

1 New Brunswick Energy and Utilities Board

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3 IN THE MATTER OF a directive from the Minister of Energy to
4 conduct an investigation of the forecast of revenue and costs
5 that New Brunswick Power Distribution and Customer Service
6 Corporation (DISCO) has used to support the necessity for a 3%
7 increase

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9 Courtenay Bay Hotel, Saint John, N.B., on May 28, 2008.

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13 BEFORE: Raymond Gorman, Esq., Q.C. - Chairman
14 Cyril Johnston, Esq. - Vice Chairman
15 Ms. Constance Morrison - Member
16 Mr. Edward LeBlanc - Member
17 Mr. Robert Radford - Member

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19 N.B. Energy and Utilities
20 Board Counsel - Ms. Ellen Desmond

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22 Board Staff - Mr. Doug Goss
23 - Mr. John Lawton
24 - Mr. Dave Young
25 - Mr. Andrew Logan
26 - Mr. Jeff Aucoin

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28 Secretary to the Board - Ms. Lorraine Légère
29 Assistant Secretary - Ms. Juliette Savoie

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32 CHAIRMAN: Good morning, everyone. This is a public session
33 of the New Brunswick Energy and Utilities Board in
34 connection with its investigation of a 3 percent increase
35 for electricity rates to the customers of New Brunswick
36 Power Distribution and Customer Service Corporation that
37 took effect on April the 1st 2008.

38 The increase was made in accordance with Section 99(1) of
39 the Electricity Act which permits the Distribution

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Corporation to change its charges, rates and tolls provided the change does not exceed the greater of 3 percent or the percentage change in the consumer price index.

As such DISCO is not required to make an application to the Board for approval of the charges -- sorry, changes to its rates and in fact has not applied to the Board.

On March the 5th of this year the Minister of Energy directed the Energy and Utilities Board to make an investigation and report on, and I'm quoting here, "the forecast of the costs and revenues that DISCO used to support the necessity for an increase in rates." The Board was not directed to investigate the allocation of costs as between customer classes nor the specific rate design used by DISCO.

The appropriate procedure and form of the investigation and report was left to the EUB to decide, as is provided for in the legislation. The Board established a procedure which included retaining Andrew Logan, Chartered Accountant as a consultant to do a detailed review of certain technical matters.

These technical matters are described in Appendix A of his report and included a review of the forecasted fuel and purchased power expense of the Point Lepreau

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refurbishment deferral account, the PDVSA settlement deferral account and the DISCO budget process. A copy of the consultant's report has been distributed to all participants in this proceeding.

In addition the Board provided for a public component of its investigation which allowed for participation in two ways. Number one, persons were invited to make written submissions on or before May 21st.

And secondly, persons were provided the opportunity to register in order to fully participate in these proceedings, including the ability to ask written questions in advance, to ask oral questions during today's proceedings and to address the Board during this public process.

So the proceedings today are to deal with the public component of the Board's investigation. Participants in today's proceedings include the New Brunswick Power Distribution and Customer Service Corporation, the New Brunswick Energy and Utilities Board Staff and the following registered participants, the Canadian Federation of Independent Business, Canadian Manufacturers & Exporters, Flakeboard Company Limited, Gary Lawson, J.D. Irving Pulp & Paper Group, Kurt Peacock and the Voice of Real Poverty Inc.

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The panel for today's public component of this investigation consists of Connie Morrison, Edward McLean, Robert Radford, the Vice-chair Cyril Johnston and myself Ray Gorman as Chair.

I now will confirm the attendance of all participants in this proceeding. And I will start with DISCO.

MR. MORRISON: Thank you, Mr. Chairman, members of the Board. Terrence Morrison on behalf of New Brunswick Power Distribution and Customer Service Corporation.

With me at counsel table today is Neil Larlee, Nicole Poirier and consultant John Todd. And seated behind me is our witness panel, Jeff Good, Angela Leaman and Lori Clark.

CHAIRMAN: Thank you, Mr. Morrison. New Brunswick Energy and Utilities Board?

MS. DESMOND: Good morning, Mr. Chair. Ellen Desmond. And from Board Staff, Douglas Goss, John Lawton, Dave Young. And as Board Consultants, Andrew Logan and Jeff Aucoin.

CHAIRMAN: Thank you, Ms. Desmond. Canadian Federation of Independent Business? It is my understanding they may join us a little bit later this morning. Canadian Manufacturers & Exporters?

MR. PLANTE: David Plante on behalf of CME.

CHAIRMAN: Thank you, Mr. Plante. Flakeboard Company

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2 Limited?

3 MR. GALLANT: Good morning, Mr. Chair. Barry Gallant
4 representing Flakeboard. And I also have with me Pat
5 Bourque.

6 CHAIRMAN: Thank you, Mr. Gallant. Gary Lawson?

7 MR. LAWSON: Lawson, Gary in attendance. I notice that we
8 are in alphabetical order. And it is with a G first as
9 opposed to the L first. So anyway, thank you.

10 CHAIRMAN: Would you like us to change that?

11 MR. LAWSON: You know, we all like to be last.

12 CHAIRMAN: J.D. Irving Pulp & Paper Group?

13 MR. WOLFE: Good morning, Mr. Chair. Wayne Wolfe.

14 CHAIRMAN: Thank you, Mr. Wolfe. Kurt Peacock?

15 MR. PEACOCK: Good morning, Mr. Chair.

16 CHAIRMAN: And Voice of Real Poverty Inc.? My understanding
17 is that they will be here to address the Board. But they
18 will not be here for most of today's proceedings.

19 At this time I want to mark the documents which have been
20 prefiled with the Board.

21 Okay. The documents that we have up till this point in
22 time -- and I'm just going to number them consecutively
23 here.

24 So document number 1 is material in support of DISCO's
25 three percent increase in rates provided under cover

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letter dated March 31st 2008. And that documentation includes the Board order dated March the 20th, 2008, the NB Power Board resolution, financial statements, load forecasts for 2008, 2009 and the RSP manual.

Document 2C -- and the reason, for any of those who haven't attended earlier hearings for the designation of C, that indicates there is a claim for confidentiality for a part of that. It is material in support of DISCO's three percent increase in rates with a request for confidentiality under cover letter dated March 31st 2008.

That documentation includes PROMOD information.

Document number 3, information package in support of DISCO's 3 percent increase in rates provided under cover letter dated April 30th 2008. And that was the English version. And the French version was provided under cover letter dated May the 9th 2008.

That documentation includes the following, a Board order dated March 20th 2008, public notice published in newspapers, an introduction, an overview, financial details and appendices A through I, which included -- well, the titles, A rate increase, B letter from Minister of Energy directing an investigation, C NB Power mandate, D prospective financial statements, E PROMOD, F variability in operating earnings, G detailed OM&A

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description, H load & revenue forecast and I rate schedules & application guidelines.

Document number 4 is DISCO's response to written questions provided under cover letter dated May 15th 2008. And that documentation includes responses to questions by CME, JDI, NBEUB, Lawson, Gary & appendices as follows: A -- NB Power group planning cycle overview, and B -- claim for confidentiality re DISCO Question 10.

Document 5C is DISCO's response to NBEUB Question No. 13 re. revenue budget with a claim for confidentiality under cover letter dated May 15th 2008. It also includes Appendix B which is a response to NBEUB Question 10, the corporate budget guidelines.

And document number 6 is a report dated May the 12th, 2008 prepared by Andrew Logan, CA at the request of the NBEUB on the review of DISCO's evidence.

Those are all of the documents that the Board has with respect to this matter at this point in time.

The procedure for today's proceeding was set out by a Board order on May the 5th of this year. And it established the following process. DISCO will present its witnesses first.

Board Counsel will question DISCO witnesses. All other participants will then be permitted to question the

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DISCO witnesses on issues not canvassed by Board Counsel.

Now I will just make a short comment on that. Obviously if you want to clarify an issue that has already been raised or you want to drill a little deeper, if you will, that is fine. The intention here really is that we not cover the same ground more than once. Then the Board Consultant will present his evidence. Board Counsel will question the Board Consultant on that evidence. DISCO will question the Board Consultant on the evidence. And then all other participants will be permitted to question the Board Consultant again on issues not previously canvassed by either Board Counsel or DISCO. Following the questioning of the witnesses participants will be given an opportunity to offer their comments and submissions. And I think in that process it would be appropriate to have the comments made -- essentially I guess what we have normally done is gone in alphabetical order. We will have to sort out Mr. Lawson --

MR. LAWSON: I'm okay, Mr. Chairman.

CHAIRMAN: -- as to just precisely where we slot him in, with DISCO essentially having the last word in terms of the submissions.

Anybody have any comments on the process? If anybody wants to debate that process this is the time. Otherwise

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2 that is the way, the manner in which we will proceed.

3 Silence is acquiescence. And therefore I'm now going to
4 ask DISCO to introduce their witness panel with respect to
5 this matter.

6 MR. MORRISON: Thank you, Mr. Chairman. I'm going to ask
7 Ms. Clark, Ms. Leaman and Mr. Good to come forward to be
8 sworn.

9 CHAIRMAN: Ms. Desmond, would you swear the witnesses.

10 ANGELA LEAMAN, LORI CLARK, JEFF GOOD, sworn:

11 DIRECT EXAMINATION BY MR. MORRISON:

12 CHAIRMAN: Anytime you are ready.

13 MR. MORRISON: Good morning, panel.

14 Q.1 - Ms. Leaman, could you state your name and position for
15 the record please?

16 MS. LEAMAN: My name is Angela Leaman. And I'm Finance
17 Director for the NB Power Distribution & Customer Service
18 Corporation.

19 MR. RADFORD: Can we just -- Mr. Morrison -- just what they
20 do?

21 MR. MORRISON: Certainly.

22 Q.2 - Could you explain generally what you do, Ms. Leaman?

23 MS. LEAMAN: I'm, as I said, the Finance Director for the
24 Distribution Corporation. And my role would be
25 responsible for financial statements, auditing, governance

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2 activities, reporting, supporting the distribution management
3 team and well as information that goes through to the
4 holding company.

5 Q.3 - Ms. Clark, if you could state your name and position,
6 give a brief description of what your function is?

7 MS. CLARK: My name is Lori Clark. And I'm the Managing
8 Director of Finance for the NB Power Holding Corporation.
9 I'm responsible for the financial reporting on a
10 consolidated basis as well as the treasury functions for
11 the NB Power Group.

12 Q.4 - And Mr. Good, could you give me your information please?

13 MR. GOOD: My name is Jeff Good. And I'm the Finance
14 Director for NB Power Generation Corporation.
15 My duties are similar to the ones that Ms. Leaman
16 outlined, governance, finance, budgeting, forecasting,
17 working with the management team in the Generation
18 Corporation.

19 Q.5 - Thank you. Ms. Clark, I'm going to direct my questions
20 primarily to you.

21 Can you provide a high level explanation of the
22 information that has been presented in this proceeding?

23 MS. CLARK: Yes, I can. On March the 5th, as Mr. Gorman
24 stated, the Minister of Energy directed the Energy and
25 Utilities Board, pursuant to section 24 of the Energy and

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Utilities Board Act, to review the forecasted costs and revenues of the NB Power Group in support of the necessity for a three percent increase in charges, rates and tolls.

Q.6 - And I understand that, as was mentioned by the Chairman, that there were some filings in this regard. And how did you respond to that request, Ms. Clark?

MS. CLARK: NB Power filed some preliminary information on March the 31st. And we followed up with an information package on April the 30th.

In that package on April 30th was the information upon which the boards of directors relied on December 12th to approve the forecasted revenues and costs for the NB Power Group.

Q.7 - And the purpose of this investigation is to essentially for the Board to look into the justification of the support for the three percent increase.

And can you explain to me the three percent increase this time in a general manner, in a way that get the basics over the Board?

MS. CLARK: The two most important factors that make it necessary for NB Power to increase rates in 08/09 are the increase in the fuel and purchase power on a per megawatt hour basis and also the decrease in the out-of-province gross margins.

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2 The in-province year over year variance in the average
3 cost of fuel and purchased power on a per megawatt hour
4 basis is forecasted to increase NB Power's costs in 08/09
5 by \$31 million.

6 The decrease in out-of-province gross margin will result
7 in a reduction of \$32 million available to offset the
8 revenue required from in-province sales. This is a result
9 of reduced availability of energy for export or sales out
10 of the province and the high cost of heavy fuel oil
11 generation in this period.

12 The declining out-of-province gross margin puts further
13 upward pressure on our rates.

14 Q.8 - You refer to -- you mentioned a decline in out-of-
15 province sales. And a significant event for NB Power is
16 the Point Lepreau refurbishment outage. We have talked
17 briefly about how this is a key driver for the rate
18 increase.

19 Can you help us to understand this? For starters can you
20 please walk us through the impact on supply and sales for
21 07/08 versus 08/09?

22 In other words, explain how the energy supply and sales
23 are impacted year over year as a result of the outage?

24 MS. CLARK: I have prepared a couple of handouts that I

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think will be useful. This isn't new information. But it is just organized in a way that I think would make the explanations quite clear.

Can we pass those out?

MR. MORRISON: We have gone through that, Mr. Chairman. It is all extracted from the material that was filed. It is presented in graphic form. I think it would be useful.

CHAIRMAN: Yes. Please pass it out.

MR. MORRISON: Perhaps we should have those marked, Mr. Chairman, since the witness is going to be referring to them.

CHAIRMAN: Sure. Hand-out #1, Energy Supply and Sales will become document number 7.

And Hand-out #2, Energy Supply - PLGS Refurbishment Deferral will become document number 8.

MR. MORRISON: Thank you, Mr. Chairman.

Q.9 - Now Ms. Clark, I'm going to refer you to Hand-out #1 which has been marked as document number 7.

Could you walk us through that document please?

MS. CLARK: Sure. The first two bars represent energy supply. The first one is energy supply in 07/08. And the second one is energy supply in 08/09. You will see within the stacked bar we have it broken down by type of generation and then purchases as well.

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And I should note that this isn't presented in normal dispatch order. It is presented specifically to show the impact of not having nuclear generation in the supply mix. So in looking at those first two bars you will see the generation from nuclear is not present in 08/09 because we have the Point Lepreau generating station refurbishment outage. So that is nuclear at zero and the energy supply in column -- in bar 2.

