS to distribute local

McCully natural gas to PCS' existing facility located at Penobsquis, New Brunswick solely for use by that facility.

And my question is are you prepared to accept that condition as a condition to the franchise that you are applying for?

MR. GAUTHIER: No. I would like to make one slight change in wording before I say yes. The franchise is solely for the purpose of allowing PCS to distribute local McCully natural gas to PCS' facility. Remove the word "existing" located at Penobsquis.

The reason I would agree to that, removing the word "existing", is that that would prevent us from making any changes in equipment in the plant.

For instance, if I want to install a bigger dryer next year, that would be a change to the existing facility.

Q.64 - I would just like to refer you back then to section 1 of your application at the bottom of page 1. I refer you to the second paragraph from the bottom and just ask you to look at the last two lines of that paragraph?

MR. GAUTHIER: Yes.

Q.65 - Don't they indicate that the franchise that you are seeking is for the limited purpose of utilizing the gas in the existing facility?

MR. GAUTHIER: That is what is in there. But that is not what we are asking. I would like to remove the word

"existing".

Q.66 - I would like to refer you now then to Enbridge's interrogatory 5 (b). And in it Enbridge asks that PCS define the Potash Corporation of Saskatchewan facility.

Could you just read the response?

MR. GAUTHIER: Read it, did you say?

Q.67 - Yes, please.

MR. GAUTHIER: "Potash Corporation of Saskatchewan Inc. facility referred to is the existing plant and operations together with any modifications or additions thereto situated in Penobsquis, New Brunswick."

Q.68 - Perhaps if you just keep your hand on that answer and then turn to that map in appendix 2 of the PCS application that we referred to earlier?

MR. GAUTHIER: Yes.

Q.69 - And could you show me where on that map the PCS facility is located?

MR. GAUTHIER: PCS facilities are located on the left-hand corner, the southwest corner of this map.

Q.70 - And is it a fenced area that would incorporate what you describe as the PCS facility?

MR. GAUTHIER: There is some fence. But it is not totally fenced.

Q.71 - How big an area would it be?

MR. GAUTHIER: I'm just guessing. It is -- in square feet I

have no idea. It is large.

Q.72 - Acres?

MR. GAUTHIER: Yes.

Q.73 - Lots of acres?

CHAIRMAN: Metric?

MR. GAUTHIER: Well, I'm -- why are you asking this question?

Q.74 - It is important, Mr. Gauthier. You are asking for a franchise to serve this facility. So we have got to determine what is the scope of that facility?

MR. GAUTHIER: In area, I don't know. You know, it is at least 10 acres.

Q.75 - 10?

MR. GAUTHIER: At least.

Q.76 - And what is located on that 10 acres?

MR. GAUTHIER: They have a -- the facility is a Potash mine and mill complex and a salt mining operation with storage domes, storage sheds, warehousing, garages, mechanical facilities, electrical, the normal plant -- I guess we call them buildings for a potash mine and salt mine.

Q.77 - But the mine itself is located within that 10 acres?

MR. GAUTHIER: No, it is not. The mine is underground and is located within a mineral lease that extends to the east almost halfway to the Town of Petitcodiac under the old Trans-Canada Highway.



Q.78 - And is that mine part of the facilities that you are referring to?

MR. GAUTHIER: The access to the mine is.

Q.79 - But the mine itself isn't?

MR. GAUTHIER: No. We don't own the surface rights to that mine. The surface land over top of the mine or majority of the mine is not owned by us. It is owned by individuals.

Q.80 - So the buildings that you refer to, what kind of buildings are they? How many buildings are there? I'm not talking storage sheds and that kind of thing, but buildings.

MR. GAUTHIER: I don't know. 20 buildings approximately. I didn't count them.

Q.81 - On the map what are the circular items?

MR. GAUTHIER: On the right-hand side are two circular salt domes, salt storage sheds. The center circle is a thickener part of the process.

Q.82 - And what is that complex in the middle, the odd shaped one right beside the circular item you just referred to?

MR. GAUTHIER: It encompasses the mill -- the milling process, the warehouse, the garage, maintenance garage and the administration building, boiler plant. That is it.

Q.83 - And is that the main building that would benefit from a supply of natural gas?

MR. GAUTHIER: That is correct.

Q.84 - Again, just referring back to your response to interrogatory 5 (b), when you were describing the facility, you ended the answer by saying "together with any modifications or additions thereto."

What is that intended to refer to?

MR. GAUTHIER: Again we talked about if I want to install a bigger drier next year, that would be a modification. If I want to heat the mine, air-heating system with natural gas instead of propane, I can do that.

Q.85 - But it wouldn't include constructing another processing facility?

MR. GAUTHIER: The plant -- we could expand the mine and build a new milling process, say double our capacity. That would be included.

Q.86 - But just go back to the answer, the answer to EGNB's interrogatory 5 (b). You indicated that the PCS facility that we are talking about in this application is the existing plan together with any modifications or additions thereto.

What you just described sounds like more than a modification or an addition thereto. It sounds like a new project or something beyond the existing facility.

MR. GAUTHIER: Duplication of equipment is an addition. It is. You know, you set up -- you expand the building and

put in the same equipment as you have in the first building, you know, that is an addition to the plant.

Q.87 - I would like to refer you now, and this is really a matter of clarification, to the PCS response to Enbridge's interrogatory 4 (f) (i).

The response is in answer to a question about extending the pipeline to be constructed. Perhaps you could just take a moment and read the answer.

Perhaps I could just ask you to read from about the beginning of the answer to the end, the sentence that starts with "However". Would you just read that for the record.

MR. GAUTHIER: (f) (i), However if the Board defines the limits of the franchise in terms of customers affected, then there may not be a need for further franchise application if only the location of the pipeline is affected.

Q.88 - Just right to the end, please?

MR. GAUTHIER: In that case it would still be necessary to file an application under the construction permit provisions of the Gas Distribution Act, 1999, to relocate the pipeline.

Q.89 - Can you tell me what that means in your own words?

MR. GAUTHIER: Yes. What -- we expect number 1 and 2 and 3 wells to provide us with natural gas for, you know, a

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certain period of time. If in the future another well can  
provide us with the same quantities that we could burn on  
a daily basis for a longer period of time, once these  
number 1, 2 and 3 wells are say dried up, we still want to  
be able to use that gas, our gas, PCS gas, at our plant.  
So we may have to locate -- relocate the pipeline and the  
processing facility. So if it's defined as servicing one  
customer, that's what we want.

Q.90 - So the processing facility which you describe as the  
beginning point of your franchise and the pipeline which  
is part of the franchise that you are asking for would  
actually move to a different location?

MR. GAUTHIER: Yes.

Q.91 - I would like to refer you now -- I would like to talk  
about the boundaries of your franchise and refer you to  
section 3 of the PCS application on page 5. And I take it  
from reading this part of your application that at the end  
of paragraph 2 you indicate that the franchise boundary  
will begin at the valve outlet at the well head  
facilities, and paragraph 3 you talk about the six inch  
pipeline being installed on a pipeline right-of-way, and  
in paragraph 4, that the franchise boundary will terminate  
at the outlet of the gas flow meter. Is that a fair  
summary?

MR. GAUTHIER: That's what is in the application, that's

correct.

Q.92 - I would just like to show you -- I have taken three excerpts from the Gas Distribution Act, three definitions.

There is the definitions of local gas producer franchise, franchise area and general franchise which I would like to refer to. And I will hand those out.

MR. ZED: I will wait until he asks the question, Mr. Chairman, before I object.

Q.93 - I expect that Mr. Zed is expecting me to ask for a legal interpretation. That's not the question that I am planning to ask. What I would like to know is if you agree that the definitions of local gas producer franchise and franchise area refer to area? Would you just read those two definitions?

MR. GAUTHIER: That's what it says.

Q.94 - So the word "area" appears in both of those. Could you explain then for me what area you are applying for in your franchise?

MR. GAUTHIER: We are applying -- our application was for a franchise to deliver gas, to transport gas, distribute gas, from our well head facilities to our plant, our PCS facility at Penobsquis.

Q.95 - Right. What you are applying for is a local gas producer franchise, correct?

MR. GAUTHIER: That's correct.

Q.96 - And the definition refers to an area for that franchise?

MR. GAUTHIER: That's what it said, yes.

Q.97 - So wouldn't you have to delineate an area to obtain your local gas producer franchise?

MR. ZED: Calling for a conclusion of law, Mr. Chairman. I mean it's -- the words say what they say and we will during argument put forth our position with respect to area which might mean Penobscuis, that's certainly an area, but really I don't see how the witness can comment on what the legislation says.

CHAIRMAN: Well this is an administrative tribunal, it's not a court of law, Mr. Zed, and you appreciate that as well as I. I am rather interested in what area the plant is located in. What about the old parish system? Do we know that? So go ahead with the question. Do you mind repeating it, Mr. Hoyt?

Q.98 - So wouldn't you think that a definition calling for an area for local gas producer franchise would obligate you as part of your application to set out that area?

MR. GAUTHIER: I don't know if it would obligate me to. I guess that's up to the Board to decide.

Q.99 - So you are prepared to say how long your franchise is but not how wide?

MR. GAUTHIER: What we are trying to do is get our gas to

our plant. Length and width, is that relevant?

Q.100 - I would like to refer to you EGNB's evidence, and it's the answer to question 9. And could you just read what that answer indicates?

MR. GAUTHIER: The answer says the LGPF --

CHAIRMAN: Sorry. What is the LGPF?

Q.101 - It's the local gas producer franchise.

CHAIRMAN: Okay.

MR. GAUTHIER: -- should be limited to the permanent easement obtained by PCS to instal its pipeline up to a maximum of 15 meters. This would provide the necessary right-of-way to allow PCS to operate its proposed distribution system.

Q.102 - And is that not consistent with the PCS description that we have referred to earlier on page 5 of your application about installing a six inch pipeline on the necessary pipeline right-of-way?

MR. GAUTHIER: Page 5?

Q.103 - Yes. They reference it as paragraph 3.

MR. GAUTHIER: At section 5?

Q.104 - It's section 3 which is page 5 of your application --

MR. GAUTHIER: Okay.

Q.105 - -- and then paragraph 3 in the middle where it says pipeline.

MR. GAUTHIER: Yes.

Q.106 - It indicates that the pipeline is expected to be six inches in diameter and to be installed on a pipeline right-of-way.

MR. GAUTHIER: Yes. We have to obtain a right-of-way to instal the pipeline.

Q.107 - Right. And in EGNB's answer they have indicated how wide they think that right-of-way needs to be. Do you have --

MR. GAUTHIER: That's what the answer says, yes.

Q.108 - Right. Do you have any problem with that answer?

MR. GAUTHIER: Yes, I do. 15 meters is -- the right-of-way size width varies considerably from one point to the next. It depends on a lot of land features, distance away from homes, things like that.

Q.109 - But the pipe is six inches wide?

MR. GAUTHIER: That's what we intend to -- under the construction application, intend to do that, instal a six inch line.

Q.110 - So wouldn't it seem that a 15 meter wide easement, which might get a little narrower in places to get around obstacles, should suffice for a six inch pipeline?

MR. GAUTHIER: No. It's not wide enough.

Q.111 - Why?

MR. GAUTHIER: Again, there are various conditions that make us -- force us to have wider easements, the ditches along



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the highway, the power poles along the highway, the farms,  
farmlands, farm fencing, things like that, make us -- the  
right-of-way changes its size considerably from one  
section to the next.

Q.112 - But there has to be some distance that would suffice  
for the purposes of your six inch pipe.

MR. GAUTHIER: To establish the right-of-way there has to be  
a certain width and it varies.

Q.113 - When you say that it varies, because of roads or power  
poles, how would that make the width of the right-of-way  
vary?

MR. BOLLMAN: The width of the right-of-way varies  
substantially. For example, power poles have guide wires.  
We have to negotiate with NB Power on how we are going to  
handle the situation which we will do under the  
application to -- permit to construct. And certain  
landowners -- when dealing with landowners at times we --  
they have their own specifications for what they would  
like to see and at times we wish to keep them feeling  
pleasant towards us, so we will oblige them.

Q.114 - But aren't those issues that go more to the routing of  
the pipeline than the width?

MR. GAUTHIER: Well we have to be cognizant of the farm  
owners wishes as well for both routing and easement.

Q.115 - But would you not agree if you are trying to take the

interest of the farmer into account that he would prefer a smaller right-of-way than a larger one?

MR. GAUTHIER: No. They have the use of that right-of-way once we bury the pipe.

Q.116 - But don't landowners typically want to give up as little as possible of their land however limited the rights might be?

MR. GAUTHIER: They are not giving up the ownership of the land. It's an easement. So they own it. So they are not giving up ownership of the land. They will be able to use it if it's farmland. If it's crop -- or hay land they will be able to hay it.

Q.117 - Would it not be possible for the -- if the right-of-way had to exceed 15 meters that the right-of-way could exceed that distance but the franchise not exceed that distance?

MR. GAUTHIER: Our application is to deliver gas from the well to the mine site, to the PCS facility, that's the franchise we were asking for, with the right-of-way, I don't know how that pertains to this application.

Q.118 - You indicated in a couple of places in the application that the actual location of the right-of-way would be determined as part of your construction application, is that correct?

MR. GAUTHIER: Yes, it will be.

Q.119 - And that's when you will take into account issues such as farmers along the way and power poles and all the obstructions which you will likely run into?

MR. GAUTHIER: Yes. The final design will be included in the application for construction.

Q.120 - Turn to another line of questioning. You refer to a number of responses to EGNB's IR's, which I can go through if you would like.

But I think generally you would agree that the answers in a lot of cases defer to the Board. You know, PCS doesn't have a position, we will do what the Board tells us to do. Is that correct?

MR. GAUTHIER: Whatever the Board decides we have to comply with.