If you look at the bottom you will see hydro remains relatively constant year over year. Energy normally provided by the Point Lepreau generating station is being replaced in 08/09 by increased thermal generation.

And you can see that the two areas marked thermal slightly higher in 08/09. And you also see that in 08/09 the area of purchases, there is a much higher reliance on purchases in 08/09.

Because of the high price of heavy fuel oil there is a greater increase in the quantity of purchases compared to the increase in internal generation. In 08/09 it is cheaper -- it is a cheaper alternative compared to us generating internally.

Also the overall supply is reduced in 08/09, mainly because of a decrease in export sales that result from the Point Lepreau generating refurbishment.

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2 Still on Hand-out #1, if you look at the third and fourth
3 columns, those represent energy sales. The third bar is
4 energy sales in 07/08. And the fourth is energy sales in
5 08/09. Those bars are broken down by sales in the
6 province and sales out of the province.

7 In both cases you will notice the energy supply --
8 sorry, the energy sales in 07/08 which is column 3, bar 3
9 matches the energy supply for 07/08 which is bar 1. And
10 energy sales in 08/09 which is the fourth bar matches the
11 energy supply for 08/09 which is the second bar. In 07/08
12 and in 08/09 energy sales must each equal the energy
13 supply.

14 Year over year in-province load drops slightly in 08/09
15 due to some of the industrial closures. There is a more
16 significant decrease in out-of-province sales due to the
17 increased utilization of our generation fleet to meet in-
18 province requirements during the Point Lepreau generating
19 station refurbishment outage and the high cost of
20 generation available to meet export compared to the sales
21 prices. Fortunately we are able to maintain some of our
22 out-of-province sales during this period.

23 Q.10 - Now the increased costs that are associated with the
24 Lepreau outage, are they included in the three percent
25 requirement that the Board is investigating?

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MS. CLARK: No, they aren't.

Q.11 - And so how are those costs being handled?

MS. CLARK: If I can refer you to Hand-out #2. It is entitled Energy Supply - PLGS Refurbishment Deferral. So these two bars that you see on Hand-out #2 match the bars on Hand-out #1, the first two bars on Hand-out #1.

In 08/09 you will see a dotted line which breaks up the thermal supply into base thermal and incremental thermal, and another dotted line that break the purchases up into base purchases and incremental purchases.

The estimated amount being deferred in the 08/09 budget approved by the boards of directors relates to the amount by which thermal production in purchases for in-province use have been increased due to the Point Lepreau generating station refurbishment outage.

More specifically, the dollar amount deferred corresponds to the cost of power from Nuclearco above that which was embedded in rates in 07/08.

The rates approved in 2007/08 included energy production at the Nuclearco cost. What is being deferred is the increment in cost above the 07/08 Nuclearco costs.

The legislation wasn't in place when this methodology was put forward for budgeting purposes. Now that the legislation is in place we are working with the regulatory

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consultant to confirm the methodology is appropriate.

And we expect, when we have the methodology defined, we will be back in front of the Energy and Utilities Board for approval of that methodology. And we will also be looking at approval for the disposition of that deferral when that time comes.

Q.12 - Excuse me, Ms. Clark, for interrupting you. When you talk about the legislation you are talking about the legislation that essentially established the Lepreau deferral mechanism?

MS. CLARK: That is correct.

Q.13 - So do I understand from what you are saying, when I look at those two bars in Hand-out #2, it seems to me that what you are saying is that -- you see the two chunks that are in brackets and are marked "incremental". And is that -- is it those incremental costs that are being flowed into the deferral account?

MS. CLARK: That is correct. The bars represent the gigawatt hours of supply. The portion of the 08/09 thermal supply marked incremental is the additional thermal supply that is needed because of the Point Lepreau generating station refurbishment outage. The deferred amount is equal to the amount by which the cost of this incremental thermal supply exceeds the

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cost of the nuclear supply that it is replacing.

Similarly the portion of the 08/09 purchases marked incremental are the additional purchases that are needed because of the Point Lepreau generating station refurbishment outage.

There is \$24 million in costs that are attributable to the incremental purchases and \$19 million in costs that are attributable to the incremental thermal supply.

This deferred amount is equal to the amount by which the cost of the incremental purchases exceeds the cost of nuclear supply that they are replacing.

In addition there are Nuclearco period costs which are nonfuel costs of 178,000,000 that will be deferred. These represent items such as OM&A and ongoing amortization.

This brings the total deferral amount in 08/09 to \$221,000,000.

MR. MORRISON: Mr. Chairman, that completes my questions on direct. And the panel is now available for cross examination.

CHAIRMAN: Thank you, Mr. Morrison. Ms. Desmond?

CROSS EXAMINATION BY MS. DESMOND:

MS. DESMOND: Good morning panel.

Q.14 - Perhaps we could start -- I know each of you have identified your names and your responsibilities.

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But could you kindly provide for the Board exactly who you report to, the direct line of reporting and what role you had in the decision-making process related to the decision to increase rates by three percent?

MS. CLARK: I report to Sharon MacFarlane, the Vice-president of Finance and the CFO for NB Power. I was responsible for preparing some of the information that went forward to the board of directors.

But I did not have anything to do with the approval of the three percent increase in rates and tolls.

MR. GOOD: I report to Darrell Bishop, the Vice-president of NB Power Generation Corporation. And similarly I prepared information that went forward to the Board, particularly as it relates to generation.

But I was not involved in any discussions around the rate increase.

MS. LEAMAN: And I report to Darren Murphy who is the Vice-president of Distribution and Customer Service. And similar to Mr. Good, I provided information as it relates to DISCO that went forward.

But I was not involved in any decision around the three percent.

Q.15 - So nobody on the panel this morning was directly involved in the discussions that related to the decision

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2 to increase rates by three percent?

3 MS. CLARK: We weren't involved in the decision. But I was
4 aware of the information that went forward and the result
5 of that through Sharon MacFarlane, the Vice-president of
6 Finance, Mike Gorman, the Vice-president of Regulatory and
7 Darren Murphy, the Vice-president of Customer Service,
8 Distribution.

9 Q.16 - Were any of the members of the panel at the meeting at
10 the board of directors when it was decided that this three
11 percent increase would proceed?

12 MS. CLARK: No, we weren't.

13 Q.17 - You have indicated that you have prepared some of the
14 material. Could you identify specifically what portion of
15 the material each of you prepared?

16 MS. CLARK: Are you talking about the information in the
17 information package or the information that would have
18 went forward to the board of directors?

19 Q.18 - In all of the information that has been filed in
20 support of the rate increase. So the March 31st package,
21 the April 30th package, the responses to IR's.

22 MS. CLARK: I was responsible for signing -- I was reviewing
23 all of the information that went forward and signing off
24 on all of the information that is in the information
25 package.

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2 Q.19 - Can you confirm for the Board who directed you to
3 appear at the hearing today and what directions were given
4 to each of you with respect to the rate increase given
5 that none of you were at the decision-making level when
6 the -- at the board of directors meeting?

7 MS. CLARK: When the decision was made that we were to come
8 forward to present our information, we put together a
9 team.

10 And that team consisted of the Vice-president of
11 Regulatory, the CFO and the Vice-president of Distribution
12 and Customer Service as well as the Vice-president of
13 Generation.

14 The information, when it went to the board of directors,
15 was filed on a combined basis. And that was the direction
16 we used to put the evidence together.

17 Q.20 - But for your attendance today specifically could you
18 identify, you know, essentially what parameters or areas
19 you are instructed to cover, what you have authority to
20 speak to in the materials that have been filed?

21 MS. CLARK: I believe I'm able to speak to any of the --
22 speak to any of the information that has been filed. And
23 if I wasn't directly involved, I have some information
24 that I can provide from those who were directly involved.

25 Q.21 - Okay. Thank you.

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You originally started your presentation to the Board by referring to the direction that was given to the Board by the Minister of Energy.

Could you flip to your notes? I think you were reading from your materials there. And you indicated -- or you referenced the letter of March 5th. I don't know if you want to turn to your notes where you made reference to that particular piece of correspondence.

And I believe, if I heard you correctly, Ms. Clark, that it is your understanding the Board was directed to look at the revenues and costs of the NB Power Group with respect to the three percent increase.

Is that the reference you provided to the Board?

MS. CLARK: That is correct. And I do understand that the order specifically mentions DISCO. The issue is the board of directors made their decision on the combined NB Power Group.

So the DISCO board of directors as well as the other NB Power boards of directors made the decision to increase charges, rates and tolls based on the forecasted revenues and costs of the entire NB Power Group.

Q.22 - If you could kindly refer to Appendix B of your April 30th material?

CHAIRMAN: Ms. Desmond, if you want the panel to follow

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2 along, and if it is necessary for us to follow along with

3 these documents, perhaps you could just give us reference

4 to where it is.

5 This would be the document we marked as number 3 I

6 believe.

7 MS. DESMOND: I'm sorry, Mr. Chair. Yes. It is document 3

8 filed April 30th.

9 CHAIRMAN: Thank you.

10 MS. DESMOND: And it is Appendix B.

11 CHAIRMAN: Thank you.

12 Q.23 - And perhaps, Ms. Clark, could you read for the panel

13 the portion of the letter that is in bold letters?

14 MS. CLARK: Yes. It says a review of the forecast of the

15 costs and revenues that DISCO used to support the

16 necessity for an increase in rates.

17 Q.24 - Just so we are on the same page, clearly the Board's

18 mandate is to look at what DISCO relied upon, not what the

19 NB Power Group of companies relied upon?

20 MS. CLARK: That is correct.

21 Q.25 - If you could now turn to that same package of material,

22 document 3, Appendix A.

23 And if we are looking at Appendix A it has in the left-

24 hand corner "board meeting".

25 Can you confirm for the panel this morning which

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2 particular board this minute refers to?

3 MS. CLARK: It was the board of directors of the NB Power
4 Distribution and Customer Service Corporation.

5 Q.26 - So this was not a DISCO-specific board. This minute
6 does not refer to the DISCO board?

7 MS. CLARK: I'm not sure I understand. It is the DISCO
8 board. It is the NB Power Distribution and Customer
9 Service board of directors.

10 Q.27 - Okay. So it is the DISCO board, not the consolidated
11 board then?

12 MS. CLARK: That is correct.

13 Q.28 - And in the letter there is a reference to
14 "shareholder". Who is meant by "shareholder"? Who does
15 that represent?

16 MS. CLARK: I -- we would have to check. It is either the
17 Minister of Energy or it is Electric Finance of which the
18 Minister of Energy is a member.

19 Q.29 - When did that discussion take place?

20 MS. CLARK: I don't know when that discussion took place. I
21 could easily find that out though I expect.

22 But the decision to make -- to increase the rates was made
23 on February 28th, coming out of the December 12th board of
24 directors meeting.

25 Q.30 - I appreciate that this resolution is a result of the

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2 December 12th meeting. But specifically there is a reference

3 in this document to the Chairman advised the board that

4 the shareholder had been aware of the increase.

5 And our questions are who is meant by the "shareholder"?

6 When did that discussion take place? And is there any

7 minutes that support that discussion?

8 MS. CLARK: I don't have the details of that discussion, but

9 once the boards of directors of the NB Power group approve

10 the business plan, the budget for the NB Power group, that

11 goes to EFC and they have 30 days on which to comment on

12 that. So at that point in time the minister of energy

13 after the December 12th meeting would have received a copy

14 of our plan.

15 Q.31 - Ms. Clark, I just wanted to clarify. When I'm talking

16 about the board of directors I'm thinking specifically

17 about the DISCO board of directors. So I just want to

18 make sure when you are talking about boards of directors

19 that that's the reference you are using as well. Are you

20 speaking specifically about the consolidated board or the

21 DISCO board?

22 MS. CLARK: There isn't a consolidated board of directors.

23 There are separate boards of directors for each company in

24 the NB Power group, but yes, I'm including the board of

25 directors of DISCO when I say the boards of directors.

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2 Q.32 - Now that we have clarified that there is in fact a
3 DISCO board, and I just wanted to confirm it, it is your
4 understanding that DISCO is a separate legal entity and
5 designed to operate as a specific independent commercial
6 enterprise, is that your understanding?

7 MS. CLARK: You are correct in that they are separate legal
8 entities, but they are operating as a group of companies
9 with a common board of directors -- sorry -- with separate
10 boards of directors with common members on each one of
11 those boards. So it was the NB Power board of directors
12 of DISCO that approved the rate increase, but that revenue
13 stream is the revenue stream that supports all the
14 companies in the NB Power group.

15 Q.33 - The legal structure that supports the distribution
16 company though is in the Electricity Act, you would agree
17 with that comment. The Electricity Act supports the
18 independent operations of DISCO?

19 MS. CLARK: Yes. It is a separate legal entity as stated in
20 the Electricity Act, but again we are operating as a group
21 of companies. Separate legal entities but we are acting
22 as a group.

23 Q.34 - Is it fair to suggest that DISCO and its boards of
24 directors needs to make decisions that are in the best
25 interest of that particular enterprise or operation in and

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2 of itself.

3 MS. CLARK: I believe it's more appropriate to say that the
4 NB Power group makes decisions as a whole in the best
5 interest of the Province of New Brunswick. So DISCO does
6 not make decisions on its own in the best interest of
7 itself, they make decisions as a group in the best
8 interest of the province.

9 Q.35 - So when decisions are made at the executive level for
10 DISCO, are decisions made then that reflect the best
11 interest of DISCO alone, or are the sister companies and
12 their interests also considered when decisions are made?

13 MS. CLARK: As I stated previously, I don't sit in on the
14 board meetings, but I do know that there is a common
15 president for each one of those companies. So when
16 decisions are made they may be a particular position that
17 DISCO may have, but it's certainly weighed in by
18 Generation, Nuclearco and Transco, and then a decision is
19 made again in the best interests of the Province of New
20 Brunswick rather than any particular company in the NB
21 Power group.

22 Q.36 - Who is able to answer that question in terms of -- you
23 indicated you are not present at those meetings when the
24 decisions are made. Who is present?

25 MS. CLARK: If you are talking about a decision with the

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2 executive, then it would be the executive members and the
3 president. If you are talking about the boards of
4 directors, then it would be the particular board members
5 and the President. But I have heard and I can say under
6 oath that I believe that's the way those decisions are
7 made.