Q.121 - But that would be -- in terms of some of the questions that were asked, your responses were look, this is what we want but if the Board makes us do something else we will do it?

MR. GAUTHIER: Some of the questions were asking us to speculate on what the Board would say. So our response is the Board will decide.

Q.122 - So would you agree that based on your own evidence there is a potential for you to end up serving more than one customer?

MR. GAUTHIER: If the Board decides that we have to service

one more customer, we will attempt to do that when excess gas is available for sale.

But that is not -- we don't want to do that. But if the Board says we have to we will.

Q.123 - But you don't want it?

MR. GAUTHIER: Our application is quite specific. It says for our PCS facility.

Q.124 - I took Mr. Zed this morning in direct to have asked you if you have any interest in serving other customers. And you said no. Is that --

MR. GAUTHIER: That is correct.

Q.125 - That is correct? I have just got one -- a couple of final questions. I would refer you to PCS' response to Enbridge's interrogatory 7 (a).

And in that response PCS indicated that PCS intends to look at the feasibility of building a generating station and generate electricity for the use of its facility, is that correct?

MR. GAUTHIER: Once if there is excess gas available beyond the 2 1/2 million cubic feet per day, that is an option that we should look at.

Q.126 - And under that option, would that electricity only be used by that facility?

MR. GAUTHIER: That is our intent. If again it has to be looked at. It is an option. And --

Q.127 - Go ahead.

MR. GAUTHIER: We can't cogenerate without regulatory approval.

Q.128 - And without going back to the map, unless it is necessary, where would the generating station be located?

MR. GAUTHIER: It would be within that same large building on site.

Q.129 - Actually within that building?

MR. GAUTHIER: Probably.

Q.130 - Okay. And finally I would just like to note that in your application, I think it is appendix 5, you include PCS 1999 annual report?

MR. GAUTHIER: Yes.

Q.131 - And I noted that there is nothing in it about PCS' foray into the natural gas business in New Brunswick. So I went to the Web last night and downloaded the 2000 annual report. And there is a brief mention of it there.

And it just struck me that as a publicly-traded company there must be lots of disclosure requirements on the Toronto or New York stock exchanges.

And I just ask you if there are any press releases or other public information available discussing in any way PCS' plans on either the production or distribution aspects of natural gas in New Brunswick?

MR. GAUTHIER: No. PCS is a large enough company that that

find in New Brunswick did not materially affect our corporation. So no press releases were required.

Corridor issued some. Maybe if you want to see those.

Q.132 - But PCS --

MR. GAUTHIER: We did not.

Q.133 - -- have not made any?

MR. HOYT: Thank you very much. I have no other questions for the witness.

CHAIRMAN: Province of New Brunswick?

MR. BLUE: Mr. Chairman, Mr. Zed had kindly offered to assist us by providing some updated maps showing the McCully 2 well and the third well.

And I wonder if I might have those produced and an exhibit number given to them?

CHAIRMAN: Do you want to show counsel, other counsel the maps that Mr. Blue referred to?

MR. ZED: Mr. Chairman, there are two large copies over here for the assistance of Mr. Blue.

MR. BLUE: Thank you.

MR. ZED: You are welcome.

CHAIRMAN: So that is what is on there. Anybody any problem with introducing these as exhibits?

And I'm going to give them an applicant's exhibit number, if that is all right with you, Mr. Zed? So it is two maps. And that would be A-4.

Go ahead, Mr. Blue.

MR. BLUE: Mr. Chairman, members of the Board and Mr.

Gauthier and Mr. Bollman, I just want to explain the Province's goals in the questioning I'm about to embark upon.

The Province really has two interests under the Gas Distribution Act that are relevant to this hearing. The first is it has granted a franchise to Enbridge Gas New Brunswick Inc. It is very concerned that that franchise be and remain healthy.

Secondly it has an interest in developing indigenous gas supplies in New Brunswick and ensuring that they find a way to market.

And those two purposes may be intentioned. And it is those intentions I'm going to explore in trying to get evidence for the purpose of the argument that the Province wanted to make, Mr. Chairman. So that is where I'm going to go.

CHAIRMAN: Good. Thank you, Mr. Blue.

CROSS BY MR. BLUE:

Q.134 - Now the first reference I would like to turn up with you, Mr. Gauthier, is your response to the Province's information request. And that would be exhibit P-1, page 1.

And in your response you state that, and I quote, "We

- Messrs. Gauthier, Bollman - cross by Mr. Blue - 58 -  
would reiterate that because of the nature of the  
application the adequacy of gas supply directly affects  
only the applicant. The applicant is presently satisfied  
that sufficient supply exists to meet its needs."

Do you see that answer?

MR. GAUTHIER: Yes, I do.

Q.135 - And you have told us now about the McCully 1. You  
described that in your application, is that correct?

MR. GAUTHIER: Yes, I did.

Q.136 - And McCully 2 you said was directionally drilled from  
McCully 1?

MR. GAUTHIER: From the same pad as McCully 1.

Q.137 - Right. Okay. And the third well you said was about a  
kilometer and a half northeast, I believe -- southeast?

MR. GAUTHIER: I think it is southeast --

Q.138 - Southeast --

A. -- somewhere.

Q.139 - -- of McCully 1?

Do you have a budget allocated at the present time for  
additional drilling?

MR. GAUTHIER: The budget we had for this year has been  
exceeded.

Q.140 - That is fine. But do you have a budget request in for  
next year for additional drilling?

MR. GAUTHIER: That will be done in the fall. That is part



of our process. Capital projects are in the fall.

Q.141 - All right. And is there anything in writing at the present time about that that you can share with us?

MR. GAUTHIER: Yes. We made a commitment when we bid with Corridor 50/50 -- with Corridor on block. It is a block to the south. It is called block 4. I forget the date of this.

I think it is December of last year or early this year, to spend within the next two years, I think it is \$4.6 million in exploration in that block.

Q.142 - Okay. And how many wells does \$4.6 million in exploration funds buy?

MR. GAUTHIER: We had anticipated drilling two holes, two wells.

Q.143 - So the note I'm making is that by the end -- what is the end of your fiscal year, year-end?

MR. GAUTHIER: December 31st.

Q.144 - Okay. So by the end of December 31st 2003 we will see two more wells having been drilled?

MR. GAUTHIER: 2002.

Q.145 - 2002? Okay. And how far -- what is your planning beyond December 31st 2002 for exploration wells?

MR. GAUTHIER: That is too soon for us to delineate.

Q.146 - Okay. So right now the Board can make a note then that beyond 2002 there were no definite plans for

additional exploration?

MR. GAUTHIER: No. That is correct.

Q.147 - Okay. Thank you. Now from the McCully well, I'm just not clear. Because you mentioned numbers and I tried to write them down quickly. And I'm not very good at that.

Can you tell me how much gas would be deliverable over the next 20 years from just the wells you drilled today?

MR. GAUTHIER: Number 1 and 2, our preliminary tests -- testing indicate that -- again it is preliminary -- they would deliver in excess of 2 1/2 for the first couple of years. That volume drops off over time.

Q.148 - Sure. Just like a balloon deflating as you just take it out of one hole?

MR. GAUTHIER: Yes.

Q.149 - Okay. So your hope I take it is that the two wells that you are planning to have drilled by the end of December 31st 2002 will maintain that deliverability for a bit longer?

MR. GAUTHIER: Yes. That is correct.

Q.150 - Can you tell us how long?

MR. GAUTHIER: No, I cannot.

Q.151 - So as we are sitting here today you have 2 1/2 million cubic feet deliverability for a period of about -- it is in the evidence, I can't remember it -- but two years and that is it? That is the evidence before us today?

MR. GAUTHIER: That is the 2 1/2 million, yes.

Q.152 - Okay. Thank you. You don't have any other evidence about --

MR. GAUTHIER: We can do other things, well enhancement.

There is a whole host of things could be done.

Q.153 - But based on what you are committed today, the money you have committed today, what you have done, what you have thought out, what you and I have just described, 2 1/2 million MCF a year for a couple of years -- a day for a couple of years is what we have, is that correct?

MR. GAUTHIER: Yes.

Q.154 - Okay. Thank you. Can we now go to your application, page 5? Do you see that reference, Mr. Gauthier?

MR. GAUTHIER: The project?

Q.155 - Yes.

MR. GAUTHIER: Yes.

Q.156 - And then under that heading you list several items of equipment, five types of equipment that PCS is going to have to install to utilize natural gas?

MR. GAUTHIER: Yes.

Q.157 - Has that equipment, as we are sitting here today, been designed?

MR. GAUTHIER: The item number 1, the well, has been completed. At the time of this application we had done McCully number 1.

Q.158 - Thank you.

MR. GAUTHIER: That is complete.

Q.159 - What about for the third well, McCully number 3?

MR. GAUTHIER: Sorry. Could you ask that question again please?

Q.160 - Yes. Have you done the well casing for McCully number 3?

MR. GAUTHIER: No.

Q.161 - Okay.

MR. GAUTHIER: It is still being drilled.

Q.162 - Thank you. Number 2, the wellhead equipment. You said on March the 13th that the design of the well had facilities still in its preliminary stages and can only be designed when definitive well performance data is secured.

Do you see that?

MR. GAUTHIER: Yes.

Q.163 - Has the wellhead equipment been designed as we are sitting here today?

MR. GAUTHIER: It has not been finalized.

Q.164 - Okay. When you say it has not been finalized, what stage is it at?

MR. GAUTHIER: You can answer that.

MR. BOLLMAN: When you say wellhead equipment what are you visualizing here?

Q.165 - I'm visualizing everything you described in item 2 on

- Messrs. Gauthier, Bollman - cross by Mr. Blue - 63 -  
page 5 of your application under the heading "wellhead  
equipment"?

MR. BOLLMAN: Okay. So I'm going to assume that means the  
gas processing facility as well as the well site  
equipment.

Q.166 - Fine.

MR. BOLLMAN: Is that correct?

Q.167 - That is what you say here.

MR. BOLLMAN: Yes. Okay. In that case we -- option A, if  
we want to call it that, which is the -- what we call the  
low temperature extraction plant or the choke plant and  
the associated equipment, we are at the point where we  
receive bids from vendors in Alberta.

Q.168 - Right.

A. So the equipment has been specified. We have -- we  
are ready to select a vendor for this equipment.

Q.169 - Okay. So you have sized it?

MR. BOLLMAN: Yes. It is sized and specified. And in order  
for a vendor to bid you have to have everything -- every  
piece of equipment sized --

Q.170 - Right.

MR. BOLLMAN: -- and specified.

Q.171 - What deliverability will it allow, the equipment that  
you have tendered?

MR. BOLLMAN: If I could back up for a second. Then there

- Messrs. Gauthier, Bollman - cross by Mr. Blue - 64 -  
is option B. We are having some internal discussions on  
option B.

Option B is a change from option A obviously. And in  
option B we might invest a little less capital and process  
the gas a little less in option B.

Q.172 - And you would design your burner equipment  
accordingly?

MR. BOLLMAN: Yes. The burner equipment has been ordered at  
the present time.

Q.173 - Then I take it it is flexible enough to burn the gas  
to the degrees that you are planning to process it under,  
option A or option B?

MR. BOLLMAN: Yes. As of yesterday -- we had a meeting  
yesterday. AMEC Consulting firm is going to provide us  
with a report one week from today to finalize that  
question, in other words, to finalize exactly how much  
variation in gas quality we can have for these particular  
pieces of equipment.

Q.174 - Okay. Now that we have clarified that, what is the  
capacity of the wellhead equipment in terms of  
deliverability today?

MR. BOLLMAN: It is designed for 4.0 million standard cubic  
feet per day.

Q.175 - 4.0 --

MR. BOLLMAN: Yes.

Q.176 - -- MCF?

MR. BOLLMAN: Yes.

Q.177 - Okay. I would like to get a couple of references before you. So can you look at page 6 of your application.

And can you look at the response to information request number 3 from the Department of Natural Resources and Energy and the response to information request number 5 from the Department of Natural Resources and energy?

MR. GAUTHIER: Number 3?

Q.178 - Yes. And 5. Let's start with number 5. Because this is -- I want to make sure that I understand the numbers.

In the response to information request number 5 and question (b) the Province asked you "What is the daily and annual volume of deliverability of natural gas known at this time?"

And you said daily was 76 times  $10^3$  m<sup>3</sup>. That is metric. How does that relate to the 2 1/2 MCF that we have been discussing this morning per day?

MR. GAUTHIER: Our response to 5 (a) was 66,000 or 66 times 10 to the cube, cubic meters per day for the plant.

Response (b) says we have available 76 times 10 to the 3.

Q.179 - Okay. My question to you though, because I don't do metric conversions easily, is the 76  $10^3$  m<sup>3</sup> the same quantity of gas of daily production that you described to

me this morning of 2 1/2 MCF per day for two years?

MR. GAUTHIER: No.

Q.180 - Okay. What is the difference? If we expressed --

MR. GAUTHIER: Our plant could use up to 2 1/2 million cubic feet per day on average. Therefore we would draw out of those two wells at that rate.

Q.181 - Yes.

MR. GAUTHIER: Those wells could deliver more than that.

Q.182 - All right. I thought I had asked you what the deliverability of the gas from the two wells that you had drilled was.

And you told me it was 2 1/2 MCF per day for two years. Did I get that wrong?

MR. GAUTHIER: Maybe I did. I don't know.

Q.183 - Okay. What is the -- then let's go back. What is the daily deliverability?

MR. GAUTHIER: The preliminary reports we have state 76 times 10 to the 3 cubic meters per day.

Q.184 - Yes. What is that in MCF, so that I can put the two numbers on a comparable basis?

MR. GAUTHIER: That is about --

MR. BOLLMAN: That is somewhere around 2 1/2.

MR. GAUTHIER: No. It is more than that. It is about 2.7, I would say. I don't have my metric calculator with me.

Q.185 - I can loan you one.