8 Q.37 - And have the decisions always been made that way, Ms.
9 Clark?

10 MS. CLARK: To the best of my knowledge, I believe that's
11 the way the decisions have been made.

12 Q.38 - You will recall that a hearing was held before the
13 Board last fall that extended into December of '07, and do
14 you recall some of the submissions that had been made by
15 DISCO during that hearing with respect to the decision
16 making process?

17 MS. CLARK: I recall many but not specifics. I guess we
18 would have to look at each one of them. But I do remember
19 many of the submissions that were made by DISCO.

20 Q.39 - And to your recollection was it the view or opinion of
21 the panel that represented DISCO that decisions made by
22 DISCO were in the best interest of DISCO and its sister
23 companies, or for DISCO alone, to your recollection?

24 MS. CLARK: I believe that they were made in the best
25 interests of the ratepayers of the Province of New

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Brunswick, and there weren't any decisions that were in DISCO's best interests alone.

Q.40 - In the materials again at document 3, in the introduction section, at page 2 -- at page 2 you indicate that the material provides the most comprehensive and transparent review possible, and that this information package pertains to NB Power. How do you see this being the most transparent and allows the Board to make the most comprehensive review? How is that the case?

MS. CLARK: First it was the information upon which the boards of directors used to make their decision, and in previous hearings when we filed under Section 101 of the Electricity Act, it was a DISCO hearing, and in last year's hearing we provided Generation and Nuclearco information. In this process we laid out the NB Power group so that it was open and transparent, and you could see the real costs of the generation companies coming through on a combined basis as opposed to just trying to show it by separate company. It gets very complicated when you look at it by separate company, or you only show one piece of the company.

Q.41 - Okay. Under Governance, again in the same document, appendix C, if you could turn to that tab.

CHAIRMAN: Sorry, Ms. Desmond. Where is that located?

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2 MS. DESMOND: Document 3, Appendix C, page 1.

3 CHAIRMAN: Thank you.

4 Q.42 - And at the bottom of that page, Ms. Clark, there is a
5 reference to the boards of directors being responsible for
6 directing the affairs of each of the corporations. Do you
7 see that reference?

8 MS. CLARK: Yes, I do.

9 Q.43 - And you would agree then that it's important for the
10 boards of directors to follow the legislation that is in
11 place?

12 MS. CLARK: I would agree.

13 Q.44 - And if I can refer you now then to the Electricity Act,
14 section 99. And you would agree that section 99 talks
15 about the distribution corporation making changes to their
16 charges, rates and tolls?

17 MS. CLARK: I agree.

18 Q.45 - And as a result of that it's DISCO then, the
19 distribution company, that is the legal entity entitled to
20 make the three percent increase, would you agree with
21 that?

22 MS. CLARK: I agree with that. It's the DISCO revenue
23 stream that provides the revenue stream for the entire NB
24 Power group.

25 Q.46 - And DISCO is the legal separate entity entitled to make

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2 a three percent -- or to take a three percent increase?

3 MS. CLARK: That's correct.

4 Q.47 - And if I can refer you now back to the April 30th

5 package in the introduction, page 1. And in your

6 introductory section there is a reference to the fact that

7 the three percent is required to offset the impact of NB

8 Power's expenses. You would agree it's difficult to

9 reconcile section 99 of the Electricity Act, which allows

10 DISCO to take a three percent increase, with your comment

11 that a three percent increase offsets NB Power's expenses?

12 MS. CLARK: The revenue, as I said before, from the

13 distribution corporation provides the revenue stream for

14 the whole NB Power group. And for the most part, the

15 costs of the generation companies end up being the costs

16 of the distribution company as well. So the dollars

17 flowing through, if we look at the PPA structure, most of

18 Generation and Nuclearco's generation costs end up being

19 the costs billed to DISCO. So they end up being for the

20 most part the costs of the distribution company in any

21 event.

22 Q.48 - Are you suggesting Genco's costs are DISCO's costs and

23 that in fact there is no distinction?

24 MS. CLARK: Under the legislation the PPAs create the

25 mechanism for the generator's costs to be charged to DISCO

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2 to be collected through the charges, rates and tolls.

3 Q.49 - But, Ms. Clark, you would agree that the Board's

4 regulatory authority does not extent to Genco?

5 MS. CLARK: It does in that the PPAs are the contracts

6 between DISCO and Genco to allow those costs from Genco

7 and Nuclearco to get through to DISCO to be collected

8 through rates.

9 Q.50 - So Genco's costs are then subject to Board regulation?

10 Is that -- I'm just trying to understand what that

11 comment meant. You said that -- my question was if the

12 Board's regulatory authority extends to Genco, and your

13 comment was that it does to the extent that the costs flow

14 through to DISCO.

15 MS. CLARK: Those PPAs are contractual obligations between

16 Genco and Nuclearco, and to the extent that the contracts

17 are reviewed by the EUB, and I believe those generation

18 costs were reviewed through the PPAs in the last hearing.

19 Q.51 - So it is your submission that those Genco costs then

20 are rightfully reviewed by the Board and subject to

21 regulatory authority, despite what the legislation says

22 under section 99.

23 MR. MORRISON: Mr. Chairman, I'm going to object to that

24 question because I think it's in the form of legal

25 argument. I can certainly address it, if you wish me to.

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2 No, Genco's costs are Genco's costs. The Board's
3 jurisdiction, as we discussed ad nauseam throughout the
4 last several years, relates to DISCO. However, Ms. Clark
5 is quite correct. The Genco costs flow through the PPAs
6 to DISCO, and this Board did -- in its order in the last
7 proceeding did look at generation costs. It doesn't mean
8 it has jurisdiction over generation costs, but the Board
9 certainly took an interest in those costs.

10 CHAIRMAN: It may be a very fine line, Mr. Morrison.

11 MR. MORRISON: Mr. Chairman, I think we have been dancing
12 around this line for about five years.

13 CHAIRMAN: Ms. Desmond, does that give you the answer you
14 are looking for, or is there something further you are
15 looking for from this panel on that question?

16 MS. DESMOND: Well I appreciate Mr. Morrison's concerns.
17 However, this is an investigation, it's not a rate
18 application. The panel has been offered to the Board with
19 the understanding they can answer these questions. In
20 their evidence in the introductory section they have
21 identified that this three percent is required to offset
22 NB Power's expenses, and I'm trying to understand Ms.
23 Clarks' view that the Genco expenses flow through to DISCO
24 and as such allow this three percent rate increase to
25 occur. And I'm trying to understand from their

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perspective where the distinction lies. And again it's an investigation, it's not an application. I think the question is appropriate.

MR. MORRISON: And I just want to make a clarification, because it's the way the question is being placed. Ms. Desmond says it's an investigation, that DISCO -- or the response is the three percent rate increase is being used to offset NB Power's expenses, and I think it might be a conceptual thing. But in fact -- and this has come up in the course of several questions. The rate increase is authorized by DISCO's board of directors, no question. Now we can debate the semantics of who the members of that board are and so on. But legally it's a DISCO increase in rates, three percent. DISCO's Board made that decision. The question is what information -- because it's an investigation, why did they make the decision to increase this three percent. That's what the Board -- if you boil it all down, the Board was asked why was the decision made? What justifies this three percent increase. So what did DISCO's board of directors have, what did they look at to make that decision? And what they looked at -- and we can debate whether they should be looking at one thing or another, but the fact of the matter is, and what Ms. Clark has said under

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oath, is what they looked at was the consolidated view. And because that's what they looked at to base their decision, that's the information that was filed in this proceeding. Now if you drill down -- and I will speak to it in argument of course, but I think as the questions come forward, whichever way you look at it, whether you look at it from a consolidated view or if you look at DISCO's costs independently, and I will make the point in summation, you can come to -- whichever way you look at it the three percent is justified. Whether you isolate it to DISCO or you look at it on a consolidated basis, it will be my submission that the three percent is justified, and of course that's for final argument.

CHAIRMAN: And that's what we are here to determine, quite frankly, Mr. Morrison, is, you know, whether or not it supports the necessity for the increase in rates for DISCO. I think that this line of questioning I think flows from the fact that the Minister has asked us to look into the forecasted costs and revenues that DISCO uses to support the necessity for an increase in rates, and the documents that were filed were on a consolidated company-wide basis. And it makes it somewhat difficult I think for the Board to compare it to the two rate cases that were heard under the legislation which restructured NB

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Power where information was always given on a DISCO only basis.

And quite frankly I believe that in the course of those hearings when parties attempted to venture into some of the costs of the sister companies, objection was taken, and I believe the Board supported those objections.

MR. MORRISON: And I recall that very well, Mr. Chairman, and it's not to be cute about this in any way at all. The fact of the matter is the Board has been directed to look at the revenues and costs that DISCO relied upon in making its decision.

Now I don't sit on the board of directors of DISCO. But from everything I have understood, from all of the evidence that has been provided, all of the discussions I have had in preparation for this hearing, the costs and revenue information that the board of directors looked at was not segregated to DISCO's revenues and costs only. So for these witnesses to come here and say, well, you know, we are only going to provide DISCO's numbers because it wouldn't be because that's what the legislation says or that's what the structure says, that might be -- that might have been the easier thing to do quite frankly, but it wouldn't have been the honest thing. The honest thing is that what the Board looked at was the consolidated

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2 view.

3 And we can debate whether that was right or wrong, but the
4 fact of the matter is if these witnesses are going to be
5 honest, and they are being honest of course, they are
6 under oath, the revenues and costs that the board of
7 directors of DISCO relied upon to make the decision was
8 not isolated to just DISCO's costs. They looked at the
9 big picture of the entire corporation.

10 And I understand that in previous rate hearings I sat in
11 this chair and made arguments which essentially attempted
12 to isolate DISCO from the other operations. I don't know
13 whether there has been a change in the way the utility
14 operates, but I can say that from what I understand from
15 all of my involvement in this investigation to date, is
16 that what Ms. Clark is saying is exactly how that decision
17 was made.

18 CHAIRMAN: Ms. Desmond, based on all of that, I guess if you
19 would repeat your question -- or if that doesn't answer
20 your question, let's determine whether or not it's one
21 that this panel is qualified to answer, or should answer.

22 MS. DESMOND: Perhaps I can rephrase the question, because I
23 referred Ms. Clark to the introductory section of her
24 April 3rd evidence, and in particular lines 11 to 12,
25 where it references that the increase is required to

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2 offset NB Power's expenses. And I was simply asking Ms. Clark
3 if in her opinion that was in keeping with the legislation
4 that requires DISCO as an entity to apply for or to take
5 the three percent increase based on its forecast costs and
6 revenues.

7 MS. CLARK: I believe the answer to the question is yes, it
8 does justify DISCO's increase. In fact, when the budgets
9 were prepared for each of the operating companies they are
10 prepared in the normal format and then they are
11 consolidated at the top of the house for the NB Power
12 group, and the DISCO requirement would have been much
13 higher than three percent had we used the existing
14 structure. When that information came together it was a
15 decision of management and decision of the boards of
16 directors that we look at the NB Power group on a combined
17 basis to manage the rate increase to three percent in
18 08/09. So the existing PPAs, changes required to the
19 PPAs, would have saw the rate increase at greater than
20 three percent for DISCO in 08/09.

21 Q.52 - Ms. Clark, is it not DISCO's obligation to pay what the
22 PPAs require, nothing more, nothing less, with respect to
23 Genco?

24 MS. CLARK: That's correct.

25 Q.53 - But if I understand your testimony, you have indicated

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2 that when you have looked at the DISCO material, a greater
3 than three percent increase was required, and as such it
4 was determined that changes to the PPA would be necessary?

5 MS. CLARK: I'm sorry. Can you repeat that question?

6 Q.54 - I just wanted to clarify what I thought you said a few
7 minutes ago with respect to when the -- sorry -- when the
8 DISCO information was looked at it, it was determined that
9 a greater than three percent increase was required, is
10 that correct?

11 MS. CLARK: That's correct.

12 Q.55 - And as a result of that, it was determined that a
13 consolidated view would be necessary, is that correct?

14 MS. CLARK: That's correct.

15 Q.56 - And that decision making process would have been
16 ongoing at the same time that the hearing before the Board
17 was taking place last fall, is that correct?

18 MR. GOOD: The budget was actually finalized I believe about
19 December 2nd, December 4th, something in that area.

20 Q.57 - So the answer to my question is yes?

21 MR. GOOD: Yes, that's correct.

22 Q.58 - I would like to refer the panel to a reference in a
23 transcript from November 26th, '07. I will just provide
24 you with a copy and perhaps ask you to read from this
25 transcript.

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CHAIRMAN: The excerpt that you have provided, that's from -
- what is the date?

MS. DESMOND: The date is in the right hand corner, Mr.
Chair. It's November 26th, '07. And perhaps Ms. Clark
could -- I have provided the first page by way of
reference, but at page 1015, if Ms. Clark could read lines
3 to 7.

CHAIRMAN: And for reference purposes I'm going to refer to
that as document number 9.

MS. CLARK: I'm sorry. Did you want me to start at line 24?

Q.59 - No. At 1015, line 3 through 7, please.

MS. CLARK: To date there are no changes and the attitudes
that we take is the rules are the rules and we must live
by those rules. And so we have filed on the basis for the
distribution company in order to obtain the revenue
requirement for DISCO.

Q.60 - And I believe that's a quotation from Mr. Hay?

MS. CLARK: That's correct.

Q.61 - So, Ms. Clark, when I read that quotation it would be -
- I guess my question to you is how do you reconcile the
decision to increase rates based on the consolidated
company versus the position of Mr. Hay that the rules are
the rules and the PPAs are what they are? How do you
reconcile those two comments?

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And again this is not an application, it's an investigation. And I appreciate my learned friend might have some concern about whether the panel can answer this question. I would submit it's an appropriate question and I think if the panel is not prepared to answer it perhaps they have someone who could answer that.

MR. MORRISON: Well, Mr. Chairman, I think it's a most inappropriate question. You can cross examine someone on an inconsistent statement that they made. You can't cross examine someone on a statement made by some other person. It's just unheard of. I have never heard such a question in my entire career.

MS. DESMOND: Well I'm asking -- again this is not an application, Mr. Morrison, and, with respect, I'm asking Ms. Clark if she could kindly in her opinion reconcile the view that was taken by the Board last fall that the rules are the rules. DISCO was the applicant. How then do you reconcile that view with the material that has been filed before this Board. I'm not asking her to answer the inconsistency. Simply from her opinion clarify the difference in the positions.

CHAIRMAN: I think another way of putting this is simply to ask the Panel which is the correct view in their opinion.

MR. MORRISON: I think that question could have been asked

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without putting a statement by another witness to this witness, Mr. Chairman. I just think it's an inappropriate question, but I'm going to let it go.

CHAIRMAN: Mr. Morrison, as you know this is a unique process where we have witness panels to represent parties, rather than individual witnesses, and so it's -- although it may be unusual a lot about this process is.

MR. MORRISON: No question about that.

CHAIRMAN: So perhaps the panel could answer that question.

MS. CLARK: I don't have a personal opinion on this, but Mr. Hay I believe was talking in very broad concepts, talking about the restructuring, talking about the PPAs. And had the DISCO board of directors used the DISCO information we would have been here looking for a higher rate increase than three percent. So in this year the boards of directors used a combined basis to ensure the rate increase was as low as possible for the ratepayers of the Province of New Brunswick. The PPAs were intended for long-term use, they are long-term contracts, and there are certain things that come up during the course of those contracts that may need to be looked at, and as they come up we will work within the confines of changing those contracts as they exist. But today had we looked at the boards of directors of DISCO's requirement, it would have

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2 been higher than three percent.

3 Q.62 - Ms. Clark, could that same approach have been taken in
4 the past two years when rate applications were made before
5 the Board?

6 MS. CLARK: It isn't inconsistent with what we have done in
7 previous years in that as requirements -- sorry -- as the
8 rate increases were known, changes -- short-term changes
9 were made to the PPAs. We do know there are some changes
10 required to the PPAs to make them work within the existing
11 structure, and we are looking at trying to make some of
12 those PPA changes going forward. But we have been
13 consistent in our filing in that we based it upon the
14 PPAs. In 08/09 the rate increase would have been higher,
15 so we took a view of the combined basis to ensure the rate
16 increase could be as low as possible.

17 Q.63 - Ms. Clark, my question was specifically with respect to
18 the past two years could the same approach have been taken
19 as was taken with respect to this year?

20 MS. CLARK: It could have, but what we did was make short-
21 term changes to the PPAs in those years. But we have
22 gotten to the point with the PPAs where we have got things
23 like capital structures, we have got things like Lepreau
24 and Coleson ownership, increased fuel prices, lack of
25 availability of Orimulsion, that are causing us to have to

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2 look at these PPAs on a longer term basis, not to continue to
3 make short-term fixes to the PPAs. So in 08/09 we looked
4 at it on a combined basis. But again, had we looked at it
5 just on a DISCO basis the rate increase requirement would
6 have been higher.

7 Q.64 - So was a decision made to look at the consolidated
8 information strictly because a higher increase would have
9 been required for DISCO if you had not looked at the
10 consolidated information?

11 MS. CLARK: Yes, that's correct.

12 Q.65 - And, Ms. Clark, to your knowledge are the PPAs legal
13 binding documents?

14 MS. CLARK: Yes, I believe they are.

15 Q.66 - And have there been any changes to those PPAs since
16 last year when a couple of amendments were filed during
17 the hearing?

18 MS. CLARK: We do have changes to the PPAs going forward at
19 our next board of directors' meeting that would affect the
20 changes that are in the 08/09 budget.

21 Q.67 - Were those changes made and were they legal binding
22 documents at the time the decision was made to ask for the
23 three percent rate increase based on the consolidated
24 information?

25 MS. CLARK: They were in draft form. They were anticipated,

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2 but the first available opportunity to get them to the Board
3 was the upcoming Board meeting.

4 Q.68 - So they were not legal binding documents at the time
5 the decision was made?

6 MS. CLARK: The documents themselves obviously are legal
7 binding documents. The amendments hadn't been made at
8 that time.

9 Q.69 - So the changes that are in draft form, have they been
10 presented to the Board, or has anybody had a chance to --
11 they are not finalized, I guess, essentially is what you
12 are saying. What does that mean I guess? Are the PPAs
13 then not properly constructed? Are they simply -- or is
14 DISCO simply deferring costs that in essence will be
15 recovered in the future?

16 MS. CLARK: As I said before, these were long-term
17 contracts, but they couldn't anticipate all circumstances,
18 and there have been a number of things that have changed
19 that we haven't anticipated. Again Orimulsion, the
20 increase in fuel costs that we just had no idea would be
21 as high as they are, and the capital structures. So we
22 are looking at making changes to those PPAs, we are
23 operating under the PPAs today, but we do know there are
24 longer term changes that are required. So to continue to
25 make short-term fixes to those PPAs, we are making those,

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but we do have an understanding that we need longer term changes as well.

Q.70 - Ms. Clark, if in their current format they are intended to be legal binding documents, what other changes could possibly come that perhaps parties aren't even aware of? I mean they are between -- they are contractual documents between separate legal entities. At what stage do -- how do you make those changes? What is the process that is in place to protect the best interests of the ratepayers if changes can be made of these documents without any sort of legal binding agreements?

MR. GOOD: Ms. Desmond, can you repeat your question?

Q.71 - The point I'm trying to get to is essentially how can the best interests of the ratepayers be protected if these PPAs essentially can be changed without any sort of documentation or written contract, which is in essence essentially what you have submitted to the Board, that there are changes coming, you have governed yourselves by anticipated changes. How can the best interests of the ratepayers even be protected then if changes in the approach and the mechanisms that are used can happen without any sort of documentation?

MR. GOOD: Well first off, I would say that the changes do

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have to be documented and they do have to be formally approved. I think we need to keep in mind that the information that is presented here is simply a financial forecast, and that forecast is anticipating certain changes will be made, and they will be made this year. So before the financial statements are finished for this upcoming fiscal year, those changes will be formalized and put in place.

Q.72 - So decisions are made by DISCO on anticipated changes that are forthcoming?

MS. CLARK: Those changes aren't made by DISCO alone. Those changes are agreed to by the operating committee, agreed to by the vice presidents and agreed to by the president. So they would always be in the best interest of the ratepayers. And there is a formal process for that to happen and formal dispute resolution mechanisms as well.

Q.73 - Based on the submissions that you have made this morning that the decision was made to look at the consolidated information, because clearly a three percent increase wouldn't have covered DISCO's costs, is it fair to suggest that really you need to look at the end result and then from the end result determine what costs must be changed or how the PPAs need to be amended to achieve that result?

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2 MS. CLARK: I'm not certain what the process will be to
3 amend the PPAs and what that may entail. I know that
4 there will be a review internally of what PPA amendments
5 need to be made. And as I said, there are certain
6 amendments going forward to the boards of directors to
7 affect the 08/09 budget.

8 Q.74 - But from the process you have described this morning,
9 essentially the end result was what was the consideration,
10 not necessarily what the PPAs said or the legal contract
11 that was in place. The end result was the determining
12 factor, is that correct?

13 MS. CLARK: In this case in 08/09 it would have required a
14 larger increase had we relied specifically on DISCO, and
15 the PPA amendments were made to effect that change.

16 Q.75 - The PPA amendments haven't been made yet, is that
17 correct? I think maybe you misspoke. You said the PPA
18 amendments were made, but they haven't yet been made.

19 MS. CLARK: No. They have been anticipated. They have not
20 been made.

21 Q.76 - Just to be clear then, the determination was made that
22 an increase greater than three percent was required, and
23 because of that you would anticipate changes to the PPAs
24 to bring that increase under three percent, or three
25 percent or less. You anticipated PPA changes so that the

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rate increase could be set at a certain amount.

MR. GOOD: No, I would disagree with that. The changes that were contemplated to the PPAs were discussed beginning in the spring and summer by the operating committees, because as we began putting together our budget for the upcoming fiscal year we recognized certain things that needed to be interpreted within the PPAs.

After that, you know, as you get into the fall, as the budgets actually start coming together, that is when it becomes apparent what you are actually going to need for a rate increase. So I would not say that the changes were contemplated to arrive at a certain outcome. I wouldn't agree with that, no. Or I should clarify. A certain outcome regarding the need for a rate increase, right. Those changes were not contemplated simply to get a rate increase of three percent or less.

Q.77 - Can I refer you to section 101.4 of the Electricity Act. And there are, as you see there, a number of factors the Board should take into consideration when dealing with a request or application for a rate increase. Do you see those considerations there?

MS. CLARK: Yes, I do.

Q.78 - And you would agree that in the normal course in an application the combined NB Power revenues and expenses is

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not listed as one of those considerations, is it?

MS. CLARK: No, it isn't.

Q.79 - Are you able to explain for the Board why the information that is filed in this investigation is so substantially different than what has been filed in the past two rate applications, and why the DISCO information to support the three percent increase was not specifically filed?

MS. CLARK: Well this process was very different than the previous two. In the previous two DISCO actually filed an application under section 99 I believe of the Electricity Act for -- or 101 of the Electricity Act rather -- for an increase in charges, rates and tolls. This was an investigation into the forecasted revenues and costs that -- DISCO's forecasted revenues and costs -- to approve the three percent rate increase, or to justify the necessity for a three percent increase in charges, rates and tolls.

And the information we provided was the information upon which the boards of directors used. So we weren't filing a DISCO application, we were giving the Board, the EUB, the information that we had supplied to our boards of directors to approve the increase in the charges rates and tolls. And typically if we were filing evidence under section 101 we would take many, many, many

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months to prepare, and maybe would have provided something in a different view. However, given the very short time frame we had in which to prepare information we provided the information that our board of directors had in front of them to make the decision on the rate increase.

MS. DESMOND: Mr. Chair, could I suggest a short recess.

CHAIRMAN: Yes, you can, but just before we break, one of the questions that Ms. Desmond asked was whether or not the changes to the PPAs to effect a three percent increase rather than a five percent, what was indicated, whether or not these costs would be deferred, and if you answered that I didn't hear the answer. I'm not sure if it was answered, but in any event could you answer that? Would that additional two percent find itself into rates in the future or is that gone for all time if you will?

MS. CLARK: No. There is no intent to defer any costs. It was just the movement of dollars between one company in the NB Power group to another company in the NB Power group. So Genco had net earnings in 08/09. DISCO had a loss. Had we just looked at DISCO it would have required a larger rate increase, and looking at the combined group required a lower rate increase. So there was no deferral of costs.

CHAIRMAN: So the additional amount that would have been

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indicated if you had followed the traditional rules will not find itself in a future rate increase?

MS. CLARK: I will check that. I'm quite certain that the answer is no, and if it's any different I will let you know.

CHAIRMAN: We will take the break then.

MS. DESMOND: Could I ask one follow-up question to that, Mr. Chair.

CHAIRMAN: Certainly.

MS. DESMOND: Only that Ms. Clark indicated the monies could be moved. What is to suggest that the moneys could not be moved again in the future? If the moneys were moved this time to accommodate a rate increase of three percent or less, what would be a bar to moving those moneys again in the future?

MS. CLARK: The intent isn't basically to move dollars around between PPAs, between the NB Power groups. The PPAs as you mentioned are legal binding contracts, and when we get to some level of stability with the PPAs we don't intend to be changing them every year. But you will recall last year, Generation decreased the capacity requirement to DISCO in an effort to minimize the earnings in DISCO -- in Genco rather -- and minimize the rate increase requirement to customers in 07/08.

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MS. DESMOND: Is there support for that change that you just referenced, Ms. Clark?

MR. MORRISON: That was in the -- part of our filing in the last rate case, Mr. Chairman, the reduction of capacity, Ms. Desmond or others cross examined the panel on.

MS. DESMOND: Just maybe as a follow-up question to that. What would prevent DISCO maybe perhaps making a change to raise the capacity payment in the future?

MS. CLARK: Again the decisions of the boards of directors are made with the best interest of ratepayers in mind, and there wouldn't be any intent to raise the capacity payment to increase revenue unnecessarily for the NB Power group.

MS. DESMOND: Thank you.

CHAIRMAN: Ms. Desmond, you have asked for a short break. How do you define short? Is ten minutes enough?

MS. DESMOND: Thank you.

CHAIRMAN: All right. We will take a ten minute break.

(Short recess)

CHAIRMAN: Are you ready to resume, Ms. Desmond?

MS. DESMOND: Yes. Thank you, Mr. Chair.

Q.80 - I had a few questions with respect to the PROMOD runs. And perhaps I could start by asking the panel to just briefly outline what a PROMOD run is for the benefit of the panel here and for the participants?

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MR. GOOD: PROMOD is a computer system that is widely used in the industry to forecast production costs, purchase power costs, revenues from the sale of energy purchases. And we use that to base our -- that is what our budgets, our forecasts are all based on.

Q.81 - And I understand from the Teed Saunders Doyle report which was prepared and signed by Mr. Logan, in his report he identifies a number of PROMOD runs that have been performed in the -- I guess in the later months of 2007. Could you clarify for the Board run A? What was run A? When was it performed? And what was the purpose of performing run A?

Just to clarify, I believe Mr. Logan refers to run A as the first PROMOD run that was done in September?

MR. GOOD: That is correct. I'm just looking for the reference to it in his report. If you will give me a moment.

Q.82 - I believe his reference to the various runs start at page 4, if that is of any benefit to you, down near the bottom of that page?

MR. GOOD: Subject to check I believe that run A was done in August or early September. And I believe the only difference from that run to revision B was a pricing error had been discovered in revision A and was corrected in

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revision B.

Q.83 - And the second one, run B, for what purpose was that PROMOD run performed?

MR. GOOD: That one was done to set the vesting energy price for October 1st. And it was also the budget run that we were using to prepare our budget on for 08/09 for fuel and purchase power costs.

Q.84 - And in the normal course, in past years for example, when is that PROMOD run performed, given the PPA that requires a vesting energy price of October 1st?

MR. GOOD: I believe it is usually done in September.

Q.85 - And if I understand from the report there was a third one, run C. When was that performed?

MR. GOOD: I believe the date of that run was December 2nd.