MR. BOLLMAN: We can use it.

Q.186 - Okay. So the deliverability from the two wells then would be 2.7 MCF per day. Your average daily requirement for the plant would be 2.5 million cubic feet per day, is that correct?

MR. GAUTHIER: Yes.

Q.187 - Now the yearly number that you show I didn't understand. Is it -- is that number correct,  $2409 \times 10^3 \text{ m}^3$  in answer (b) of interrogatory 5?

MR. BOLLMAN: Okay. We operate so many hours per year. So we have just taken the -- we just back calculate that into days.

Like I think this is based upon what, 7,600 hours per year. Basically we operate around 7,600 hours per year.

Q.188 - Okay. There are 8,760 hours in a year. You operate about 7,000 of them?

MR. BOLLMAN: Yes.

Q.189 - Okay. But is the number 2409 right? Or is there some -- is there a digit missing?

MR. BOLLMAN: Well, I think the numbers are approximately correct. I would have to -- this kind of thing we would have to verify. It appears there is a digit missing.

Q.190 - Yes.

MR. BOLLMAN: Yes.

Q.191 - Okay. Could you please check that over the break --

MR. BOLLMAN: Sure.

Q.192 - -- and give us the appropriate number?

MR. BOLLMAN: Oh, yes. There is a typo there. Yes, there is a typo there. It has got a comma there. And it is missing one.

Q.193 - And I wonder if you could undertake over the break or overnight to just put these daily and yearly numbers on a metric MCF basis and an MMBTU basis, since at another answer you talk in terms of MMBTU's?

I just want to be able to compare numbers. Could you do that?

MR. BOLLMAN: Sure.

Q.194 - Thank you.

CHAIRMAN: Speaking of breaks I think, Mr. Blue, that this is probably an opportune time to take our lunch break. We will come back at 1:30.

MR. BLUE: Yes, sir. Thank you.

(Recess)

CHAIRMAN: Please accept the Board's apology for keeping you all waiting. If you have need of recommendation where not to go for lunch, we will tell you.

Okay. Any preliminary matters? Mr. Blue?

MR. BLUE: Sorry.

CHAIRMAN: Just a second. We have heard over the lunch hour that the acoustics are not the greatest, and they can't

hear well in the back. So we are going to close the big doors and see if that helps. The witness may have to move. No? Good.

Q.195 - Thank you, Mr. Chairman. Mr. Gauthier, did you have some numbers that you did over lunch that you wanted to give me?

MR. GAUTHIER: My colleague wants to do a little spread sheet for you, tomorrow morning.

Q.196 - All right. That's fine. Thank you. Can we refer again to the PCS application, page 6, and to information response number 3 to the Department of Natural Resources and Energy. Do you have those references, Mr. Gauthier?

MR. GAUTHIER: Which question -- interrogatory?

Q.197 - Interrogatory number 3 --

MR. GAUTHIER: Three.

Q.198 - -- from the Department of Natural Resources and Energy?

MR. GAUTHIER: Yes.

Q.199 - Now, Mr. Gauthier, in my business we refer to some things probably in unflattering terms and no -- no adverse inference is intended here, but let me ask you, are you familiar with the term "weasel words"?

MR. GAUTHIER: No.

Q.200 - Okay. We use them to mean words that are not really clear. They could mean one thing or they could mean

another. Okay? Do you understand that?

MR. GAUTHIER: Sure.

Q.201 - Now let's look at page 6, the second paragraph from the bottom. And this deals with a very important point. And it's one that Mr. Hoyt canvassed with you about and it has to do with whether PCS proposes to be in the gas distribution business. Do you understand that?

MR. GAUTHIER: Yes.

Q.202 - You say, quote, "There are no plans at this time to displace any electrical load with a co-generation or combined cycle facility. Plans to do so in the future are contingent on a suitable gas supply, regulatory approval and an acceptable business case." Do you see that?

MR. GAUTHIER: Yes.

Q.203 - Okay. Now words like "at this time" would be the so-called weasel words. You are not excluding the possibility, as I understand it, of using natural gas to displace your electrical load or to build a co-generation facility or any of those things. You are not -- you are not ruling that out as you are sitting here today, are you?

MR. GAUTHIER: I don't want to.

Q.204 - Pardon me?

MR. GAUTHIER: I don't want to.

Q.205 - Okay. That's --

MR. GAUTHIER: Is that a weasel word?

Q.206 - I'm just trying to be clear -- I'm just trying to be clear on what you want the Board to note that you would like to do with your natural gas. You understand that's my purpose?

MR. GAUTHIER: Okay.

Q.207 - Okay. You want the flexibility to use natural gas from your wells to displace electrical load, to build a co-generation facility if the economics and the gas supply allow you to do so, is that fair?

MR. GAUTHIER: It also is contingent on regulatory approval.

Q.208 - Sure. That's always true.

MR. GAUTHIER: Yes. Presently I can't do that.

Q.209 - Right. But you would like -- you would like the -- you don't want the Board to write anything in its decision that would prevent you from doing that, is that fair?

MR. GAUTHIER: That's correct.

Q.210 - Okay. Thank you. And, sir, I get to page -- or information request number 3, response to question A, third sentence. You say, quote, "Futhermore, it is not the intent of PCS to provide distribution services other than to it's own facility as noted in the application. PCS, of course, would be bound by a Board decision ordering it to provide such service if that occurs." Do you see that?

MR. GAUTHIER: Yes, I do.

Q.211 - And you have been over this with Mr. Hoyt, but you were saying you will be a gas distributor if the Board requires you to be?

MR. GAUTHIER: Be a gas distributor to PCS.

Q.212 - Yes. And to anyone else if the Board --

MR. GAUTHIER: If the Board decides, yes.

Q.213 - And could we also say you would be a gas distributor to third parties other than PCS, if the law required it?

MR. GAUTHIER: I can't answer that. I don't know if that's currently correct.

Q.214 - You don't know what the law is?

MR. GAUTHIER: No.

Q.215 - Okay. Thank you. But you are saying if the Board tells you that the law is that you must provide third parties other than PCS with gas distribution service, you are quite prepared to do that?

MR. GAUTHIER: If we have gas available for sale.

Q.216 - Right. Okay. Thank you.

MR. GAUTHIER: Excess gas.

Q.217 - But subject to that, you would be prepared to go into the gas distribution business?

MR. GAUTHIER: If the Board compels us to do that.

Q.218 - Thank you. Now I just wanted -- I just wanted to be clear in that because I hadn't been clear on that.

Now do you foresee in your plans being the gas distributor who will supply natural gas to the Town of Sussex.

MR. GAUTHIER: No, I do not.

Q.219 - And have you told the Mayor of Sussex that?

MR. GAUTHIER: Yes.

Q.220 - And as far as you are concerned, the mayor and the council of Sussex are aware that PCS has no plans to supply it with natural gas.

MR. GAUTHIER: We told the mayor, his council, that PCS is not interested, will not distribute gas to the Town of Sussex. We will sell them gas but we will not distribute it to them.

Q.221 - All right. And when you say you will sell it to them you mean maybe a marketing subsidiary owned by PCS would sell it to them?

MR. GAUTHIER: Yes.

Q.222 - To be distributed to them by who?

MR. GAUTHIER: Someone else.

Q.223 - Pardon me?

MR. GAUTHIER: Someone else other than PCS.

Q.224 - Well the only other person in the province that can do it right now is Enbridge.

MR. GAUTHIER: Right. So they would be the ones.

Q.225 - Okay. So you are saying that if the Town of Sussex is

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going to be supplied by anyone, it's going to be supplied  
by Enbridge, is that fair?

MR. GAUTHIER: Gas would be distributed to the Town of  
Sussex by Enbridge.

Q.226 - Right. And that would presuppose that Enbridge had an  
infrastructure or considered an infrastructure in the  
Sussex area to be economic, is that fair?

MR. GAUTHIER: Yes.

Q.227 - Thank you. I would like to go to page 7 of your  
application under the heading "Gas Supply". And I am  
going to ask Mr. Zed to put in front of you a copy of the  
Gas Distribution Act 1999, and I think the unamended  
version would be just fine.

MR. ZED: Any particular section, Mr. Blue?

Q.228 - Yes. I would like you to turn up section 5 (3) on  
page 13.

And Mr. Gauthier, it is my understanding, and the  
Board will decide this, but it is my understanding that  
the Board, when it grants a franchise, must grant it for a  
20-year period under subsection 5 (3).

Were you aware of that?

MR. GAUTHIER: Yes.

Q.229 - All right. And you would agree with me that the  
purpose of a franchise is so that gas can be distributed  
to customers in New Brunswick?



MR. GAUTHIER: If that is the legal opinion that's fine.

Q.230 - Okay. Now you told me before lunch that right now you have gas supply deliverability at the rate you require for a period of two years. And that is all you know right now.

Do you remember --

MR. GAUTHIER: That's correct.

Q.231 - -- that evidence?

MR. GAUTHIER: Yes.

Q.232 - Okay. If the Board grants you a franchise for 20 years and it turns out that you have gas for only 2 1/2 years, how would other customers who might exist in your franchise area get gas service if you had the franchise but didn't have the gas supply? How would that work?

MR. GAUTHIER: I have to qualify your question by saying that I stated that we would have 2 1/2 million per day for the first two years.

For the next 18 we would have some number less than that. But we would still have gas which we would burn.

Q.233 - I understand that. But Mr. Hoyt has made the point, and he is going to argue to the Board, that you should be limited to a geographic area for the franchise.

We will have to talk about what geographic area that is. But I think that is the point that Enbridge is going to argue. It is possible that within that geographical

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area there might be other customers.

With the gas supply that you have, how are you going to meet your obligations of a local gas distributor franchisee to provide service to those customers?

MR. GAUTHIER: To a third customer you are asking?

Q.234 - Yes. You are asking for a franchise. Your obligation as a franchisee is to distribute gas to customers. And Enbridge is saying you should get it for a defined geographical area. How do you service those customers?

MR. GAUTHIER: Our application was to provide gas to our facility. We didn't talk about other customers. I don't want to service other customers.

Q.235 - Well, I understand that. But let's look then -- we will jump ahead a little bit. You have got the Act in front of you. Look at sections 14 and 15 of the Act.

14 (1) says "A gas distribution system owned or operated by a gas distributor is deemed to be a public utility and the subject of the Public Utilities Act so far as it is consistent with this Act."

Have you got any -- have you received any advice on what that section means or what obligations that imposes on you?

MR. ZED: I hope he is not asking for whether he has received legal advice and what the nature of that advice

is.

Q.236 - I'm not. I just want to know have you asked yourself, let me put it that way, what that subsection means?

MR. GAUTHIER: It says that we are governed by the Public Utilities Act. In our application we asked -- we wanted to use gas from our wells at our facility. We didn't ask to distribute gas to any other customer.

Q.237 - But you are asking for a local gas distribution franchise. That makes you a gas distributor. And that imposes on you by law the obligation of 14.

Have you asked yourself or asked anyone what that means?

MR. GAUTHIER: It mean to me the PCS facility at Penobscuis is a customer.

Q.238 - All right, sir. It says 14 (2) "A gas distributor is deemed to be a common carrier of gas and shall act as a common carrier of gas."

And what that means is that if some other customer wants service on your pipeline you have to provide it.

Were you aware of that?

MR. GAUTHIER: If the Public Utilities Board says that I have to supply, distribute gas to another customer besides PCS, then I will have to do that.

Q.239 - All right, sir. Then I get back to my question. With the gas supply that you have told us that you have at the present time, how are you going to meet those obligations?

MR. GAUTHIER: I cannot service at the present time another customer --

Q.240 - Okay.

MR. GAUTHIER: -- nor do I want to.

Q.241 - But wouldn't that -- do you not concede that may be a good argument about why you shouldn't get a gas franchise and we should leave it to Enbridge?

MR. GAUTHIER: No.

Q.242 - Okay. We will come back to that, sir. And under section -- you are aware, I believe that you are aware of your obligations under subsection 15 (1) of the Gas Distribution Act?

MR. GAUTHIER: Yes. I read that.

Q.243 - Thank you. The same question. How would you meet those obligations with the gas supply that you testified that you have in this case?

MR. GAUTHIER: Again if the Board indicates to me that I have to supply gas to another customer besides PCS, I have to have the gas available for sale.

Q.244 - Would your acknowledgement of that obligation extend to agreeing to a condition that PCS would make the necessary investment to outfill and outdrill the field to continue meeting those obligations over time?

MR. GAUTHIER: I mentioned earlier, an earlier question, that we have committed \$4.6 million in two years, within

the next two years in block 4.

Q.245 - Yes. Okay. Thank you. And that is all you want to say in answer to that question?

MR. GAUTHIER: Yes.

Q.246 - Now sir, you have expressed confidence that you will have some gas from those fields. But what if you are wrong?

Would you want a condition in the franchise agreement that you hold it only so long as there is indigenous New Brunswick gas sufficient to make your operation economic?

MR. GAUTHIER: No, I want it for the full 20 years.

Q.247 - So what happens if you do run out of gas within the 20-year period?

How -- I get back to my question. How would the customers in your franchise areas, other than yourselves, be protected by this Board by giving you a 20-year franchise?

MR. GAUTHIER: If I -- PCS or the customer runs out of gas then we will burn number 2 fuel oil.

Q.248 - But what about some other customer --

MR. GAUTHIER: I don't want to service another customer.

Q.249 - Okay. I understand that. But you have obligations.

Sir, let's move on. Let's go to page 8 to your schedule?

MR. GAUTHIER: The application?

Q.250 - Yes.

MR. GAUTHIER: Okay.

Q.251 - And to the schedule which is appendix 4. Do you have that?

MR. GAUTHIER: Yes.

Q.252 - Now in your text you say in general the target date for commissioning of the equipment and utilization of gas in the mill is August 20th 2001. And your schedule is similar.