Q.86 - In past years have you performed a PROMOD run for the purpose of setting the vesting energy price after October 1st?

MR. GOOD: No. I don't believe we have. We have always stuck with the one that was done in September.

Q.87 - For the budget that was presented to the Board on December 12th which one -- and the outputs from which one were used in the December 12th budget?

MR. GOOD: In the December 12th budget we used the vesting energy price that was set with revision B in September.

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So we used that as the vesting energy price.

But then for the Generation Corporation's fuel and purchase power expenditures we used the output from revision C.

Q.88 - So for the projected fuel and purchase power cost presented in the December 12th budget, run C was not included in that?

MR. GOOD: No. Run C was the one that was included in the December 12th budget.

So just to clarify, if you are looking at NB Power, the information that is provided here for NB Power's fuel and purchase costs for 08/09, those figures are based on the December 2nd run.

MR. JOHNSTON: If you don't mind I just have one question.

Mr. Good, could you look at the questions and answers that were filed and specifically table 1B in Question 11, NBEUB?

Where it shows the vesting energy charge there, 759.9 million, do I understand your evidence that that comes from PROMOD revision B?

MR. GOOD: That is correct.

MR. JOHNSTON: Okay.

MR. GOOD: Well, what I should say is that the vesting energy price upon which that 759,000,000 is based --

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MR. JOHNSTON: Yes.

MR. GOOD: -- comes from revision B. The volume of energy to which is it applied comes from revision C.

MR. JOHNSTON: All right. I'm sorry. I'm sorry if I have interrupted Ms. Desmond. But I just wanted to get that clear while we were on the topic.

Q.89 - Did run C, the run on December 2nd, did that include any adjustments that would have been necessary because of the permanent closure of the UPM-Kymmene plant in Miramichi?

MR. GOOD: No. The only reductions in load that were reflected in that revision C was the closure of Bowaters.

Q.90 - I believe that the announcement with respect to the UPM-Kymmene plant was announced not long after that run C was performed. I believe December 17th was the date of the announcement of the UPM-Kymmene plant.

When it became clear that the UPM-Kymmene plant would not be reopened, did you do another run of PROMOD?

MR. GOOD: We did do a subsequent run that we used to prepare a Q zero forecast for 08/09. And that run did reflect the changes to UPM as well as a number of other changed variables.

Q.91 - Was a run performed for the purpose of presenting the information to the board of directors?

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MR. GOOD: Just to clarify, nothing else was done in terms of sending information to the board of directors in December.

Because by the time that announcement was made I believe the board had already met on the budget and approved the budget and business plan for the year.

The Q zero forecast would have been the next time that we ran a PROMOD run to update our outlook for 08/09. And that is going to our next board meeting.

Q.92 - The board meeting as I understand it occurred on February 28th 2008?

MR. GOOD: Yes. That rate -- or that board meeting was solely to approve the rate increase.

Q.93 - But at that time, or prior to that meeting was there any updated financial information after the announcement of the UPM-Kymmene plant provided to the board of directors?

MR. GOOD: No, there was not.

Q.94 - How long does it take to complete a run of PROMOD?

MR. GOOD: Normally several days by the time you get all of your inputs, put them through and then check the output to make sure that it is accurate.

Q.95 - What do you mean by "several days"?

MR. GOOD: I would say depending on the number of variables

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2 that are being updated, could be anywhere from two to three
3 days to as much as a week.

4 Q.96 - And I understand that when the PROMOD run C was
5 performed, some of the inputs were modified or changed
6 from past practice, is that correct?

7 MR. GOOD: I believe that the only change from previous
8 input methodologies if you will would have been the
9 inclusion of purchase power in the forecasted fuel and
10 purchase power price.

11 Q.97 - And if I understand correctly the decision was made by
12 management to include the cost of unpurchased fuel as an
13 input to PROMOD?

14 MR. GOOD: You mean unpurchased power? Yes, that is
15 correct.

16 Q.98 - And that decision required the review of management?

17 MR. GOOD: Yes, it did, simply because it was a change from
18 past practice.

19 Q.99 - And by including that input as unpurchased power, is it
20 fair to say that essentially you are taking a risk that
21 that power will be available at the cost that you have
22 budgeted for?

23 MR. GOOD: Yes, that is correct.

24 Q.100 - And you would agree that that would be a variance from
25 the mechanistic hedging approach that has been used in

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2 previous years?

3 MR. GOOD: Only in the sense that we have never typically
4 hedged this quantity of purchases before.

5 Q.101 - I'm not sure what you mean by that?

6 MR. GOOD: I guess because this PROMOD run was forecasting
7 such a significant volume of purchases, not all of them
8 were locked in at the time that the PROMOD run was done.
9 At that point though our energy marketing department did
10 start to go out and lock in as many of those purchases as
11 they could, in essence to hedge those prices as best as
12 they could.

13 Q.102 - Have they all been locked in at this stage?

14 MR. GOOD: No, they have not.

15 Q.103 - So again there is a risk that the fuel you have
16 budgeted for now will not be available or the power you
17 have budgeted for will not be available at the cost that
18 you have put into your actual budget?

19 MR. GOOD: Yes. That is correct. And in fact that is what
20 our forecast would indicate now, that purchase power
21 prices would be higher than what we had estimated at the
22 time the budget was approved.

23 Q.104 - Who bears the risk associated with having taken that
24 approach?

25 MR. GOOD: Under the current construct of the PPA's, Genco

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2 would bear that risk.

3 Q.105 - And assuming -- in the event that there is a negative
4 outcome associated with that risk, does that then flow
5 through to the shareholder as a result?

6 MR. GOOD: That is correct.

7 Q.106 - Has the shareholder been made aware of the risk
8 associated with having that input with your PROMOD run?

9 MR. GOOD: I don't know if there were discussions
10 specifically around it. But I certainly know that that is
11 contained in our business plan. And that business plan
12 was reviewed by EFC. So they are aware of it from that
13 point of view.

14 Q.107 - So what caused the run to occur on December 2nd? Why
15 was the decision made to have run C actually take place?

16 MR. GOOD: First of all there was the change in load because
17 of Bowaters. I mean, that would have a significant
18 impact. As well the spread between heavy fuel oil and
19 natural gas, the relative cost of those two fuels had
20 widened.

21 And so we realized that there were significant
22 opportunities to reduce total costs by purchasing rather
23 than planning to an internal generation.

24 In addition, just generally, fuel prices has increased.

25 And we wanted to reflect that in our budgeted

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fuel and purchase power costs for the year.

Q.108 - And the result of run C was such that the purchase power that ultimately would be paid by DISCO was less than by run B, is that correct?

MR. GOOD: In the sense that the volume of energy, because of the reduced load, would have been decreased.

Q.109 - But the ultimate cost was less than if you had used the run B data, is that correct?

MR. GOOD: We did not change the vesting energy price. That remained as it was set for October 1st. But that vesting energy price was applied against a reduced volume of energy due to the closure of the Bowater facility. So yes, the cost of purchase power was less.

Q.110 - And what if any specific authorization was available to permit the inclusion of the December 2nd data as opposed to the September 27th data?

MR. GOOD: I'm sorry Could you rephrase your question?

Q.111 - Well, as I understand what you have indicated, is that there is two runs, run B and run C. Run C was the information used for the December 12th budget.

What specific authorization exists to allow the inclusion of the December 2nd run C PROMOD run or outputs in the budget as opposed to the data and outputs that would have been used in previous years, run B?

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MR. GOOD: There is no -- there is nothing that would prohibit that. And in fact you would call that best practice, right, basing your budget on your most current information.

The only thing in the PPA's that would speak to this would be the setting of the vesting energy price. And in that regard we were consistent with the PPA's in that we did not change the price from when it was set for October 1st.

Q.112 - In term of best practice, would you agree that it is best practice to provide your boards of directors with the best available information, including the recent announcement of the UPM-Kymmene plant?

MR. GOOD: Well, I think that best practice would say that you should include not just one piece of information in isolation but all changes and variables that you know about.

Q.113 - And I'm sure that is a good point. Because, Mr. Good, I believe that there were a number of changes that occurred between the December 12th budget and the February 28th decision to increase rates. And maybe perhaps we can just identify what some of those changes were. Would you agree that there had been changes to the legislation between that period of time, and in particular the Point

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Lepreau refurbishment defer account, that legislation was enacted?

MS. CLARK: That's correct.

Q.114 - And more recent financial information would have been available between that period of time, December 2nd and then December 12th and again on February 28th?

MS. CLARK: That's correct. And when we put our budgets together we start in July, August putting our budgets together. We go to the Board with preliminary information in September. We go again in December for final approval of the budget. And there are many, many things that change it. And what they approve is the best estimate we have at that point in time. There are certain things that happen between the period the budget is approved and the next time we meet with the boards of directors. And that's when we do our forecasting. We provide them with periodic updates on any changes to our budget assumptions.

Q.115 - Would it be fair to say that there was also a revised load forecast that had been made available, or at least had been filed with the system operator before that meeting on February 28th?

MR. GOOD: Yes. That revised load forecast was filed the end of January.

Q.116 - And you would agree the boards of directors obviously

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need the best information upon which they can make their decision?

MR. GOOD: That's correct. Now one thing that I should point out is that I believe it's fair to say that all the changes that we knew about by the February 28th board meeting were actually negative impacts to NB Power's revenues.

Q.117 - But would that not still then require you to share that information with the Boards of directors, whether it was negative or positive?

MR. GOOD: I believe that at the February board meeting they did discuss some of the other changes that were negatively impacting results, or forecasted results for 08/09.

Q.118 - Which changes are you referring to that were discussed?

MR. GOOD: I believe they were notified about increased fuel costs as a result of one of our fuel suppliers backing out of a coal contract, and I believe they also were apprised of the increase in purchased power prices. Yes. And I believe they were also made aware of the change in load due to the closure of UPM.

Q.119 - Mr. Good, you keep using the word I believe. What are you referring to when you say I believe? Is this your personal experience or -- you weren't at the meeting I

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2 guess.

3 MR. GOOD: I wasn't at the meeting. I'm just going by my
4 best recollection and I believe that I heard that those
5 things were discussed.

6 Q.120 - You heard from whom?

7 MR. GOOD: I can't even remember that, to be honest. I just
8 have a recollection that they were, that they were
9 discussed.

10 Q.121 - Is there somebody available from NB Power or from
11 DISCO that could provide with certainty that information?

12 MS. CLARK: I also am under the impression or believe that
13 those items were discussed at the board meeting, but the
14 question I guess is you are asking whether or not the
15 board of directors are provided with updated information.

16 We could daily be providing our boards of directors with
17 updated information. We -- every board meeting that we go
18 to we provide them with an updated forecast of where
19 things are. And any events known up to the time the Board
20 approves the budget would have been provided to the board
21 of directors in a verbal update or in some form, and they
22 would -- they didn't make any changes.

23 If there had been something substantial that was changing
24 costs in one direction or another they may have asked us
25 to go back and make changes, and they didn't, at

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the December 12th meeting, they approved the budget as it was presented.

Q.122 - I appreciate that, you know, there are daily changes that impact on your results, but would you agree that there were a number of significant events that took place between December 2nd and then December 12th, and then February 28th?

I have a list of them. The UPM closure, the decision of the EUB was issued, the third quarter financial information could have been available, legislation was enacted. How much of that was presented to the Board recognizing significant changes had occurred upon which they could make an educated informed decision? That's my question.

MS. CLARK: I guess as Mr. Good said, those -- the net impact of those changes were a negative impact on NB Power's net earnings, and the board would have been apprised of those changes. And it moved forward with its approval of the DISCO budget as presented.

Q.123 - Perhaps we could talk about the deferral account, the Point Lepreau Generating Station refurbishment deferral account. And as I understand from your package of information, and again from this morning you provided a document that identified \$226,000,000 would essentially be

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deferred. And were those costs included in the December 12th budget?

MS. CLARK: Yes, they were.

Q.124 - And to your knowledge, Ms. Clark, the legislation creating the deferral account was -- do you have any idea when that actually was enacted?

MS. CLARK: I believe it was some time in January. I do know it wasn't enacted at the time we put the budget forward to the boards of directors in December.

Q.125 - You indicated earlier this morning that DISCO does have plans to apply for approval of the deferral account. Can you provide a time line of when that may occur?

MS. CLARK: We are working on that now at NB Power. I don't have a time line. We are still working on the methodology and we have a regulatory consultant. We do intend to have discussions with Board staff in the very near future to talk about the timing of a hearing.

Q.126 - Is there any part of that approval which might impact on the rate increase that is being investigated as we speak?

MS. CLARK: At this point in time the methodology is still under review and I don't anticipate any significant changes, but we haven't worked through the methodology enough yet to know if there would be any changes to what

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we are estimating.

Q.127 - Do you have the legislation in front of you, and in particular section 143.1? I'm just going to make a couple of references to that, so if you could pull it out, that would be great?

MS. CLARK: I don't have a copy of that.

Q.128 - Perhaps your counsel may have that available.

MS. CLARK: Actually I do have one. Mr. Good had one.

Q.129 - So as I read that provision 143.1 the legislation requires Nuclearco and Genco to file monthly invoices to DISCO. Could you confirm essentially if those invoices have been forthcoming?

MS. CLARK: Based on the estimated costs and the methodology we are using right now, those invoices are moving between companies.

Q.130 - And when did the actual refurbishment begin?

MS. CLARK: I believe it was March 28th.

Q.131 - The total dollar value of those invoices today?

MS. CLARK: I don't have that information. There were a few days in March and then there would be the April and the May billing would not be done. So it would be whatever happened in April of 2008.

Q.132 - Perhaps you could confirm how that compares, I guess the actual invoices to date, to the budget and the

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estimates that were prepared? Is there an agreement there?

MS. CLARK: The largest portion of the cost of the Nuclearco non-fuel are period costs, and those would be very consistent with what we had budgeted. The variances would be much smaller, if any, in the incremental thermal and incremental purchase costs.

Q.133 - Have there been any changes in the projected total cost for the project that have been identified, and if so, are they going to impact on the test year, or the 08/09 year?

MS. CLARK: The estimate for the project, as I understand it, hasn't changed, and that would be part of the capital costs of the project.

Q.134 - Just referring again then to 143.1 of the Electricity Act, and it's under sub 2. That section indicates that additions to the deferral account would be offset by any revenues. What revenues are included or will be used to offset the additions to the deferral account?

MR. GOOD: Nuclearco has a participation agreement with another utility, and receives revenue from that utility for a portion of the station's OM&A amortization, capital costs.

Q.135 - And again since the project began -- and maybe you

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2 can't answer this -- but have those revenues been agreeing
3 with the budget?

4 MR. GOOD: I believe in substance, yes. I don't know if
5 they varied by very much at all. I would expect they
6 would be very much in line with the budget.

7 MS. DESMOND: Mr. Chair, I just have a few more questions.
8 I should be able to finish in about ten minutes. If I can
9 just perhaps finish and then I don't know if the Panel
10 intends to have a lunch break or --

11 CHAIRMAN: Well if you only have ten or 15 minutes to go we
12 are certainly not going to break at this time.

13 Q.136 - I guess you could turn to your hand-out, documents
14 number 7 and 8. And columns 1 and 3, or bars 1 and 3,
15 there is a reference there to estimates. And I'm
16 wondering what those estimates are? Are they based of 12
17 months of forecasts or is it a combination of forecasts
18 and actuals?

19 MS. CLARK: They are consistent with the information in our
20 information package. So that would be the five months of
21 actuals and the seven months of forecast information.

22 Q.137 - Just another question with respect to your response to
23 NB EUB IR-11, and it's document 4. NB EUB number 11. And
24 in that at page 16 of that response -- that's not it.
25 Sorry. Page 15, the last paragraph, line 1 and 2. There

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2 is a reference to the PPAs being inconsistent with the view of
3 self-sustaining and breakeven. Could you clarify what
4 that means? What do you mean when you say that they are
5 inconsistent with the view of self-sustaining and
6 breakeven? Is breakeven intended to be the same as self-
7 sustaining, or does it have a different meaning? What
8 exactly does that imply?

9 MS. CLARK: In response to a CME question, I believe it was
10 question number 5, we defined breakeven in the context of
11 NB Power, and one of the concepts or one of the items that
12 we talked about was allowing NB Power to be able to
13 service all of its debt obligations, make payments on
14 interest and repayments of outstanding debt, and slowly
15 build an equity cushion.

16 And what we mean by self-sufficiency or self-sustaining is
17 being able to at some point in time have a reasonable
18 level of retained earnings, and that was discussed in the
19 last hearing with our expert, independent expert, Cathy
20 McShane, who talked about over the longer term moving
21 towards 1.7 to five times interest coverage.

22 Q.138 - I appreciate all that. I guess -- and I understand
23 that that was what has been said in the past, but do you
24 intend self-sustaining and breakeven to mean the same
25 thing? Is that -- do they have the same meaning to you in

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2 that response?

3 MS. CLARK: One of the concepts of breakeven includes self-
4 sufficiency. It also includes ensuring that we have
5 enough net earnings so that we can buffer any variability
6 in our operating earnings which can run plus or minus
7 \$50,000,000. So the self-sufficiency piece is included as
8 a component of breakeven.

9 And the point we are making in question 11 is that if the
10 NB Power board looked at DISCO -- NB Power boards DISCO
11 board of directors looked at DISCO alone, we would never -
12 - they would have never approved that DISCO in isolation
13 because DISCO is incurring a loss of \$16,000,000 in that
14 year. So we are definitely not moving towards the path of
15 either breakeven or the self sufficiency that we had
16 planned.

17 Q.139 - With that same response, at page 16, there is -- under
18 line 7 and then in line 8 there is an entry for special
19 payments in lieu of income tax, and then a net earning
20 entry. If you were to exclude lines 7 and 8, what would
21 the amount of the revenue shortfall have been in that
22 calculation?

23 MS. CLARK: I think it's just a little more complicated than
24 straight math and we might need to do the calculation.

25 Q.140 - Perhaps over the lunch break maybe you could do that

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2 calculation and just provide us with the response. And it can
3 be just a rough estimate if you don't have the supporting
4 material here.

5 CHAIRMAN: Is the calculation sufficiently simple enough
6 though to do over the lunch break?

7 MS. CLARK: Certainly, it is. We just don't have a
8 calculator here and we need to look at the tax impact.

9 CHAIRMAN: I'm sure somebody could get you a calculator.
10 Perhaps we will get it after lunch then.

11 Q.141 - And perhaps just as a follow-up to that again, I think
12 this -- at least it would be my understanding that this
13 could be done over your lunch break, but if you adjusted
14 the forecast revenue at line 9 to reflect the decision of
15 the EUB in February, so that the increase was 5.9, not
16 6.4, would that reduce the revenue requirement and by how
17 much? So again if you maybe could do that calculation? I
18 don't know if that was clear, that question?

19 MS. CLARK: I'm not sure, because that particular issue
20 alone would have increased the revenue requirement as
21 opposed to decreasing.

22 Q.142 - Sorry. That's correct. Are you able to do that
23 calculation over the --

24 MS. CLARK: I think we are.

25 Q.143 - On page 15, again question 11. In your response to

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that particular IR you indicate that the tables are of limited usefulness. What do you mean by limited usefulness?

MS. CLARK: Again it gets back to the point that it was not information that the boards of directors used in making their decision. And again if you looked at the DISCO information alone, on a stand-alone basis, you would see that there was a loss of of \$16.3 million. So even with the PPA changes that were made in 08/09, DISCO still has a loss of \$16,000,000.

Q.144 - If DISCO were to apply for an increase of five or six percent would the PPAs then meet the view of self-sustaining or break even?

MS. CLARK: It's not necessarily the PPAs. It's the net earnings of the group. And self-sufficiency has a longer term agenda and we are looking at over a ten year period of moving to interest coverage of 1.75 times. So in 08/09, no, we couldn't declare self-sufficiency, but over the longer term we are moving towards interest coverage of 1.75 times.

MS. DESMOND: If I could just have a moment, Mr. Chair, I will just verify that we don't have a lot of other questions here.

CHAIRMAN: Certainly.

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2 Q.145 - Just one other question. I think when the Panel
3 started they identified two primary reasons for the three
4 percent increase, one of which was the reduction in the
5 out-of-province export credit, and if I understand it
6 correctly from the PPAs, would that not have a larger
7 impact on Genco than it would on DISCO?

8 MR. GOOD: No. The way that the Genco PPA is designed is
9 that really most of the benefits of Genco's export gross
10 margins actually flow through to DISCO, and because of the
11 outage those reduced export gross margins directly impact
12 DISCO. You can see that -- if you flip to page 19 in that
13 same question, EUB question 11, page 19, on line 6 you
14 will see export benefit of 19.4 million dollars for 08/09.

15 The comparable number you will see in 06/07 was 69.4, and
16 I believe 07/08 it was very comparable to that as well,
17 \$69,000,000. So it is a direct impact to DISCO via the
18 PPA.

19 MS. DESMOND: Those are all of our questions. Thank you.

20 CHAIRMAN: Thank you, Ms. Desmond. I guess before we break
21 for lunch there is the issue of transcript. Normally we
22 only go to three or 3:30 in order to have a transcript
23 available the next day. It was really our intention today
24 to go a little bit longer, 4:15, maybe 4:30. Does anybody
25 have any difficulty with that? Is anybody relying on an

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early transcript?

MR. MORRISON: No. I think we would be happy to continue as long as we can today, Mr. Chairman. I understand in all likelihood we will be back tomorrow in any event, but no, I would say let's push on.

CHAIRMAN: And we had not covered that with our court reporter. Can I assume that you are available until the latter part of the day. Apparently that's not a problem. Well it's about 25 after 12:00. So we will take an hour for lunch and be back at 25 after 1:00.

(Recess - 12:25 p.m. - 1:25 p.m.)

CHAIRMAN: During the break did the panel get an opportunity to work out the calculations that were being discussed?

MS. LEAMAN: Yes, we did. With respect to the first question, to restate the revenue requirement, excluding special payments in lieu of income taxes and net earnings, that number would be based on a hypothetical situation specifically in a revenue requirement you would include those two factors.

So restating those numbers in that context would represent lines 1 to 6 on that table A, and that would equate to \$1368.3 million. And with respect to the second question, to restate the forecasted revenue using the EUB 5.9 percent, would result in a revision to line number 9

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2 to 1301.1 million. So that would be a reduction of \$5.7

3 million. So the total revenue shortfall would become 67.2

4 million, and if you were to look at that from a rate

5 increase perspective it would require 5.5 million dollar

6 increase -- 5.5 percent -- sorry.

7 CHAIRMAN: Ms. Desmond, any questions with respect to that

8 information.

9 MS. DESMOND: No. Thank you. That was what we were looking

10 for. Thank you.

11 CHAIRMAN: Does that conclude your questions?

12 MS. DESMOND: Yes, it does. Thank you.

13 CHAIRMAN: Thank you. The first participant then on today's

14 list is the Canadian Federation of Independent Business.

15 They weren't here this morning. I don't know if they are

16 here now or not. Do you wish to ask any questions of this

17 panel.

18 MS. BOURGEOIS: No, not today.

19 CHAIRMAN: Thank you. Perhaps for the record I could have

20 your name?

21 MS. BOURGEOIS: Andrea Bourgeois.

22 CHAIRMAN: Thank you. Canadian Manufacturers and Exporters?

23 Any time you are ready, Mr. Plante.

24 CROSS EXAMINATION BY MR. PLANTE:

25 Q.146 - Yes. Good afternoon, Mr. Chairman, Commissioners.

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It's good to see you again. My line of questioning will focus on three areas this afternoon. I will be referencing the documents that are -- the material that was released April 30th, information package, in reference in support of the three percent rate increase. As well there is a document that was released March 31 which is background. It's volume 1. It was material in support of the three percent rate proposal dated 31 March 2008. I just have one question to that. And as well I will be referencing the response to the questions that we had raised as well. And I shall be quite brief.

Firstly, with regard to fuel and purchase power costs. NB Power's evidence, that's the 30 April document, shows that NB Power's fuel and purchased power costs have risen from 462,000,000 in 2006/2007 to 523,000,000 in 2007/2008 to the projected 759,000,000 in 2008/2009.

When the proposed 9.6 percent rate increase was announced in April 2007, and that's referenced in a GNB release of 19 April of that month, and I don't have those particular documents with me but I can endeavour to send those on to the Board staff.

CHAIRMAN: Only if you feel it's necessary. I think for purposes of the question if there is any issue about the source of that it may be a problem, but let's just

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2 continue and see.

3 Q.147 - Certainly. It was stated in that release that fuel

4 and purchase power costs had risen from 497 to

5 \$709,000,000. Would it be correct to assume that the

6 709,000,000 figure that was quoted in the April 2007

7 release refers to the projected fuel and purchased power

8 costs for 2007/2008?

9 MR. GOOD: I'm sorry. Could you just clarify what document

10 you are referring to?

11 Q.148 - I'm referring to the Government of New Brunswick's

12 release in April 2007 that supported the rate proposal for

13 2007/2008. And these questions are going to tie into what

14 the projected figure is for this year.

15 MR. GOOD: Just for clarification, are you referring to the

16 evidence that we filed during the last rate hearing?

17 Q.149 - No. I'm referring actually to the announcement that

18 was made in Fredericton for the 9.6 percent increase for

19 2007/2008, and it was followed up by a Communications New

20 Brunswick release, and it quoted that fuel prices had

21 risen to \$709,000,000, and that was the reason for the

22 nearly double digit rate increase that was being proposed

23 for that year?

24 MR. GOOD: 07/08. I'm sorry. I can't quite get my head

25 around what press release you are talking about. But I'm

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2 assuming if it is referring to 07/08 it is kind of comparable.

3 Q.150 - It would be referring obviously to that year.

4 MR. GOOD: Yes. The difference being that, depending on the
5 timing, it might have been talking about forecasted costs
6 before the year began, and the numbers that are in the
7 column here are as part way through the year -- reflected
8 part way through the year. So there may be some
9 differences for that.

10 Q.151 - 2007/2008 --

11 A. Correct.

12 Q.152 - -- the figures that are in the evidence would actually
13 be not actuals but they would be projected with --

14 MR. GOOD: They would be projected and they would be updated
15 projections as of part way through the year.

16 Q.153 - I guess my question is that how do we reconcile the
17 difference between \$709,000,000 that was projected when
18 the last rate increase was being proposed, the double
19 digit rate increase that we just had the hearing on, and
20 the \$523,000,000 that's in our evidence today. It's a
21 significant difference.

22 MR. GOOD: Yes. I'm sorry, but without the reference in
23 front of me I just really can't do a complete comparison
24 to it, because it may be talking about DISCO's fuel and

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purchased power cost, it may be talking about total NB Power fuel and purchased power costs. The number that you referring to here for today's evidence is talking just about NB Power's in-province purchase fuel and purchase power costs. So I'm just kind of struggling trying to line the two figures up.

Q.154 - Yes. I would just assume that because of the order of magnitude of the figures we are not talking about DISCO, we are talking about NB Power, I remember that was a statement that was made.

MR. GOOD: Right. I'm assuming if they are that high then it probably is total fuel power cost as opposed to just the in-province figure that you are referencing here.

Q.155 - Well I guess when I looked at those figures that led me to question with regard to if we are seeing a projected \$759,000,000 total fuel and purchased power cost for the year coming up, is it possible that those estimated costs for 2008/2009 might be similarly overestimated?

MR. GOOD: It is possible that they may be overestimated. It's equally or perhaps a greater possibility that they are underestimated.

Q.156 - Okay. The order of magnitude is just so large, it jumps right off the page at you. Okay. So that was a question that I had primarily in response to our question

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with regard to the fuel and purchased power costs. I would like to move on now to the question with regard to efficiencies within the organization.

You know, given the challenging international market place productivity really is top of the line for the manufacturing sector, and productivity is generally defined as GDT per hour worked. It's more colloquially know as output per unit hour. Does NB Power maintain any such metrics to track its productivity?

MR. GOOD: I don't believe that we do have those metrics, no.

Q.157 - NB Power introduced its business excellence program in 2004 and that time reported \$40,000,000 in costs savings largely through a ten percent reduction in the utility's work force. I'm also familiar with the balance scorecard initiative that has been undertaken by NB Power as well, and that's of course to ensure that its corporate and corporate activities are in line with its overall objectives. It's a management strategy tool. Since 2004 has NB Power undertaken any other initiatives to improve its efficiencies?