Is that schedule still current? Or do you have a --

MR. GAUTHIER: No.

Q.253 - -- new schedule?

MR. GAUTHIER: That was a schedule was submitted on March the 13th.

Q.254 - Yes.

MR. GAUTHIER: And had it not been for all the Intervenors we would be on schedule.

Q.255 - Do you have a new schedule?

MR. GAUTHIER: Yes, we do.

Q.256 - What is the date now, the target date for

commissioning of equipment and utilization of gas in the mill?

MR. GAUTHIER: The end of the year.

Q.257 - Okay. And do you have -- have you prepared a new

graphical schedule like the one on appendix 4 that you use

back at the office?

MR. GAUTHIER: Yes. And we keep updating it.

Q.258 - Okay. Can you file the current version of it before the record here closes?

MR. GAUTHIER: Okay.

Q.259 - Thanks. Can you turn to page 9 of your application?

MR. GAUTHIER: Yes.

Q.260 - And this is a description of your consultation plan as of March 13th 2001, isn't it?

MR. GAUTHIER: Yes. That is what we submitted March 13th.

Q.261 - Okay. Can you give us an update on what consultations you have had since March the 13th, 2001?

MR. GAUTHIER: We have held consultation meetings with many, many groups. In fact we started with the -- the first group was the Union of New Brunswick Status Indians. I don't have a list in front of me but --

MR. ZED: Mr. Chairman, if I might, I could assist Mr. Blue in telling what we have done. And perhaps Mr. Gauthier can -- I don't want to take the testimony from his mouth. But we did file a consultation plan with the Board.

And that plan was approved. And consistent with that plan we had a public meeting in Sussex I believe on the 3rd of May. And I will let Mr. Gauthier go on and tell you about the public consultation.

But part of that plan was -- and we would remind the



Board and remind Mr. Blue that this consultation plan was preapproved in advance of our application to construct a pipeline and is not really properly before us.

We don't mind sharing that information with the Board and with Mr. Blue at this time. But it will be detailed more significantly in our construction application.

MR. BLUE: Well, I understand that from the Province's point of view. Could we have that plan marked as an exhibit in this hearing?

CHAIRMAN: Do you have a copy of it?

MR. ZED: I don't have it with me, Mr. Chairman. But I can get a copy.

CHAIRMAN: All right. Would you introduce it tomorrow morning?

MR. ZED: Yes. We can do that.

MR. BLUE: And I think that is all I need to know, sir. I'm obliged to Mr. Zed for helping me.

Q.262 - Can you turn to page 10 of your application then?

This is your engineering plan. Now the first point is in the -- the first line at page 10. You say that your PCS facilities use approximately 800,000 MMBTU per year, do you see that?

MR. GAUTHIER: Yes.

Q.263 - And we are not in MCF -- or we are not in  $10^3$  M<sup>3</sup>s, we are in MMBTU. I look up in my conversion table here and I

see that -- I thought I saw -- yes, that one cubic metre is equal to 35,300 BTU. But tell me how that number relates to your 2.7 MCF deliverability per day and your 2.5 MCF requirement per day?

MR. BOLLMAN: We would like to remind the Board that we are obligated tomorrow morning first thing to present a spread sheet showing these things.

Q.264 - Okay. Can you include this number?

MR. GAUTHIER: We will include BTU's.

Q.265 - And this number?

MR. BOLLMAN: Yes, sure.

Q.266 - Thank you. Mr. Gauthier, in order to put your plan in place, as I thought about it and discussed it with Mr. Barnett, we thought it probably a fairly long list of regulatory approvals that PCS requires from the New Brunswick government, and I am thinking under the Oil & Gas Act and I am thinking under this Act and under the Clean Environment Act, in order to do this. Do you have such a list?

MR. BOLLMAN: I think the answer is we more or less do have such a list but I don't have it at the tip of my tongue.

Q.267 - Okay. Can you get that from the office and file it tomorrow for us.

MR. ZED: Mr. Chairman, I mean this -- what this relates to we understand to be the construction application which is

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presently being prepared, and I don't know what relevance  
it has to the franchise application.

Q.268 - No. It may include the -- the gathering lines are not  
subject to this Board's jurisdiction, the oil and gas  
license still has to be worked out. I just believe the  
Board should have a list of all the approvals that are  
required besides this Board's approval of this franchise  
application to put this project in place. I would like it  
to know where we are in the approval process for each.

MR. ZED: Mr. Chairman, we just merely say in rebuttal that  
we have a statute and regulations and we are attempting to  
comply with the requirements of the franchise application,  
and Mr. Blue is now asking us to embark upon providing  
information that relates to the application for  
construction permit which is in process and will be filed  
in a timely fashion.

CHAIRMAN: I understand where Mr. Blue is coming from. Just  
ask of the witness is, is there something back at the shop  
that approximates what Mr. Blue is talking about. Don't  
answer the question, Mr. Zed, by shaking your head.  
Seriously, do you have a list of planning documents that  
would set forth the various requirements that you would  
foresee?

MR. BOLLMAN: Well we could produce a document this evening  
which to the best of our knowledge, these requirements.

We don't have a list of such, you know, sitting in a file somewhere.

CHAIRMAN: You don't have a flow chart --

MR. BOLLMAN: No.

CHAIRMAN: -- or a planning graph of that nature of those various things done now?

MR. BOLLMAN: No, we don't have that. We could put one together.

CHAIRMAN: Mr. Blue, there is none available per se. They would have to prepare it. Go ahead and address the Board.

MR. BLUE: I beg your pardon, sir.

CHAIRMAN: I say go ahead and address the Board on that question. You know, I -- if there were one available then fine, it could be filed.

MR. BLUE: I can't believe there is not one available. They had the December 31st date to put this in place. They must know --

MR. ZED: I hope he is not inferring that the witness is lying, Mr. Chairman.

MR. BLUE: No, no, I'm not. They must know what approvals they need and they must know where they are in terms of getting those approvals in the critical path. That's all I want to know.

MR. GAUTHIER: Well I could respond that we are using several consultants on this job and some of them have a

more complete picture than I personally would have. John Stevens of Neill & Gunter is at the back of the room, he is working closely with us in doing this stuff. And so what I am saying is while I don't have a formal list written down, by getting together with a couple of people this evening we could produce something that's pretty close.

CHAIRMAN: I am going to suggest, witness, that during our next break that you speak with your consultant, he is acutely well aware of what Mr. Blue is looking for and if it is available in any form that you could obtain without working until midnight, why I think it would be helpful to the Board.

Q.269 - Mr. Gauthier, I want to come to another topic now that concerns the province and this is the tension that I referred to when I opened this morning between Enbridge having a franchise, you seeking local gas producer franchise and the Province's desire to New Brunswick resources used. Did PCS have any discussions with Enbridge about Enbridge providing the facilities that you require in order to move the gas from the well head to your facility?

MR. GAUTHIER: We had a discussion with -- we had several meetings with Enbridge. Our first meeting was to tell them about our proposal to apply for a local gas producer

franchise.

Q.270 - Right.

MR. GAUTHIER: They -- we had several letters or correspondence went back and forth to see if we could come up with a agreement but that was not -- we couldn't reach an agreement.

Q.271 - All right. What were the issues that separated Enbridge and PCS?

MR. ZED: Mr. Chairman, again, you know some of these discussions may relate to confidential business decisions and I don't know what the relevance of them is before the franchise hearing, whether there were negotiations with the third party or not. I am not sure of the relevance to these proceedings.

MR. BLUE: Sir, the relevance to these proceedings is this. This franchise may not be necessary if Enbridge can provide the facilities. They can still produce their gas, they can still get it to their plant using Enbridge facilities. I believe it's good for the public record of New Brunswick to know what prevents that or what has prevented it, because we have the company saying they don't want to serve other customers, they just want this gas themselves, they are asking for a franchise to do it, but they may not need it if the existing provincial-wide franchisee can provide the facility under reasonable

terms.

MR. ZED: Mr. Chairman, in rebuttal I would simply state that notwithstanding Mr. Blue's credibility as a very senior member of the Ontario bar, there is no evidence before you that Enbridge wishes to service this customer.

As a matter of fact Enbridge in a manner supports the current application and we wonder where Mr. Blue has any standing to raise the issue and to purportedly give evidence on behalf of Enbridge's intentions.

CHAIRMAN: Let me just ask a question of you, Mr. Blue. I presume that if Enbridge in fact calls a witness you would put the same question to them.

MR. BLUE: I certainly intend to. I want to ask both sides, just so that we have enough evidence to know what the story is. We don't have that story.

CHAIRMAN: We are just going to take a five minute recess and the witnesses can speak to their consultant.

(Recess)

CHAIRMAN: That was our mid-afternoon break, expanded. We had a fulsome discussion, as some people on staff would say, about the question that we retired to resolve and many other things.

Anyhow back to the point. Witness, the Board would like to hear in general terms, without any proprietary information being discussed, just generally what happened

to the negotiations. And we presume that you had approached them.

And I believe the record is clear on it, to -- that is Enbridge -- to build that line and distribute that gas for you. What happened? Why did that not occur?

MR. GAUTHIER: In the various discussions and documents that were exchanged, PCS felt that Enbridge was speculating in a lot of areas that were we felt the Board's jurisdiction, and wanted PCS to I guess agree to some of these sceptical positions.

And we just couldn't come to an agreement. We said we didn't want to go there. All we wanted to do was distribute our gas from our well to our site. And that is it. No other customers. And that is the way it ended.

We were willing to sign a side agreement between the two companies. But that didn't go through as well. It fell apart.

CHAIRMAN: Okay.

Q.272 - Mr. Gauthier, who made the decision not to do the deal with Enbridge at PCS?

MR. ZED: What is the relevance of PCS and Enbridge did not come to a meeting of minds? Who knows who --

CHAIRMAN: I think that is -- well, you can ignore the question. Mr. Blue, go ahead.

Q.273 - Okay. Can you tell me, Mr. Gauthier -- it may be the



- Messrs. Gauthier, Bollman - cross by Mr. Blue - 90 -  
same question or it may be a different question -- but at  
what level was a decision taken? Was that by you or  
someone higher than you?

MR. GAUTHIER: It was a team effort.

Q.274 - Did the team include you?

MR. GAUTHIER: Yes.

Q.275 - And people higher than you?

MR. GAUTHIER: That's correct.

Q.276 - Thank you. And among the issues that divided you, was  
one of the issues your cost versus the cost that PCS would  
pay if Enbridge provided the facilities?

MR. GAUTHIER: The only discussions we had were the -- was  
the pipeline itself, between a processing facility in the  
field and our plant at Penobsquis --

Q.277 - Right.

MR. GAUTHIER: -- which is the 2 kilometre section of pipe.  
That's all we talked about, and the franchise.

Q.278 - Right. And my question was did you talk about -- did  
you talk about the cost at which you could provide that 2  
kilometres of pipe versus the cost at which Enbridge could  
provide that two kilometres of pipe to you if Enbridge  
built it?

MR. GAUTHIER: The costs -- the numbers were not discussed.  
The topic of cost was discussed.

Q.279 - But the numbers weren't?

MR. GAUTHIER: No.

Q.280 - Okay. Thank you. Now did you talk about whether Enbridge could have built the two kilometre pipeline in the same time frame as you -- or as PCS?

MR. GAUTHIER: The two kilometre section of pipeline only takes approximately two to three weeks to put in.

Q.281 - Right. And my question was did you discuss whether Enbridge could put it in in the same time frame --

MR. GAUTHIER: No.

Q.282 - -- as PCS? Did you not discuss that?

MR. GAUTHIER: I -- no.

Q.283 - Thank you. Did you have any discussions about what I would describe as a compromise rate from Enbridge, a rate that would be something higher than your cost but something lower than the rate that Enbridge would charge for comparable service?

Did you have any discussions like that with Enbridge?

MR. GAUTHIER: Most of the discussions were held towards other customers besides PCS.

Q.284 - Right.

MR. GAUTHIER: And not -- we didn't get involved in costs too much.

Q.285 - And you didn't discuss a compromised rate of the type that I described?

MR. GAUTHIER: Repeat that again?

Q.286 - Did you discuss a compromised rate? That would be a rate that Enbridge would charge to you that would be slightly higher than your cost but lower than the rate --

MR. GAUTHIER: No.

Q.287 - -- Enbridge charged others for comparable service?

MR. GAUTHIER: No.

Q.288 - Okay. Thank you. Mr. Gauthier, I just want to put a case to you. And this is what I would call -- I would say if the world was perfect, all other things being agreeable to you. Enbridge -- let's assume that Enbridge, the provincial distributor, puts in the two kilometers of pipe on terms that are agreeable to you, okay?

Just assume that with me for a minute? You have to say yes.

MR. GAUTHIER: Yes.

Q.289 - Okay. Then PCS would still be a producer. And the gas from McCully field would get produced, right?

MR. GAUTHIER: Would get distributed.

Q.290 - Right. And a gas marketer who could be an affiliate of PCS would sell the gas to PCS, just like in your model, right?

MR. GAUTHIER: Yes.

Q.291 - Okay. And PCS would be a gas purchaser?

MR. GAUTHIER: Yes.

Q.292 - Okay. Your facility would get the advantage of that

captive supply of gas, right?

MR. GAUTHIER: It would be -- we would be --

Q.293 - And Enbridge would have all the obligations that you and I talked about under Section 14 of the Act, under the Public Utilities Act as a common carrier and under Section 15 of the Act, in that hypothetical, wouldn't it?

So all those problems would disappear if Enbridge built that two kilometres of pipe on your terms?

MR. GAUTHIER: Enbridge does not have at this moment a secure supply of gas.

Q.294 - It doesn't have to. It can't sell gas anyway. It just distributes gas.

MR. GAUTHIER: Well, as a producer, and as part of this application, I have to have gas available.