MS. CLARK: You are correct. In 2004 there was a business excellence program, we had a staff reduction and a number of other cost reductions were initiated. We have been

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able to sustain those cost reductions and as we go through our planning process each year we look at the impact of safety, reliability and customer service, and build efficiencies into our process, always looking at the balance between the items we need to do and the risk of not doing them or deferring them to future periods. So yes, we are continuing to look at certain costs reductions, and in 08/09 specifically we have got the Point Lepreau refurbishment outage period. So if you look at the generation fleet in particular, on a per kilowatt hour basis there are productivity improvements built in there because we are using the fleet with improved capacity factors in this period to sustain the level of manpower for the most part on the generation side. DISCO has some cost reductions built into their OM&A budgets in the 08/09 period as well.

Q.158 - Thank you. And the energy action plan which was released on March 27, 2007, required NB Power to find an additional \$20,000,000 in cost savings. Of course a new election was subsequently -- a new government was subsequently elected. Has any action been taken on that initiative?

MS. CLARK: Again I can't give you specifics, but I can tell you in our planning process each year we are looking at

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opportunities to reduce costs, opportunities to improve safety, reliability and customer service, and balancing that with an acceptable level of risk. But I don't have any specifics on that particular item.

Q.159 - I guess then I am to assume there has been no targeted cost savings in the order of the \$20,000,000 that was identified in the energy action plan.

MS. CLARK: That's correct.

Q.160 - And so there wouldn't have been any actions taken from the time that it was announced to the time there was the formation of the new government, the six months in between as well, so --

MS. CLARK: None that I am aware of, but like I said, there are always cost reduction exercises ongoing and cost maintenance ongoing at the utility on a regular basis.

Q.161 - In terms of improving efficiencies, I will focus on OM&A as that's the aspect of NB Power's costs that are clearly under its control. As well I will focus on labour as the largest component of OM&A. In this regard I am intrigued in the comment in DISCO's response to CME question number 4, and it states that NB Power's labour costs have increased -- haven't increased, I'm sorry -- but have actually declined by \$3,000,000.

Is it accurate to state the calculation of the

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2 \$3,000,000 reduction was based on the offset of 18,000,000 in
3 labour charge to capital due to Point Lepreau
4 refurbishment versus a \$15,000,000 increase in labour
5 costs?

6 MS. CLARK: In that context you are absolutely correct. We
7 did need additional manpower during the Point Lepreau
8 refurbishment outage and those additional people are being
9 charged to the capital project for that refurbishment
10 exercise.

11 Q.162 - What was the rationale for capitalizing more costs
12 than were actually incurred?

13 MS. CLARK: I guess it is a bit confusing, and it isn't that
14 we are allocating more to capital than we are incurring.
15 It's not incremental costs. There are some employees
16 charging to capital for other reasons, for other projects,
17 and it wasn't the total 15 as well. So it was actually --
18 the new positions were 8,000,000, there was \$7,000,000 in
19 union and non-union labour increases, as we explained in
20 the response to that IR. So the 18,000,000 being charged
21 to capital is for the Point Lepreau refurbishment as well
22 as other labour costs.

23 Q.163 - Okay. So the statement that there has been a
24 \$3,000,000 decline in OM&A costs or labour costs, is that
25 accurate?

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MS. CLARK: Oh, it's certainly still accurate. On a net basis we had increased labour costs by 15,000,000 but we are charging out \$18,000,000 to the capital program. So in our OM&A in 08/09 the labour costs are actually down \$3,000,000.

Q.164 - Just one second, please. Well I will leave that question. I was trying to find the specific table that referred to the actual labour costs, and if I remember correctly they had actually increased over the year. I'm sorry. They have declined.

The evidence also states that there was an \$11,000,000 increase in the cost of hired services and labour related primarily to regular maintenance during the refurbishment.

This is on page 19 of the April 30 document. I had understood that NB Power had undertaken an extensive maintenance program prior to the outage. Why would what is quoted as regular maintenance costs increase so significantly in this year now that the refurbishment is underway and the preparatory maintenance programs on the other plants would have, to my understanding, have been completed?

MS. CLARK: The preparatory maintenance that you are speaking about would have been in relation to the generation plants in 07/08. In 08/09 the maintenance that

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we are referring to, the \$11,000,000 in hired services and materials, is specifically related to the Point Lepreau generating station. There is ongoing maintenance going on in 08/09 related to some of the non-reactor components of the generating station, just some areas that we couldn't get to under normal operating conditions. With the reactor out of service we were able to get to those particular areas, and they would be considered normal maintenance in the year.

Q.165 - So the descriptor that an \$11,000,000 increase -- and I'm reading from the document -- an \$11,000,000 increase in hard services and materials expenses related primarily to regular maintenance during the Point Lepreau refurbishment outage. Those are for the other generating plants?

MS. CLARK: No. I'm sorry. In 07/08 the increased maintenance that you were speaking about would have been related to the other generating plants, the thermal plants in particular. And in '08 or '09, as the evidence says, it is specifically related to the Point Lepreau Generating Station and as I said it's related to the areas of the plant that would be considered normal maintenance in a year. So it is specifically related to PLGS.

Q.166 - Okay. I'm just trying to get my mind wrapped around

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2 this. I'm assuming that there is no regular maintenance that
3 is ongoing at Point Lepreau right now?

4 MS. CLARK: Absolutely there is. There is 70 percent of our
5 systems are still running. They are working on the
6 reactor, and while the reactor is being worked on that is
7 being capitalized. But there is still regular ongoing
8 maintenance for particular areas of the plant that just
9 aren't accessible when the reactor is in service. And
10 those are typical period expensable costs in the year that
11 are being deferred.

12 Q.167 - So this increase of \$11,000,000 is actually related to
13 the Point Lepreau refurbishment?

14 MS. CLARK: Yes, it is.

15 Q.168 - So it's not regular maintenance. So I'm assuming that
16 that \$11,000,000 is being capitalized as well?

17 MS. CLARK: It's not being capitalized. There are capital
18 components of the plant. There are specific life
19 extensions which relate to the reactor, which is
20 considered the Point Lepreau refurbishment capital
21 project. In addition to that, there are ongoing
22 maintenance costs. As I said, there are about 70 percent
23 of the system still running in the plant. And those are
24 normal -- period normal year costs that would be expensed,
25 and those expenses, the 178,000,000 that I had in hand-out

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number 2, show the costs that are going to be deferred, normally would be expensed but the legislation allows us to defer those costs and be collected in rates over a future period.

Q.169 - I don't want to beat this one to death, but I'm still trying to get my mind wrapped around -- there is actually higher maintenance costs now at Point Lepreau than there was last year when it was running?

MS. CLARK: Absolutely there are. And that is because we are able to get to particular areas of the plant we couldn't normally get to, and we have a defined time period in which to get to them.

Q.170 - Thank you. As noted previously, the business excellence program targeted a ten percent reduction in work force. A Communications New Brunswick release, and again it was dated 21 February 2005, stated this was largely completed as of the end of March 2005, with the elimination of 278 positions largely through early retirement.

The table in DISCO's response to CME question number 4 shows that NB Power staffing has increased from 2519 in 2006/2007, to 2646 in 2007/2008, and 2728 for this year coming up, or this year that we are in right now actually, 2008/2009. Is it accurate that the 2009 staff person

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increase, or FTEs perhaps it is, is due to the Point Lepreau refurbishment?

MS. CLARK: I believe the majority of the increases are related to that. So what you see in 07/08 is a year-end number and we would have been increasing our staffing in the 07/08 period in anticipation of the 08/09 outage. So what you are seeing in 07/08 is an increase in staff related to the Point Lepreau Generating Station refurbishment outage as well as the increase in 08/09.

Q.171 - And the response also states that an additional \$8,000,000 in labour costs for next year are due to the refurbishment. So would this \$8,000,000 be directly attributed to the additional 82 positions for 2008/2009?

MS. CLARK: Are you referring to the response to your question, CME?

Q.172 - Yes.

MS. CLARK: That 8,000,000 is related to -- it's breaking down the 15,000,000. So it's the \$15,000,000 increase in labour broken out by 8,000,000 in the new positions which primarily support the Point Lepreau refurbishment outage and the \$7,000,000 for union/non-union increase.

Q.173 - New positions to support the Point Lepreau refurbishment outage. Okay. So would it be accurate then, subject to check, that the average cost for each of

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2 these new positions is approximately \$97,000? That's
3 \$8,000,000 divided by the 82 positions.

4 MS. CLARK: That seems a bit high to me, but subject to
5 check --

6 Q.174 - I don't have a calculator on me either.

7 MS. CLARK: -- we can -- and the other thing is it's mostly
8 new positions for those particular areas. But that number
9 does seem a bit high.

10 Q.175 - 8,000,000 divided by 80 is approximately 100 grand.

11 So will these -- I'm sorry --

12 MS. CLARK: As Mr. Good just reminded me, it also includes a
13 benefit mark-up and would include some overtime as well as
14 some highly skilled labour that would be very expensive in
15 the marketplace.

16 Q.176 - So will these positions be eliminated when the
17 refurbishment is complete?

18 MS. CLARK: I expect some of them would no longer be
19 required but I don't know -- I really don't know what the
20 plan is post-refurbishment for those positions.

21 Q.177 - I guess what I'm trying to get my mind wrapped around,
22 when the business excellence program was announced and the
23 initiatives were taken which were completed in March 2005,
24 staffing levels in NB Power were in the order of 2500, and
25 we have seen them go up to over 2700, and the explanation

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2 that has been given to customers is the fact that this is

3 largely due to the Point Lepreau refurbishment. And I

4 guess it would be the customer's expectation when that

5 project was completed that staffing levels would go back

6 to the normal 2500 or perhaps less as productivity

7 efficiencies are improved.

8 MS. CLARK: I can't speak to the specific staffing plan for

9 Lepreau post-refurbishment, but I do know that the

10 positions that were eliminated in 2004 are not being

11 replaced. So as new needs come up there may be new

12 requirements for new positions, but we are very serious

13 about keeping the complement as low as possible, and new

14 positions are scrutinized by the VPs and the VP of human

15 resources before any decisions are made on staffing.

16 Q.178 - Thank you. The response also states that a \$7,000,000

17 increase in costs next year is due to union and non-union

18 labour increases. The evidence, again the April 30th

19 document, shows that the gross labour for 2007/2008 was

20 \$246,000,000. Would it be accurate to estimate then the

21 increase in labour costs is 2.8 percent? That's basically

22 seven divided by 246?

23 MS. CLARK: Yes. I think that's in the ballpark.

24 Q.179 - Do you use any comparators with regard to perhaps

25 other utilities, the provincial government or perhaps the

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industrial sector as far as how the labour costs stack up?

MS. CLARK: Yes. We use all of those as references or benchmarks. We use the Hay Survey as well and then the Atlantic marketplace -- we have a survey that we use there as well to ensure that our rates -- our labour rates are comparable.

Q.180 - I appreciate getting just that background information.

It may very well be in the volumes of document, I just haven't been able to find it. So if it's possible we would be interested in getting a copy of what the comparators are, how NB Power stacks up against other utilities and against those other --

- MS. CLARK: That isn't in the evidence that we provided. Our HR group stays in the loop with other utilities as well as the marketplace on that, and I don't know if we have anything documented on that. I know that's part of the overall role that our HR department plays, factors into all the union negotiations that take place and factors into the non-union increases that are assumed, but I don't know what specific documentation we would have that would show comparators.

Q.181 - Would it be possible for stakeholders to get a copy of that, or of whatever does exist?

MR. MORRISON: I don't know whether it's possible, I'm sure

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2 it probably is. I don't know whether it would be possible to
3 provide it before the end of the day tomorrow though.

4 CHAIRMAN: And quite frankly, I was going to interrupt here
5 and ask whether or not this was a request that you felt
6 this information would be critical for this Board to write
7 its report, or whether or not it's just information going
8 forward that you would like to have and perhaps you may
9 have an ongoing dialogue with the NB Power group of
10 companies with respect to that request.

11 MR. PLANTE: I think the latter is true, Mr. Chairman. It's
12 one of the metrics that we would typically track.

13 CHAIRMAN: But you are not asking them to undertake to
14 provide anything of that nature for purposes of this
15 inquiry, this investigation?

16 MR. PLANTE: Not within this time frame, sir.

17 CHAIRMAN: Okay.

18 Q.182 - Now I move on to a set of questions related to rate
19 setting. The evidence on page 5 shows that NB Power is
20 projected to earn \$69,000,000 next year after recording
21 profits of \$107,000,000 the previous two years. They have
22 been publicly stated and reiterated in the last hearings
23 NB Power had been instructed in 2007 to breakeven.
24 DISCO's response to CME's question number 5 states that
25 breakeven means that NB Power must not operate in the red,

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2 and I'm paraphrasing here, and NB Power -- and it's also
3 stated in response to our question that NB Power's
4 earnings can swing by as much as \$100,000,000 during the
5 course of a year. What would account for this type of
6 volatility?

7 MS. CLARK: The two things that I can think of right off the
8 top of my head that could impact any year would be weather
9 and hydro generation has a huge impact, and then if you
10 look at 08/09 a flooding situation like we had just a few
11 weeks ago has significant cost impacts on the utility.

12 Q.183 - And that's largely an abnormal event. We don't
13 typically see that flood occur, or those types of events
14 occur every year?

15 MS. CLARK: That's correct. That particular item, the
16 flooding, is, but variances in our hydro happen quite
17 often. In fact the last few years we have seen above
18 average hydro overall but previous years before that we
19 have had significantly lower than average hydro. And
20 weather the same thing, it can swing either way.

21 Q.184 - So in terms of managing risk then, really the primary
22 concern that NB Power would have would largely be due to
23 the water flows through Mactaquac.

24 MS. CLARK: Those are the two that can have significant
25 impacts that I can recall off top of my head, but if I

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2 could take you to Appendix F, we have got quite a bit of
3 information there on things that impact the variability in
4 our earnings. And if you go to page 2 and 3 and go
5 through that list, there is nuclear performance, there is
6 generation performance, there is weather, there is hydro
7 generation, there is out-of-province sales, there is
8 market prices. There are number of things that can impact
9 our performance in any year.