Q.295 - You would. You would. You produce it. You use it. The only difference in the case I'm putting to you is that Enbridge builds the two kilometre, six inch pipe on terms that are satisfactory to you.

Enbridge is the distributor. Enbridge has all the obligation. You have all the benefits. But Enbridge gets to charge you tolls. What is wrong with that?

MR. GAUTHIER: It's higher costs.

Q.296 - Uh-huh. But you said you didn't discuss cost with Enbridge?

MR. GAUTHIER: But we discussed the topic of costs. We

didn't talk about numbers.

Q.297 - Did you negotiate with them on numbers?

MR. GAUTHIER: No. We didn't discuss numbers. I said we discussed the topic of costs.

Q.298 - All right. Thank you. Now I may want to argue this, so I just want to put these points to you fairly to get your comments on them, okay. And I may not argue it. So I just want to be clear.

Can you show Mr. Gauthier a copy of the Act again?

MR. ZED: What section?

Q.299 - "Definition of franchise area." Now the definition of franchise area on page 7 says "Franchise area means the area of the province in which a gas distributor has been granted the right by either the Lieutenant-Governor-In-Council or the Board to distribute gas and offer customer services to customers". Plural.

Do you see that?

MR. GAUTHIER: Yes.

Q.300 - So certainly in interpreting these statutes, singular can include the plural. Plural can include the singular.

But the intention of the legislature was that a franchise area would have more than one customer. Do you agree with that?

MR. GAUTHIER: If the law's legal opinion of customers is that then I guess I agree with it.

Q.301 - Now in your discussion with Len Hoyt, or Mr. Hoyt I should say, the conclusion I came to is you do not have a clear picture in your mind, as you are sitting here today, of the metes and bounds description of the franchise area that PCS wants, is that fair?

MR. GAUTHIER: We don't want the Board to grant us a franchise using metes and bounds.

Q.302 - No. But Mr. Hoyt is going to argue. And the Board is going to have to decide. And the Province is going to have to decide what its position is. And it certainly is tenable to argue that you have got to have a geographical description.

And all I'm asking you today is if that is the case, you don't have one to give to the Board in precise terms, do you?

MR. GAUTHIER: Not yet.

Q.303 - Okay. Thank you. Now sir, let's just try to work this out. As I understand it your mining lease covers approximately 47,000 acres?

MR. GAUTHIER: Yes, approximately.

Q.304 - And I take it -- would you exclude the underground mining lease area of 47,000 acres from the franchise? Or would you want that included?

MR. GAUTHIER: There are two different leases.

Q.305 - I know. I understand. There is the difference

between mineral rights and surface rights.

MR. GAUTHIER: Could you ask that question again? I'm sorry.

Q.306 - Yes. Well, in terms of your definition of facilities, you have used the term "existing facilities", Mr. Hoyt pointed out. And you said you didn't want existing facilities. You wanted the franchise to be --

MR. GAUTHIER: Facility.

Q.307 - -- to your facilities. Would that 47,000 acres be included in what you call your facilities?

MR. GAUTHIER: No, they would not.

Q.308 - Okay. So what about though if you for some reason have to install a new head frame with -- new head frame facilities and buildings somewhere -- a couple of miles away, and you got the surface rights for that.

Would those be in your facilities?

MR. GAUTHIER: We talk about facilities, we mean the surface buildings.

Q.309 - No. I'm talking about a new head frame somewhere, a kilometre or two away from your existing head frame, and you have put up surface facilities there.

Would those be included in what you describe as facilities? I would think you would want those to be.

MR. GAUTHIER: If you think I should have them, great.

Q.310 - No. I'm not --

MR. GAUTHIER: I --

Q.311 - I don't want to put words in your mouth.

MR. GAUTHIER: No.

Q.312 - I'm just trying to understand what you have -- you  
see --

MR. GAUTHIER: Another head frame was not part of this  
application.

Q.313 - But Mr. Gauthier, the Board cannot have a clear  
picture in its mind of what you are asking for if you  
don't have a clear picture in your mind.

Do you want to think about that and come back and give  
us some -- a better description of what you would say is a  
geographical description of your franchise area and your  
facilities?

MR. GAUTHIER: I don't want to describe a geographical area.

I want the franchise to issue it based on a single end  
use customer, PCS.

CHAIRMAN: The Board has something to say to the witnesses.

Witnesses, we have just conferred, that was part of our  
fulsome discussion in our anteroom here, and before you  
close your case we wish to have you file with the Board a  
physical metes and bounds description of your proposed  
franchise area. I suggest you could do it on the basis of  
the old parish system or whatever it may be, fine. But we  
will do that.



The Board has to have that evidence in front of it so that it could, after hearing argument of counsel, decide that that's the appropriate way to proceed. If you do have a description that you have provided that encompasses your facilities.

MR. BLUE: Thank you, Mr. Chairman, and you have just ended my cross examination.

CHAIRMAN: Well you see I have a good sense of these matters. Okay.

MR. BLUE: Thank you.

CHAIRMAN: Thank you, Mr. Blue. We will -- Board council has some questions. What we will do is as the Board counsel's job is simply to complete the record, give him a few extra minutes and retire and come back in.

MR. ZED: Before we adjourn, Mr. Chairman, could I just raise two issues.

CHAIRMAN: Yes.

MR. ZED: First of all, starting with the last issue. You are looking for a metes and bounds description of the plant for any description that we are prepared to propose?

CHAIRMAN: I am looking for, as has been pointed out and you are very aware, wherever a franchise is mentioned by way of description --

MR. ZED: We have to confine it to an area.

CHAIRMAN: -- it's an area.

MR. ZED: Okay. So whatever area we propose that's what you would like.

CHAIRMAN: Yes.

MR. ZED: I fully intend to address that in argument.

CHAIRMAN: Well I think the witness should put it in in case there are any supplemental questions.

MR. ZED: That's fine. We will do that tomorrow.

CHAIRMAN: But if we get into -- you know, Mr. Blue's last line of questioning to me is quite reasonable, if for whatever reason, and I don't have anything to do with mining at all, but if they find that they have to service their 47,000 acres from a different location on the ground then they might well want to provide those facilities with natural gas as well. Does that apply?

MR. ZED: The second issue, before the last break we talked about providing a list for Mr. Blue. The difficulty -- Mr. Chairman, I wasn't trying to be difficult.

The difficulty is this. We have employed a number of consultants to do various pieces of the application. Some of them are in Alberta, some other places in New Brunswick, in Saint John, and it would be virtually impossible to get a comprehensive list to the Board tomorrow.

And the difficulty is if we put in an incomplete list, then that may reflect badly on the applicant by way of

argument that -- I don't know where Mr. Blue is going with it, but we would rather not put in any listing other than a complete list, and we can't possibly provide that by tomorrow.

CHAIRMAN: We will respond to that when we come back in.

(Recess)

CHAIRMAN: Mr. Zed, on your second point, I understand your point about if lists were not complete it would reflect on the company. Well any reflection that has occurred has occurred. So the Board would find it helpful if you simply file with us whatever lists or partial lists you are able to do tomorrow.

MR. ZED: Mr. Chairman, we have already asked -- been in touch with two of the parties and they are in the process of preparing it. So we will prepare the best list we can and file it tomorrow.

CHAIRMAN: I appreciate that. Good. Thank you.

MR. ZED: But it may be qualified with weasel words as to its completeness.

CHAIRMAN: My vocabulary expands every day. Thank you.  
Board counsel.

CROSS BY MR. O'CONNELL:

Q.314 - Thank you, Mr. Chairman. Gentlemen, my name is Bill O'Connell and I am board counsel and I want to start off with some questions I have with respect to, if I can call

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it that, the concept of the franchise and the franchise  
area and at page 5 of your application.

So you may want to go to page 5. Because to be honest  
with you I was a little bit confused about, as I listened  
to your evidence, some of the terms you used. Okay.

Now in paragraph 2 you say that the franchise boundary  
will begin -- just so you know, I am going to work my way  
to area, so I am going to try to help clarify in my mind  
what the area is of the franchise, and I thought by using  
page 5 in the application that might help.

So the franchise boundary will begin at the valve  
outlet of the wellhead facilities. So is it your evidence  
that the gathering portion --

MR. GAUTHIER: Sorry. Where are reading that?

Q.315 - Page 5 of your application --

MR. GAUTHIER: Yes.

Q.316 - -- the section called "To wellhead equipment".

MR. GAUTHIER: Okay.

Q.317 - And you go to the last sentence in that paragraph.

And you discussed this with Mr. Hoyt and Mr. Blue. I'm  
sorry to come back to the same thing, but I was left a  
little bit confused. Okay.

So you say there the franchise boundary will begin at  
the valve outlet of the wellhead facilities. Where is  
that physically?

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MR. GAUTHIER: What we meant by that is the gas processing facility, if I could refer to that, would be where we are cleaning out the gas or making it pipeline quality gas, saleable gas.

Q.318 - So this is -- so I understand, what you are saying then is that the gathering pipelines, the gathering pipes, the gathering --

MR. GAUTHIER: Yes.

Q.319 - -- conduit, is not in your view part of your franchise area?

MR. GAUTHIER: If we interpreted that to distribute gas to our facility we had to instal a pipeline that contained saleable gas, the gathering lines are not -- are not -- we don't put saleable gas. It's non-treated gas.

Q.320 - So in your view what you are saying here today is that the gathering pipelines are not part of your franchise area?

MR. GAUTHIER: Wasn't part of this application. We interpret that to be gathering lines are not part of the franchise.

Q.321 - Let me ask you this. The term used "wellhead facilities" --

MR. GAUTHIER: Yes.

Q.322 - -- so that's at the point where the molecules of natural gas emerge for the first time on the surface, is

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 103 -  
that correct?

MR. GAUTHIER: When this was put together March 13th we only had one well that was available, number 1. Number 1 McCully well produced saleable gas. Did not have to be treated, except for dewatering, slight dewatering.

Q.323 - Okay. I'm with you.

MR. GAUTHIER: Since then we have got McCully number 2 which has a whole host of other hydrocarbons which have to be removed. So as part of our application for construction we will show that we have to instal a gas processing facility.

Q.324 - So has something changed -- has something changed since March 13th that changes your approach to this application?

MR. GAUTHIER: Not really.

Q.325 - Okay. I didn't think so. But my question was, is -- you use the term "wellhead facility". Is that the point where the natural gas emerges on the surface for the first time, or is it removed from there by 500 yards or some distance?

MR. GAUTHIER: On this application we talked about wellhead equipment. We talked about a dehydrator on the pad where McCully number 1 is situated.

Q.326 - When you said -- well, maybe I'm not asking these questions particularly well. There are three McCully

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 104 - wells, 1, 2 and 3 as I presently understand it.

MR. GAUTHIER: Number 3 is still being drilled.

Q.327 - Yes. And two more are planned in the next couple of years?

MR. GAUTHIER: Yes.

Q.328 - And there will be a wellhead facility for each one of those, correct?

MR. GAUTHIER: Each well has to have some valves and connections to a pipeline. I guess in the oil and gas industry that's what they call wellhead facility.

Q.329 - Okay. I keep coming back -- I'm going to work my way around to working with the area, you know --

MR. GAUTHIER: Okay.

Q.330 - -- the franchise area. And it seems to me a good place to start is where in your view the regulation by this Board steps in. And that is my reason for trying to find out with some degree of preciseness where wellhead facilities are. And all I'm asking you is are they just at -- where the natural gas emerges from the ground for the first time? Like it doesn't seem it should be that difficult a question to ask. I wasn't intending to be difficult.

MR. BOLLMAN: I would like to make a little comment. Up until a very short period of time ago we were preparing an application for a permit to construct on the assumption

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that the franchise dealt solely with the six inch  
pipeline.

Very recently we received feedback, like was that a  
week ago, we received feedback that the Board wanted  
gathering lines addressed in the permit to construct. But  
that doesn't necessarily mean -- so that's why we are  
uncertain about this issue. This is an uncertain issue  
both from our point of view and I believe from the Board's  
point of view and from the Department of Natural Resources  
and Energy's point of view, so we are hardly going to  
resolve that I don't think right now.

Q.331 - I guess I didn't think what I was asking you was that  
difficult.

MR. BOLLMAN: It is difficult.

Q.332 - So you don't know where your wellhead facilities will  
be --

MR. BOLLMAN: No.

Q.333 - -- today?

MR. BOLLMAN: No. Let's redefine some of these terms, the  
more appropriate terms. First of all we have wells which  
are holes in the ground.

Q.334 - Yes.

MR. BOLLMAN: Then we have wellheads which are the --

Q.335 - I thought would be where the --

MR. BOLLMAN: -- right on top of the well.



Q.336 - Yes. Right where the well emerges from the ground --

MR. BOLLMAN: Yes.

Q.337 - -- for the first time?

MR. BOLLMAN: Yes, that's wellhead not wellhead facilities.

I call that wellhead equipment. I don't like to use the word facilities aside from gas processing facility.

Q.338 - Well, understand the problem I have is that is exactly the term you used in your application.

MR. BOLLMAN: Let's change that wording a bit then.

Q.339 - So you would prefer that your application read wellhead what?

MR. BOLLMAN: Wellhead equipment.

Q.340 - Okay.

MR. BOLLMAN: And then there is wellhead and then there is well site equipment as well. And then there is gas processing facilities.

Q.341 - Well, let's look at --

MR. BOLLMAN: Because we have a well but we have a safety device as a wellhead. And then we have to have a line heater on the well site, that's well site equipment. So we -- and then we have a flare stack, a flare stack (inaudible) with drum. We have methanol injection, methanol storage. That's all well site equipment. And then we put into gathering lines. And then from the gathering lines we go up to a gas processing facility.

There we condition the gas, put it into a franchise pipeline. Transport it to the mill where we have the users of the gas.

Q.342 - Well, let's -- yes, you use gas processing facility somewhere else in your application or your supporting materials. I remember reading that term.

MR. BOLLMAN: Well I can say this application was written in early March when we were considerably less knowledgeable than we are at the present time. Since then we have progressed a lot up the learning curve and so some of the -- this word play business, which is what it is, may -- you know, may change some.

Q.343 - Look at paragraph 4 again on page 5. But I guess just to make sure of the term, you would prefer gets used instead of wellhead facility is wellhead equipment?

MR. BOLLMAN: Yes, I want -- I like the word wellhead equipment or whatever, and then well site equipment and then gas processing facility. But I'm not a gas expert. Someone from the 20 years experience in the industry may prefer slightly different words, but they are just words after all. The equipment is the same.

Q.344 - And your evidence would be that the franchise would -- the franchise area would begin at the wellhead?

MR. BOLLMAN: That's not been our assumption. Our assumption has always been the franchise area began at the

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 108 -  
outlet of the gas processing facility. From day one  
that's been our assumption.

Q.345 - Can you go to the large size charts over there and  
indicate and mark for the Board where these different  
spots are?

CHAIRMAN: Would you turn the easel around so the Board can  
see it? Those are large reproductions of --

MR. BOLLMAN: Every one has --

CHAIRMAN: -- Exhibit A --

MR. BOLLMAN: Yes. Exactly.

CHAIRMAN: -- A-4?

MR. BOLLMAN: Yes. Exactly.

Q.346 - Now why don't you put a number 1 where McCully number  
1 is?

MR. BOLLMAN: Right here.

Q.347 - That is number 2 right beside it?

MR. BOLLMAN: That's number 2.

MR. LUTES: Is number 1 the middle one?

MR. BOLLMAN: Well, yes.

MR. LUTES: Thank you.

Q.348 - And right at where those black dots in numbers 1 and 2  
are, that's where the wellhead equipment is?

MR. BOLLMAN: That's where the wells are.

Q.349 - Yes. I'm trying to use your terminology.

MR. BOLLMAN: That's where the wellhead -- that's called the

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 109 -  
wellhead equipment. That's where the wellhead equipment  
is.

Q.350 - Okay. Now where from McCully number 1 and McCully  
number 2 is the gas processing facility? And is there one  
or two of them, by the way?

MR. BOLLMAN: There is one gas processing facility.

Q.351 - Where is it?

MR. BOLLMAN: This is the gas processing facility here.

Q.352 - Why don't you mark it GPF, so -- and would you agree  
that the gas processing facility is within the franchise  
area?

MR. BOLLMAN: No. It's outside the franchise area.

Q.353 - Now how far away approximately is the gas processing  
facility from the wellhead equipment?

MR. BOLLMAN: Probably about 800 meters, something like  
that.

Q.354 - And the plan is that there will be a six inch pipe  
between the two?

MR. BOLLMAN: No. Between the McCully 1 and 2 well site and  
the gas processing facilities, we will have two four inch  
gathering lines. Because we cannot co-mingle these  
gasses, so we must transport the gas for each well  
independently to the gas processing plant so we can  
provide the DNRE with individual well head measures.

Q.355 - And it would be your position that those gathering

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 110 -  
lines are not regulated by this Board under the Gas  
Distribution Act?

MR. BOLLMAN: That's correct. That has been our assumption  
to date.

Q.356 - And these are gas lines carrying natural gas molecules  
--

MR. BOLLMAN: Yes.

Q.357 - just a little bit under the surface of that area of  
the Province of New Brunswick.

MR. ZED: Mr. Chairman, just to -- regardless of whether the  
legal interpretation or submission -- what it is, we  
intend to include in the construction application the  
necessary information to allow the Board to assess that  
equipment and those gas gathering lines.

CHAIRMAN: Right. Mr. Zed, I don't wish to usurp Board  
counsel here at all, but it appears to me to be coming  
down to a definition under two pieces of provincial  
legislation, and whether or not gathering lines are part  
of it. Because if the Board has to interpret what  
constitutes distribution and on the basis of the  
legislation that our opinion is it includes distribution  
lines, then it's going -- the franchise area will include  
a much, much larger piece of property from everything that  
I have been hearing anyway, and I think that perhaps the  
place to address is in summation in reference to that.

MR. LUTES: You mention distribution. You meant gathering lines.

CHAIRMAN: No.

MR. LUTES: Included in the distribution system.

CHAIRMAN: That's right. In other words, what -- the definition under the Natural Gas Distribution Act concerning which we have authority, if that definition includes gathering lines, then the franchise area that we would grant would presumably, and this is a presumption on my part, be a much larger geographic area if we did it on that basis than if they were not included. Sounds to me to be something for argument. I guess there is no question about what I just said. I know that I have had, and I know that board counsel quite separately has had, along with staff, some question about that. So I guess we will probably have to address it.

MR. ZED: I understand. And I just meant to clarify that regardless of our position, we will include that information in the construction application.

CHAIRMAN: That's construction.

MR. ZED: Yes.

CHAIRMAN: We are talking now about franchise.

MR. ZED: I understand.

CHAIRMAN: Sorry, Mr. O'Connell.

MR. LUTES: Mr. Chairman, could I have one supplementary

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 112 -  
question before you --

CHAIRMAN: Sure, go ahead.

MR. LUTES: Where is number 3?

MR. BOLLMAN: Number 3 is on here -- this is -- I will start over. Okay. So this drawing -- these drawings show a three well system. Two wells are here. The third well is here.

MR. LUTES: Thank you. I see it on the second map there.

CHAIRMAN: You can see it from the highway, from the -- from the new well.

MR. BOLLMAN: Yes. Right. You can see the rig right now.

CHAIRMAN: I'm tempted to ask where the individual who was down wind of number 3 lives, but I won't do that.

Q.358 - Okay. Can we just -- tell me again what goes on in the gas processing facility?

MR. BOLLMAN: When we produce gas from these wells, the gas contains gas condensate which basically C-5 plus gasses.

Q.359 - Okay.

MR. BOLLMAN: Essentially unrefined gasses. It also contains some produced water. In order to control gas hydrates in these wells we have to inject methanol down the wells. And so when the water gets produced it's actually a mixture of methanol and water.

So now we have a pipeline that contains natural gas, liquid hydrocarbons, produced water, methanol. So we

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 113 -  
transport this mixture, two-phase mixture through these  
two four inch pipelines to the gas processing facility.  
And there we clean -- clean up the gas. Take out the  
liquid hydrocarbon. Take out the methanol. Take out most  
of the water.

And when it leaves the plant then it's gas that can be  
burned in any appliance or piece of equipment that is  
designed to handle pipeline quality gas.

Q.360 - Okay. Now you will recall when we started down this  
road I went to the term wellhead facilities on page 5 of  
your application. Are the wellhead facilities something  
different than the gas processing facility or are they the  
same thing?

MR. BOLLMAN: Yes. No, they are different.

Q.361 - Okay. Where are the wellhead facilities?

MR. BOLLMAN: On this drawing here we have a footprint  
shown. And that footprint contains the wellhead  
facilities, which are a line heater for each well to heat  
up the gas to prevent hydrate formation. It contains a  
little control room for status systems. It contains a  
methanol injection system. It contains a flare stack for  
depressurizing for maintenance and emergencies. It  
contains a flare stack knock-out drum. That's essentially  
what it contains on that footprint.

All this equipment must be at the well site in order



- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 114 -  
to operate these wells. That's why they are at the -- at  
the wells.

Q.362 - Okay.

MR. BOLLMAN: It is our desire -- if I can elaborate just  
briefly. Our desire was to -- because this is  
environmentally sensitive areas we moved all the equipment  
we could up to this higher location. But some basic  
equipment must remain here to produce from these wells.

Q.363 - Okay.

MR. DUMONT: The basic equipment that would be built for  
well number 3 too.

MR. BOLLMAN: Exactly. Well number 3 will also require a  
line heater, methanol injection, flare stack, flare stack  
knock-out drum, control room.

MR. DUMONT: So what we see drawn at well 1 and 2 will be  
also all included for well number 3?

MR. BOLLMAN: Yes.

Q.364 - Now, the other term you used in paragraph 4 on page 5  
-- and this is talking about metering equipment. And  
again I'm going to talk about the sentence that deals with  
franchise boundary.

The application says, "The franchise boundary will  
terminate at the outlet of the gas flow meter." Now where  
is that?

MR. BOLLMAN: The gas flow meter on this picture here is

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 115 -  
right --

Q.365 - Right there?

MR. BOLLMAN: Right here.

Q.366 - Why don't you put GFM there so we will know what we  
are talking about.

And what is the distance from the gas processing  
facility to the gas flow meter?

MR. BOLLMAN: Just over two kilometres.

Q.367 - So what you are suggesting is this Board should  
regulate that just over two kilometres, but not regulate  
that last or the first, depends on how you look at it, 800  
metres?

MR. BOLLMAN: I can tell you what my impression is.

Q.368 - Yes.

MR. BOLLMAN: My impression has been that the franchise  
would be from the outlet of the plant to here. But all  
along my impression has been that the Board -- the Board's  
inspectors would also have jurisdiction over the gathering  
lines.

Q.369 - So Board staff in terms of the safety people would  
have access to the gathering lines as well?

MR. BOLLMAN: Yes.

Q.370 - So is the Potash Corporation of Saskatchewan prepared  
to say to the Board today that they will concede to the  
Board's jurisdiction to have their safety inspectors

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 116 -  
inspect the whole -- the whole line?

MR. BOLLMAN: We are prepared to have them inspect the whole  
facility, start to end.

Q.371 - Okay. And that the franchise boundaries would  
therefore include everything from wellhead equipment to  
the ending meter, flow meter?

MR. BOLLMAN: That's a different statement. I'm not sure we  
are prepared to do that. That's really for the Board --  
the Board to decide.

Q.372 - Are you prepared to go as far as to say that the Board  
has the authority to establish its own franchise area?

MR. BOLLMAN: This is a question I'm not qualified to  
answer. I have no knowledge in this area.

Q.373 - Okay. A couple of times -- I'm finished with that by  
the way. Give Mr. Zed back his microphone.

A couple of times during the course of your evidence  
today there has been mention of the gas marketer, who the  
marketer is in all this.

And what -- is the evidence of PCS that the marketer  
of the natural gas will be a related company?

MR. GAUTHIER: It will be an affiliated company. That is  
what we plan on doing.

Q.374 - Okay. I need to go back for just a minute to  
something that you mentioned this morning. And you talked  
this morning about a joint venture agreement between

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 117 -  
Corridor and PCS.

And there is an agreement in place that has been signed. And it covers the terms and conditions of the agreement between the two of you for the operation of this distribution system?

MR. GAUTHIER: We have a joint venture agreement that gives us 50 percent of the natural gas in those four sections of land.

Q.375 - Are you talking about A-3?

MR. GAUTHIER: Yes.

Q.376 - So there is nothing else -- when I or somebody else on behalf of the Board go to look at the bits and pieces of the arrangement between Corridor and PCS for the operation of this distribution system, this is where I go? There is nothing else?

MR. GAUTHIER: No. Including -- it hasn't been produced yet, hasn't been approved or submitted, the -- Corridor has not submitted yet, but said this morning they would, application to give PCS that 50 percent ownership.

Q.377 - To the Province you mean?

MR. GAUTHIER: I forget what the permit is called.

Q.378 - Pardon? You are talking about the --

MR. GAUTHIER: The producing licence.

Q.379 - Yes. Okay. And we will get to that in a minute. I'm interested, sir, in the documents that will help us

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 118 -  
understand the nature of the agreement between Corridor  
and PCS for the operation of this distribution system.

Because this Board is seized responsibility for  
ensuring the safe operation of the system. And part of  
the exercise of that authority would be to look at these  
different agreements.

So my question is what are the agreements between PCS  
and Corridor that will tell this Board about how the two  
of you plan to operate that system?

MR. GAUTHIER: Yes. There is a farm-out agreement.

Q.380 - Yes. A-3. We got that.

MR. GAUTHIER: Yes. And when it's forthcoming, we presume,  
the producing -- the ability for PCS to produce gas with  
Corridor. And I forget what the application is called.

Q.381 - Okay. Go ahead. Anything else?

MR. GAUTHIER: Plus between the two companies we have to  
negotiate a gas purchasing agreement -- pricing agreement,  
sorry.

Q.382 - So you haven't finalized pricing issues with Corridor  
yet?

MR. GAUTHIER: No.

Q.383 - And will you undertake, once that agreement is in  
place and signed by all the parties, to file a copy with  
the Board?

MR. GAUTHIER: We hadn't intended to, between the two

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 119 -  
parties.

Q.384 - So you are refusing to file that with the Board?

MR. GAUTHIER: I didn't say that. I said we hadn't intended  
to.

Q.385 - Okay. Well, I'm asking you to. Will you do that for  
me?

MR. ZED: Mr. Chairman, I don't think he can make that  
undertaking. If the Board directs that part of the -- it  
is a private deal that is not yet negotiated between  
Corridor and the applicant.

CHAIRMAN: It gets pretty complex, Mr. Zed.

MR. ZED: Pardon?

CHAIRMAN: It gets pretty complex depending on the nature of  
it. Because one would be a marketer and the other a  
customer, or maybe or maybe not.

Maybe that is something, Mr. O'Connell, that you could  
approach in summation as to what necessity there would be  
for the Board to request that. I haven't thought that one  
through.

Because there is -- and I will ask the witness just to  
clear up in my own mind. At the present time the  
applicant here is PCS. And you will be granted, if anyone  
is, the franchise to operate the distribution system.

And if Corridor in the future was to become involved  
in a joint venture or whatever in the operation of that

- Messrs. Gauthier, Bollman - cross by Mr. O'Connell - 120 -  
distribution system, then the provisions are in the  
legislation which you have to comply with in order to do  
that.

So Mr. O'Connell, I thought -- maybe I misheard the  
question -- you were intimating that that was -- I know  
that the undertaking can be made. But until that occurs  
then there is no agreement on it.

MR. O'CONNELL: Okay.

CHAIRMAN: PCS is the sole applicant. And Corridor, if you  
negotiate successfully later, might apply to be handled as  
a co-owner of that franchise.

Q.386 - So you have yet -- in terms of the safe operation of  
the system have you entered into discussions or agreements  
with Corridor to deal with safety issues?

MR. GAUTHIER: That's part of the application for  
construction. All the safety issues have to be addressed  
in that --

Q.387 - Okay.

MR. GAUTHIER: -- document.

Q.388 - So it will be done at that time?

MR. GAUTHIER: And they have been involved.

Q.389 - Okay.

MR. GAUTHIER: -- in parts of it.

Q.390 - So let's -- let's review and I'm just about finished.

Let's review where we stand here.

Let's start with the right to remove gas from a well.

And that is part of the local gas producer definition section. Local gas producer means a person having the right to remove gas from a well in New Brunswick.

And as of today PCS does not have the right to remove gas from a well in New Brunswick?

MR. GAUTHIER: We feel that our farmout agreement provides us that mechanism to produce it. All that needs to be done is for Corridor to file that 50 percent interest to PCS through the department.

Q.391 - Which has not happened?

MR. GAUTHIER: Not yet.

Q.392 - Okay. And when I looked at the different maps you produced, it became very quickly obvious that there were very different routes for the pipeline.

So the other thing that you don't know here today is what the final pipeline route will be?

MR. GAUTHIER: We are fairly close to defining it.

Q.393 - Yes. But you don't know?

MR. GAUTHIER: Well, we are still negotiating with a lot of people on this pipeline. We have to listen to their concerns, the farmers, you know. They have asked.

If we come up to them with a proposal and the farmer says, why don't you do this instead, we would prefer that.

So the map that you may have seen yesterday is different



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than the one today.

Q.394 - Yes. I noticed that. And you know what, I made a note to myself to ask you about your negotiations with the farmers.

When you negotiate with farmers do you go with a proposal as to how wide the right-of-way is you want?

MR. GAUTHIER: Yes. We give them an idea. We are asking for a 25 meter easement.

Q.395 - Okay. So --

MR. GAUTHIER: It depends on the location though.

Q.396 - Yes. Earlier today you said I believe in response to a question from Mr. Blue, in terms of the width of the right-of-way, that you didn't know, correct?

MR. GAUTHIER: Again it depends on --

Q.397 - Isn't that what you --

MR. GAUTHIER: -- the situation.

Q.398 - Isn't that what you said, sir, that you didn't know?

MR. GAUTHIER: No. I said that it varies. He wanted a specific number, I can't give him that.

Q.399 - Well, have you been negotiating with farmers along the pipeline route?

MR. GAUTHIER: Several.

Q.400 - Yes. And don't you tell each one of those farmers how wide a right-of-way you are looking for?

MR. GAUTHIER: We tell them what we are proposing.

Q.401 - Yes. So that would --

MR. GAUTHIER: There is no legal document that gets signed.

Q.402 - Okay. But you make a proposal to them about how wide the right-of-way is going to be in any particular area.

And you could have told Mr. Blue that to answer his question more fully, couldn't you?

MR. GAUTHIER: I forget what his question was. Remind me.

Q.403 - I think he was looking for the width of the right-of-way actually, and showing you some of your evidence where there were comments about 15 meters.

MR. GAUTHIER: There it is.

Q.404 - Oh, is it? So you don't have authority to remove gas from a well. You don't know what the route of the pipeline is. You are unsure about how wide the right-of-way will be in different places. Is that a reasonable --

MR. GAUTHIER: That is being finalized. The pipeline route

--

Q.405 - And you don't know how much --

MR. GAUTHIER: -- the width of the right-of-way are being finalized.

Q.406 - And you don't know what the franchise area will be with any degree of specifics?

MR. GAUTHIER: We haven't defined an area.

Q.407 - And you don't know what the monetary arrangements are going to be, because you are still working on that?

MR. GAUTHIER: With respect to who?

Q.408 - Corridor?

MR. GAUTHIER: Oh, the price, the gas price --

Q.409 - Yes.

MR. GAUTHIER: -- you mean?

Q.410 - Yes.

MR. GAUTHIER: That's correct.

Q.411 - Okay.

MR. O'CONNELL: Thank you very much, gentlemen. That is all I have. That is all I have, Mr. Chairman.

CHAIRMAN: Good. Thank you, Mr. O'Connell.

BY MR. LUTES:

Q.412 - Mr. Gauthier, I put these two maps together. And I think I got it about right. Well number 3 is quite east of the --

MR. GAUTHIER: Yes.

Q.413 - -- processing plant?

MR. GAUTHIER: That's correct.

Q.414 - And it is a little better than roughly 2 kilometers away from the processing plant?

MR. GAUTHIER: Approximately.

Q.415 - Yes. Okay. So it makes a significant difference as to the franchise area if this collector system if you will is part of it or if it isn't?

MR. GAUTHIER: Yes. We all along have assumed that the

gathering line is not part of the franchise.

Q.416 - Yes. I understand.

MR. GAUTHIER: And in our discussions with Mr. Barnett.

BY THE CHAIRMAN:

Q.417 - How far away from your mine head is the fourth block, I believe you described, that you have now an agreement with to drill in next year?

How far away physically would the furthest point in that block be from the facility? And we are talking as the crow flies here.

MR. GAUTHIER: I'm guessing 20 miles.

Q.418 - How many?

MR. GAUTHIER: 20 miles.

Q.419 - 20 miles away?

MR. GAUTHIER: That's a guess.

Q.420 - Okay. But if you were to discover natural gas in that you would propose that you would be transporting that to your present facilities?

MR. GAUTHIER: To get -- well, we get a gas-processing facility, get it somewhere.

Q.421 - So in effect it would be a distribution line that would have to be constructed from, by anybody's definition in this room, from that facility to your mine head?

MR. GAUTHIER: If it is economical to send the gas to the same gas-processing facility, we would do that.

Q.422 - Yes. But --

MR. GAUTHIER: It may not be technically possible.

Q.423 - All right. Any other promising areas that you are presently negotiating for an interest in or they might be drilled in the future after that particular block?

MR. GAUTHIER: Not by PCS.

Q.424 - Any affiliated companies?

MR. GAUTHIER: No.

CHAIRMAN: All right. Any questions on redirect either on the Board's questions or counsel opposite?

MR. ZED: I have one or two, Mr. Chairman.

CHAIRMAN: Go ahead.

REDIRECT BY MR. ZED:

Q.425 - You were questioned by Mr. Blue this morning about the flows from McCully 1 and McCully 2, and Mr. Blue I think elicited an answer from you that combined you had a flow of about 2 1/2 million cubic feet a day for a short period of time.

What if anything can you tell us about McCully 3?

MR. GAUTHIER: Nothing at this time. It's still being drilled.

Q.426 - So a possibility exists that that will augment?

MR. GAUTHIER: We are hoping, yes.

Q.427 - And if McCully 3 is not successful what are your intentions?

MR. GAUTHIER: We would have to reevaluate the geology and pick another spot.

Q.428 - So to drill McCully 4?

MR. GAUTHIER: Yes.

MR. ZED: That is all I have.

CHAIRMAN: Thank you, Mr. Zed. Thank you, gentlemen. And you are excused.

Mr. Goss indicated to me -- while the witnesses are leaving -- indicated to me that there was just one other witness and anticipated it would take about a half an hour.

I just want to let you know the Board will go ahead even if it takes three-quarters of an hour.

ROCK MAROIS, sworn:

DIRECT BY MR. HOYT:

MR. HOYT: The evidence on behalf of Enbridge Gas New Brunswick will be presented by Rock Marois, the general manager of EGNB. I will ask him to confirm that evidence and then just to give a brief summary of it.

Mr. Marois, the written evidence dated June 4th, 2001, that you will address, can you confirm that that was prepared by you or under your direction --

MR. MAROIS: Yes.

MR. HOYT: -- and it's accurate to the best of your knowledge and belief?

MR. MAROIS: Yes.

MR. HOYT: And do you adopt that evidence as the evidence of EGNB in this proceeding?

MR. MAROIS: Yes.

MR. HOYT: Could you please provide a summary of that evidence?

MR. MAROIS: Certainly. In my notes I have written "Good Morning", just goes to show how optimistic I am.

I guess one thing for sure is nothing is as simple as it first appears and I guess another thing that's certain is that we do have a vested interest in this application, although we have been relatively silent.

The first thing I would like to state is in normal circumstances we would come in here with I guess both guns blasting to oppose a local gas producer franchise because our position is any local gas producer franchise and any franchise does represent an erosion of our general franchise, because the definition of a general franchise is that it covers the entire province. So as soon as you carve out something out of that franchise it's an erosion, and in my mind it doesn't matter that part of the franchise being cut out, carved out, was in our plans or not, because our plan just represents what we intend to serve but hopefully

we will serve more than what is in our plan.



So even it was not in our plan it does represent a lost opportunity that will translate into lost revenues to our existing or future customers.

That being said, we also support local gas, because we really believe in gas on gas competition would benefit our industry. So like I say, we are a bit like the Province.

We are faced with two -- trying to balance two interests, our own interest and also the interest of more gas.

And at the end of the day the only reason why we are not vigorously opposing this application for a local gas producer franchise -- and I would like to comment on Mr. Zed's comment -- we are not supporting. I guess we are accommodating it, or willing to accommodate it but we are not supporting it.

But the only reason we are willing to do that is because of its unique features. And what is unique about this is, as I guess the PCS witnesses mentioned, is that the purpose of this -- the stated purpose of this local gas producer franchise is to serve one customer with its own gas, or part of its own gas. That's really unique. At the end of the day it will represent -- technically represent an erosion of our franchise, but we deem it could be an acceptable erosion because it would represent a benefit to PCS and bottom line is this erosion could be manageable from our perspective.

But again we need to have some safeguards in place to be able to come to that conclusion, and I hope this comes across in our evidence. But one thing that came across loud and clear today is there is real potential for confusion. And I urge the Board to take a longer term perspective when they look at this application. Just imagine a year from now, especially if the players in this room are no longer here, and we are faced with a situation where we have to determine who has the right or has the application to serve a potential customer in the Sussex area, how confusing this could become.

Because today we heard that it might not be as simple as we think to define what is the PCS facility, we heard that gas -- McCully gas is not one well, it's probably three, might be a lot more. It might be 700 meters away from the pipeline, it could be 20 miles away from the pipeline. So you can almost imagine the scenario if you don't physically define the local gas producer franchise where you could have the PCS facility in the middle and wells all over the place, and almost like a hub of pipeline feeding this.

So like I said there is real potential for confusion, if not tomorrow, if not today, a year from now, two years from now. Because I hope that PCS and other local gas producers are successful in finding gas, but you can just

imagine the scenario where if they are successful and if that gas is of good quality and if they are able to sell it at a really competitive price, you could easily imagine the scenario where business could set up near the pipeline to have a cheaper source of energy. It's not something that is a pie in the sky.

So even if today somebody could argue that along the pipeline there is just maybe a few old (inaudible) or some barns, that I think is being short sighted. We need to take a longer term approach and just try to imagine the type of scenarios that come up.

And in my mind it will make the life of the Board, the life of us and the life of the local gas producer easier if the franchise is clearly defined physically and in terms of the customer.

I guess if you use simple terms in defining our concerns with the current application is it's loosey-goosey in terms of what is the area covered by the franchise. And it becomes even loosey-goosier when you consider articles in the Act, such as Article 14, which is the obligation to serve, article 15 which is a related article. And in my mind we could argue all day, does this article apply to PCS, does it not apply. But we feel that a more practical solution is if the PCS eventual local gas producer franchise is ever awarded that it be really

clearly defined so that for all practical purposes the application of the Act will be outside of this franchise, in other words in our franchise, and we would be the one ultimately serving potential customers if gas becomes commercially available.

That is something we fully understand. We are not -- we do not have any possibility of forcing PCS to say that, but if PCS does have excess gas and they want to sell it, we want to make certain that we are the ones distributing that gas.

And we do mention this in our evidence, that at the end of the day our franchise is defined in geographical terms. We have the entire province. So if you define -- if you don't clearly define a franchise that carves out our franchise, then our franchise no longer has a clear definition either, because if the other one is loosey-goosey ours will become loosey-goosey.

And I guess if you want to just imagine a scenario where if the province will have decided to grant two general franchises instead of one and would have drawn a line in the middle of the province, but without clearly defining that line and so you could have the potential there where the franchisee to the east would start serving customers to the west of its franchise and vice versa.

So what is the value of a franchise if it's not

clearly defined. It has no value at all. It's meaningless. We do have the franchise area for the Sussex area. So if somebody else wants to have a franchise there let it be clearly defined so that we know what is left as ours. We don't have any choice. It's really a very pragmatic issue.

So in other words, I think any potential franchise needs to be able to sustain a test of time and experience shows that as time evolves the situation changes and if this is not clearly defined right away it will be a real source of potential conflicts and confusion.

One thing I need to comment on is the issue of the right-of-way. Before proposing the 15 meters in our evidence I did some research with our land department which deals with this issue on a regular basis. And they told me that in the case of Enbridge Consumers Gas they never get more than 10 meters. So I added five meters to be generous. So we are talking here about a distance bigger than the length of this room for a six inch pipeline. So in my mind I have difficulty anticipating that this would represent a prejudice to PCS -- extend it to 20 meters. But it needs to be clearly defined so that any customers outside of that delimitation we know in which franchise they fall into.

I guess this concludes my opening remarks.

MR. HOYT: Mr. Marois is available for cross examination.

CHAIRMAN: Well it will be the applicant and then after that  
I guess it is Mr. Blue.

CROSS EXAMINATION BY MR. ZED:

Q.1 - Mr. Marois, here is a copy of the Gas Distribution Act.

Will you turn your attention to section 15. Perhaps you  
could take a moment to read it.

MR. MAROIS: Yes.

Q.2 - Section 15 (1), says "A gas distributor shall distribute  
gas to any building along the line of any of its pipelines  
upon the request in writing of the owner, occupant or  
other person in charge of the building."

Is there any reference in that section to right-of-  
way?

MR. MAROIS: No, but there is an implicit reference to a  
franchise area because gas distribution only takes on  
meaning within their own franchise area.

And what we are saying here is we need to find a way  
to delineate development of the franchise we are talking  
about here, and I think we have reference points from  
beginning to end. But what we are having difficulty with  
is finding reference points in terms of the width.

And what we are offering is guidance based on our  
experience in the industry which often relates to the  
easement you obtain in terms of building and operating a

pipeline.

Q.3 - So what you are saying is if the pipeline, the distribution pipeline runs from point A to point B and in running from point A to point B, it runs through six farmers' fields, it bisects six properties, that without the right-of-way section 15 would be operative?

But somehow if that pipeline were buffered on either side by seven and a half meters, or 15 meters, or 25 meters or whatever number of meters, that section 15 is no longer applicable?

MR. MAROIS: That's not what I'm saying. I'm saying that section 15 from my perspective only makes sense if it is applicable to a gas distributor within its own franchise area, otherwise it has no practical value.

So that being said, to be practical you need to define that franchise area so that -- come back to my example of the east west. If you have two general franchises and that cut the province in half, so if you have the pipeline --

Q.4 - No, if you --

MR. MAROIS: No, but I'm --

Q.5 - If you would just respond to the question.

MR. MAROIS: Well that's what I'm trying to do.

Q.6 - The question is in light of 15 (1) I have given you a situation where a pipeline referred to in section 15

(1) -- let's make it easy -- bisects one farmer's field.

Okay. In other words, we own the land where A is situate and we own the land where B is situate but in between those two points is one farmer's field. And a pipeline runs from point A to point B.

Wouldn't you concede that in reading 15 (1) it says a gas distributor shall distribute gas to any building along the line of any of its pipelines? Does it not say that?

MR. MAROIS: Yes.

Q.7 - And wouldn't a farmer's farmhouse on that property qualify under 15 (1)?

MR. MAROIS: Only if it's within the franchise area of the gas distributor.

Q.8 - But how is the -- why do you say that? Where is the qualification in 15 (1)?

MR. MAROIS: Well if you look at the gas distributor, either a general franchisee or a local gas distributor, they obtain their mandate, if you wish, based on the geographical area. You can't go beyond that area. We cannot go distribute gas in Nova Scotia, so we are limited to a geographical area.

So these articles must be interpreted within an area, otherwise it doesn't make sense. It simply doesn't make sense.

Q.9 - And you are saying that the Board can impose a buffer



zone around the pipeline?

MR. MAROIS: I'm not saying a buffer zone. What we are saying is we need to delineate the franchise area. We are trying to find a practical way of doing it.

So you don't need -- I will ask you the question differently. Because you are giving a simple example but just based on the evidence that was presented today, you can imagine a scenario, you have PCS in the middle, wells all over the place and pipelines coming all across the Sussex area. So what you are saying is that by extension really PCS has the franchise area for the entire area, because that's the only way you can interpret this.

Q.10 - Let's get away from 15 because you have an opinion that we can address in argument.

If in fact PCS' franchise were limited to Kings County but one of the conditions was that the only customer the Board allowed them to service was PCS, how would that then pose a danger to your other customer base?

MR. MAROIS: It poses a danger because there is always the potential of serving additional customers because of articles 14 and 15.

Because by definition it's nice for you to say you want to limit the franchise to one customer, and I don't doubt that's your intention, but there is a potential, a real potential for that not being the case. Just because

by definition a gas distributor becomes a common carrier, then article 15 does kick in.

So what we are saying is we are not arguing article 15 will not kick in. We are just saying let's circumscribe it to a manageable area so that we know the rules of the game that if there is potential customers that is sitting outside of that area, we clearly know, we don't have to come here and fight it before the Board, where that -- who is the distributor that has the right to serve that customer.

MR. ZED: No further questions.

CROSS EXAMINATION BY MR. BLUE:

Q.11 - Good afternoon, Mr. Marois.

A. Good afternoon.

Q.12 - Mr. Marois, just picking up on your discussion with Mr. Zed about section 15, here is what is troubling me, and maybe you have an answer for it and can alleviate my concern.

Let's assume that the Board accepts your three conditions and says that the franchise area is the 15 metre right-of-way along the two metre -- two kilometre pipeline, and that there is a customer adjacent to that pipeline. Call it Vautour's Lumber.

You would say that section 15 should not apply to Vautour's Lumber, because it's not within the franchise

area?

A. That's not what I am saying. I am saying that article 15 should not apply to PCS. It should apply to us. So if for one reason or the other we are not -- we are saying we are not willing to serve the customer in question, they could come to the Board and say well we want EGNB to serve them. It would be no different than any other potential customers in any other part of our provincewide franchise.

Q.13 - But, okay, in terms of -- in terms of the hypothetical customer I described, you would say PCS would have no section 15 obligation because the customer is not in the franchise area. The obligation would be on Enbridge?

A. Exactly.

Q.14 - From the customer's point of view, wouldn't it be easier for PCS to serve it rather than have to bring an application before this Board and engage Enbridge in a hearing? Wouldn't that make more practical sense?

A. I don't understand your question about application.

Q.15 - You told me that if Enbridge did not serve Vautour's Lumber, a hypothetical customer, it could come before this Board and make an application under 15 to have Enbridge serve it.

And I am saying that wouldn't a more practical solution be just to have PCS serve it since it's physically proximate?

A. No, because you started a line of questioning by asking me specifically about article 15. So based on your question, I assume that the same scenario would apply to PCS.

So if the same potential customer went to PCS, and asked them to be served and if they said no, then the customer would have to go through the same process if it's PCS or us.

But if you are working on the assumption that we are willing and they are willing, then the process would be difficult.

Q.16 - No. We are working on the assumption that they are willing and you are unwilling, other than a Board order?

A. Well that should not happen, because at the end of the day, the only difference between us and PCS in the scenario you gave is they own -- they would own the pipeline to which we interconnect.

So that's why one of our conditions to make this viable is that you need to ensure that both PCS and us work in good faith for the interconnection if such a customer would ever come up.

Q.17 - And we all hope for that. But just so that the record is clear, let me get a clear answer.

I take it from your answers that you are not undertaking to this Board at this hearing that Enbridge

would provide gas service to any customer that might be adjacent to PCS' franchise in the event that PCS could not serve it. You would say we would have to consider that and you may or may not, is that fair?

A. What I am saying is we would not treat the customers in proximity to the PCS franchise, local gas producer franchise any differently than any other potential customers in any other part of the province.

Q.18 - And that means that you would consider each customer's case in terms of your criteria for attaching customers?

A. Exactly. There would be no discrimination. The same thing with our postage-stamp rates.

Q.19 - Right. Thank you. Now let's go to your evidence on question 4. This is at page 1 and 2 of your evidence.

A. Yes.

Q.20 - And in answer 4, you are answering the question, are you willing to serve. And you say, yes, as long as it does not create a financial burden on the other customers of EGNB?

A. Yes.

Q.21 - Do you have specific decision rules or criteria about what would be a financial burden that would be unacceptable or is that a judgment to be made in every case?

A. Currently there is no clear guidelines. But there is

a provision in our rate sample that we may charge a capital contribution if a capital investment is not feasible. So the concept is already there. And --

Q.22 - And I forget, do you have the power to waive that capital contribution --

A. Yes.

Q.23 - -- within your judgment?

A. Yes.

Q.24 - So you are telling me that's a decision that has to be made in every case?

A. Yes. As with any other potential customer.

Q.25 - Now, Mr. Marois, in terms of PCS' application, I want to give you three choices and I want you to tell me which is the answer, okay?

A. Yes.

Q.26 - Are you opposing it, are you supporting it, or are you sitting on the fence?

A. I would have to say it's (d), none of the above.

Because really what we are saying is that we are willing to accommodate it, which is not support, not oppose, as long as the three conditions we have asked are documented.

But otherwise we would have major concerns.

And I know our recourse would be limited, because if the Board does award it without the conditions, then we are kind of out of luck. But I hope the Board will see, I

guess, clear that by awarding this that there needs to be sufficient safeguards to protect the general franchise.

Q.27 - So it's supported subject to your three conditions?

A. Well I am not too sure if I like the word support.

Like I say, we are willing to accommodate it, because we feel it's -- at the end of the day it supports local gas, and if we are able to safeguard our erosion.

Q.28 - Do I judge from that Mr. Marois that approval of this application is not Enbridge's preference?

A. I don't think that's necessarily fair, no.

Q.29 - No?

A. Because we are not opposing it, so -- again with the caveat that as long as the proper safeguards are in place.

Q.30 - Thank you. Now, Mr. Marois, could you tell us about the negotiations between Enbridge and PCS and comment on Mr. Gauthier's evidence on that point?

A. At a high level, yes. I guess I took some notes when Mr. Gauthier talked about this. And again I refer to my evidence where --

Q.31 - If you wanted to have a win-win situation --

A. In answer 4 EGNB worked with PCS to identify a win/win solution that would have avoided the need for PCS to seek a local gas producer franchise while allowing PCS to play an active role in the design and construction of the facilities required to serve its plan.

Basically what we proposed to PCS was relatively simple, is we had proposed that they go ahead and build their pipe so they would control the construction and the cost as long as it met our technical criteria, and at the end of the day they would roll over the ownership of that pipeline to us at no cost. So we would have zero costs in our rate base. And we would seek approval from the Board for a special rate which we would only try to recover incremental costs from PCS, in other words costs related to movements, emergency response, things of that nature.

We felt it was win/win because it avoided creating a precedent in terms of a local gas producer franchise. So we were well positioned to serve the Sussex area if local gas became a reality.

And we felt it was win also for PCS because the facilities were not at cost any more because they would have effectively built it. But a big advantage to them is it would have reduced some of the unknowns because they would not have to seek a local gas producer franchise, it would have been done under our franchise.

So the only application we would have had to make is an application for construction. The only additional step, and I think that was probably what Mr. Gauthier was alluding to in terms of I guess the unknown is the approval of the Board of this special rate to recover only



the incremental costs, that was an unknown. But that was probably the only element of it that was uncertain.

So that in a nutshell -- that was always seen potentially unfolding and that it could have been to the advantage of both parties.

Q.32 - Other things being equal could you meet PCS's schedule under that arrangement?

A. Well if you go back in time we felt we would have -- we would have been able to meet even a tighter schedule because we would have avoided the entire local gas producer franchise application. We would have been able to go right into the construction application. We have the expertise. That's our business.

Q.33 - So the rate that you would have been asking the Board's approval on would have been the rate that covered their cost but it would not be a rate comparable to the rates charged for similar service to others?

A. Exactly, because they would not have been --

Q.34 - Then you would have avoided the precedent of the local gas producers franchise?

A. Exactly, because since the investment to us would have been of zero value we would not have needed any return nor depreciation. It would have been only to recover incremental costs. Actually it would have been things like cost of the construction application, things like

that.

Q.35 - So while they would not be assisting you in providing -  
- paying the cost of the other part of the system they  
would not be imposing any additional costs on the system?

A. Exactly. From our customer's perspective it would  
have been a wash, but strategically like I say we would  
have avoided the entire issue of local gas producer  
franchise.

Q.36 - As we are sitting here today, if the Board were to make  
an order during this hearing to let this negotiation go  
further, would Enbridge be prepared to continue those  
negotiations?

A. Yes.

MR. BLUE: Thank you, Mr. Chairman. Those are my questions.

CHAIRMAN: Thank you, Mr. Blue. Board counsel?

MR. O'CONNELL: Board counsel has no questions.

CHAIRMAN: The Board has no questions, Mr. Marois. Mr.  
Hoyt, any redirect.

REDIRECT BY MR. HOYT:

Q.37 - Yes, I just have one. In addition to the three  
conditions that you have asked to be imposed on the PCS  
franchise, do you not also require an interpretation of  
section 15, as you discussed with Mr. Blue?

A. This seems to be at the source of the problem we are  
facing today in terms of uncertainty. So that would be

greatly valued, yes.

MR. HOYT: That's all my questions.

CHAIRMAN: The question I was contemplating dealt with that, just to put counsel on notice that we discussed -- or as some people say, have a fulsome discussion in reference to 15 (1) during summation.

Okay. Thank you very much, Mr. Marois.

There were a number of undertakings that are going to occur overnight and tomorrow morning and I just wonder if counsel would like to talk to the Board about timing. I guess I look at it and say maybe 1:30 is a reasonable time to have summation.

One of the things the Board likes to do and some of you who have appeared before us before is that after we have the applicant go through his summation and then have counsel opposite rebut or sum up, the Board might take a break of an hour to talk to staff and see if there is anything that -- because Board counsel will not be summing up of course -- and come back in and pose some questions to counsel and go go back through it again. I just say that now.

We understand that Mr. Barnett has a conference call in Fredericton at 5:00 o'clock tomorrow but he is perfectly able to use our deep freeze facilities. We will set that up for him if he wants to use that, stick around.

I don't see that happening. I see us rising by four. But is 1:30 an early enough start for you gentlemen.

MR. BLUE: May we suggest 1:00 o'clock --

CHAIRMAN: You can.

MR. BLUE: -- because of Mr. Barnett's anxiety to have his desk available to him when he is on the conference call?

CHAIRMAN: All right. I will see what counsel opposite has to say about that.

MR. HOYT: That is fine.

MR. ZED: Fine.

CHAIRMAN: All right. We will adjourn till tomorrow at 1:00 o'clock in this room. Thank you very much.

(Adjourned)