10 Q.185 - Now as with any producer you have to deal with a lot
11 of those factors and I do appreciate that. I am just
12 trying to get my mind wrapped around the hundred million
13 dollar essentially buffer that is put on a 1.3 billion
14 dollar operation. It just seems a little bit high for me
15 in terms of setting rates.

16 MS. CLARK: Certainly it isn't a hundred million dollars in
17 any particular year. It is in the 50, \$60
18 million, \$70 million range. But it is not a
19 cumulative impact year over year.

20 Q.186 - Thank you. DISCO's response to our question also
21 states that the net earnings must be sufficient to cover
22 debt obligations. Does NB Power have a long-term strategy
23 for dealing with its debt?

24 A. Well certainly debt reduction is important to the utility.
25 Currently, we are going through a major capital

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2 project refurbishing the Point Lepreau generating station,

3 which will be adding debt to our portfolio. But we do

4 have a strategy to pay off our existing debt, and in some

5 cases it is refinancing it and hopefully at lower rates

6 where possible, but obviously the long-term plan is to

7 minimize debt at NB Power.

8 Q.187 - Does the strategy include any targets?

9 A. Over the longer term it is to reduce the debt levels, but

10 I don't have specific targets for that, especially we are

11 in a capital period where we are increasing our debt load

12 at this point in time. But we do have debt reduction

13 targets each year with each one of our debt obligations.

14 So in Genco, Nuclearco, DISCO, Transco, there is a debt

15 repayment schedule.

16 Q.188 - Whether it is in the evidence that's what I am trying

17 to -- is there an overall overarching strategy for NB

18 Power as far as with targets as far as where the utility

19 would like to see its debt load be say at the end of 10

20 years?

21 MS. CLARK: I am not aware of that, but obviously as you

22 build up equity that gives you more opportunity to pay

23 down debt, but at this point in time, we don't have any

24 retained earnings. You know, '08, '09 with our net

25 earnings of \$69 million we will start to build some equity

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2 and that could be used for debt reduction over the longer
3 term.

4 Q.189 - Thank you. It had been stated in previous hearings
5 that before the increase in oil prices, NB Power believed
6 that a series of 3 percent increases over the course of a
7 decade would put NB Power in a commercially viable
8 position. And I don't have the specific reference. I
9 would have to go back through and dig it out.

10 The response to CME number 6 states that NB Power had
11 adopted a 10 year target recommended by an independent
12 expert that will allow it to achieve self sufficiency. In
13 2008-2009, the response states this would be achieved by
14 an interest coverage ratio of 1.27. What is the interest
15 coverage ratio that is anticipated over the next 10 years
16 let's say?

17 MS. CLARK: I don't have a specific number. I know at the
18 end of 10 year period we were looking at interest of 1.75
19 times. And that started a year ago and we didn't quite
20 get in that year where we wanted to be for 08/09. So
21 over the next 10 years we hope to get to 1.75 times, but I
22 don't have a specific plan in each year as to how we would
23 get there.

24 Q.190 - And when you say I, you are referring to the utility
25 doesn't have a specific plan, not that it is just not in

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the evidence right now?

MS. CLARK: I don't have a plan. I don't think the utility has a specific plan. And no it is not in the evidence.

Q.191 - Thank you. Because, of course, the interest coverage ratio is really a determining factor, as far as setting rates for the year, I don't know if this question -- if you will be able to answer this question as well, but rate increases over the next five to 10 years do you think that it will take to put NB Power in a commercially viable position? And that question is based on what -- on what one of your colleagues has stated in previous hearing that 3 percent over 10 years would have put NB Power in a commercially viable position?

MS. CLARK: You are correct, I can't answer that question looking out over a 10 year horizon and the volatility we seen in fuel prices, I can't answer that right now.

Q.192 - Okay. The evidence, and this is the March 31 document that I am referring to here, the evidence states that an assumption of the 2007 load forecast projects that the residential rates will rise by 1.25 times the average until 2012, 2013 and that lost revenue will be equally shared between residential and industrial customers. It is within that document, it is the 2007 load forecast assumptions. It is not paginated all the way through, so

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I can't give you the specific page.

MS. LEAMAN: The information that you are referring to is on page 20 of Appendix G -- sorry, H. And that information was pulled together by our load forecasting group.

Q.193 - So what the evidence states is that residential rates will rise by 1.25 times the average until 2012, 2013 and that lost revenue will be equally shared between residential and industrial consumers. And my question is does this mean that industrial rates will also rise by 1.25 times the average rate increase?

MS. LEAMAN: I am not really sure what the plan is regarding future rate increases, but it will have to be assumed between residential and industrial. At what percentage, I am not sure.

MS. CLARK: And for 08/09 it is an across the board 3 percent rate increase, so we are not looking at any kind of differential rate increase between residential or general service customers at this time.

Q.194 - These questions are all going to the uncertainty that the -- I am sure that all consumers are feeling out there, but in particular the industrial customers are feeling out there in terms of not being able to have any warm feeling as to what the rates will look like in say the next five years, which is really critical in terms of making any

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significant capital investments that are required to get the energy efficiencies that we need as well.

One final question. And I am not certain you will be able to answer this, but I would like to get your input on that. Is there any intention of undertaking a more comprehensive and accurate evaluation of the embedded costs of entire utility?

MS. CLARK: I think what you are referring to would be the purpose would be what would be undertaking during a cost allocation study. And I believe the Board has ordered us to do another cost allocation study, or another hearing I should say, and that would be the subject of that hearing.

MR. PLANTE: Thank you very much. I appreciate your time.
Mr. Chairman.

CHAIRMAN: Thank you, Mr. Plante. I guess on our list if Flakeboard Company Limited. Mr. Gallant?

MR. GALLANT: We don't have questions.

CHAIRMAN: Thank you, Mr. Gallant. Now I have got a decision to make whether to go with Gary or with Lawson.
Come forward, Mr. Lawson.

CROSS EXAMINATION BY MR. LAWSON:

Q.195 - Thank you, Mr. Chairman. Good afternoon, Panel. I guess the good news is I don't have a whole lot of questions. The bad news is I have said that before and it

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2 hasn't proven to be true. So let me just start with a few
3 questions. I want to start with the concept of breakeven
4 that Mr. Plante alluded to in his questioning, and as
5 addressed in the answers to the CME undertaking.

6 I presume that the province has not dictated or indicated
7 or directed NB Power as to what they mean by what
8 breakeven is, is that right?

9 MS. CLARK: That's correct. But we have interpreted what we
10 believe breakeven does mean.

11 Q.196 - Sure. Now would you agree that for most people,
12 normal reading of the word breakeven would mean you
13 neither make money nor lose money, is that a fair
14 assessment?

15 MS. CLARK: That could be one definition.

16 Q.197 - Could you give me what you think might be another
17 common definition of breakeven?

18 MS. CLARK: Well I don't know if it's common or not, but I
19 do know that our shareholder will allow us to bring in
20 profits above breakeven, but they expect us to not have
21 profits below break -- below zero rather, so to incur a
22 loss. It's okay to have a return but it's not okay to
23 have a loss.

24 Q.198 - I think your slip was very appropriate, that they will
25 allow you to make money above breakeven was the

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2 terminology you used, and I think that's consistent with what
3 most people would say zero is, isn't that fair to say?

4 MS. CLARK: I agree with you. Some people would say
5 breakeven was zero.

6 Q.199 - Most people? Would you agree most people?

7 MS. CLARK: Probably.

8 Q.200 - Now in recognizing there is a need for fluctuation and
9 I gather that NB Power has determined that because of the
10 uncertainty about what might actually shake out, that
11 there is some question being developed in the course of
12 the year, and as I understand it correctly, it's a -- am I
13 correct in this, you are talking about a \$50,000,000
14 cushion just in case things don't go as planned, if we
15 plan for zero and things go bad we could lose \$50,000,000
16 and that, we would all agree, isn't breakeven? Is that
17 the gist of what is happening?

18 MS. CLARK: The net earnings in the amount of \$69,000,000
19 isn't what I would call a cushion, but is our net earnings
20 target. And if you look at Appendix D --

21 Q.201 - To which exhibit?

22 MS. CLARK: Exhibit 3 -- it's NB Power's prospective
23 financial statements --

24 Q.202 - Right.

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MS. CLARK: -- and if you look at page 2 and you look at the budget for 08/09 and look at line 16 which is retained earnings, that's basically what we are talking about when we talk about a cushion. And you will see that that's the first year in quite some time in those three years that are shown there where we are actually showing a positive retained earnings. And as you are aware, every company needs to have some level, some healthy level of retained earnings to be prosperous over the longer term.

Q.203 - Sure. But I'm going to look at -- direct you to exhibit number 4 which are the answers to the undertakings number 5 from CME particularly on page 6 of the CME IR or question, or whatever, and I'm looking at the first of the bullets there and your answer, and the last line reads, net earnings can experience swings of plus or minus \$50,000,000 in the normal course of operations. Is that not the \$50,000,000 you are talking about here? You need to have the possibility of not breaking -- not losing \$50,000,000 because something uncertain could happen?

MS. CLARK: Well our definition of breakeven encompasses all three of those concepts. So one of the things that we are concerned about is the volatility in our earnings, that over history has shown to be plus or minus \$50,000,000.

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2 We also have to be able to pay the interest as it comes due on
3 our debt. Repay debt and build some equity in the
4 company, a responsible level of equity, so that we do have
5 some healthy level of retained earnings.

6 Q.204 - Well if somebody told you at home, at your home, that
7 you have to breakeven every year in your household budget,
8 would you -- would it be unreasonable for you to take the
9 position that that means I have to be able to build up a
10 surplus in my retained earnings, and so I'm going to
11 actually make a profit every year, have to charge the kids
12 more allowance or rent to do that?

13 MS. CLARK: That's a good analogy, because if I started with
14 \$1,300 and had \$69 left at the end of the day, that's
15 pretty much breakeven, when you are starting with 1.3
16 million dollars in revenue.

17 Q.205 - So you are looking at breakeven as a ball park to
18 zero?

19 MS. CLARK: It is a ballpark to zero. It's a judgment call,
20 I agree with that, but there are significant -- there is
21 significant volatility in our earnings, and to have zero
22 as a target puts us in a very tenable situation and we
23 will not be able to build retained earnings over the
24 longer term.

25 Q.206 - Okay. But isn't the building of retained earnings

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2 separate from achieving a zero breakeven? They are very
3 different questions, aren't they? One is we should build
4 a retained earnings amount for one reason, but the other
5 is on the concept of breakeven alone, breakeven means you
6 should come out awash, at a zero? Leave aside the ability
7 to predict the certainty of that for a moment, breakeven
8 means you should come out with a net earning of zero in
9 the ideal world if your sole objective is to breakeven?

10 MS. CLARK: Well as we responded in CME question 5, our
11 definition of breakeven encompasses those three items.

12 Q.207 - So what you are saying is your concept of breakeven is
13 to allow you to make some money so that you can have some
14 retained earnings? So it contemplates by its necessity
15 making a profit, correct?

16 MS. CLARK: It also encompasses the volatility that we have
17 in any given year, and as you have seen with our financial
18 results over the last ten years, there is significant
19 volatility. It also allows us to ensure that we are able
20 to make the interest payments on our debt, ensure that we
21 can pay -- use those dollars for our capital programs and
22 pay down debt as it comes due.

23 Q.208 - But I think you already told us that you -- the
24 objective would be to build retained earnings, correct?

25 MS. CLARK: Certainly that's one of the objectives, but the

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2 Board in the last hearing also approved interest coverage of
3 1.1 times which allows for some level of net earnings and
4 allows for those types of items I have talked about.

5 Q.209 - In order to build retained earnings you have to make
6 consistently, perhaps not every year but on average you
7 have to make a profit every year, correct?

8 MS. CLARK: Right. There has to be some level of net
9 earnings that can build your retained earnings.

10 Q.210 - You can't breakeven on average over a ten year period
11 and build your retained earnings, correct?

12 MS. CLARK: With the definition of breakeven that we have --

13 Q.211 - I'm sorry. The normal -- the normal meaning of
14 breakeven, the usual meaning of breakeven.

15 MS. CLARK: If you were using zero, you are absolutely
16 correct, there would be no way to have net earnings or
17 build retained earnings.

18 Q.212 - So NB Power's direct decision of what is intended by
19 breakeven the government has indicated is that we have to
20 address the issue of assurance that we have a cushion in
21 case we have a bad year, and that we further have to
22 ensure that we make a profit?

23 MS. CLARK: There is some level of net earnings in there
24 that would encompass all of those items we talked about in
25 breakeven.

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Q.213 - You would agree that at least with respect to the concept of breakeven without the retained earnings piece, saving up for some retained earnings, that you could achieve that, an average of breakeven, and I'm using the definition of breakeven here as a zero level of income -- that you could achieve that over an average of say a five or a ten year period by having some years that are up and some years that are down, and you don't always have to make \$50,000,000 every year, for example, to cover those fluctuations if you average it over a five or ten year period. Is that reasonable?

MS. CLARK: Yes, that's correct.

Q.214 - So the projection for 2008/9 by NB Power for the whole company when the board of directors made the decision of a three percent increase was that they would make \$69,000,000 this year, is that right?

MS. CLARK: Yes, that's correct.

Q.215 - And that's greater than a \$50,000,000 caution cushion, I will call it for the sake of argument, uncertainty of what might happen?

MS. CLARK: Certainly, and that's an average, the plus or minus 50,000,000.

Q.216 - Now with that amount anticipated -- I have done a quick calculation of what the -- at the \$69,000,000 at

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2 least -- what the funds that would flow to the provincial
3 government would be. And am I correct in understanding
4 that in this fiscal year, in this year for NB Power, that
5 approximately \$20,000,000 will be paid to the province for
6 its guarantee fee for NB Power?

7 MS. CLARK: Yes. Correct.

8 Q.217 - And I am also correct in understanding that it is
9 anticipated that approximately for this budget purpose
10 approximately \$74,000,000 would be paid by way of taxes,
11 whether they be special or other than special taxes?

12 MS. CLARK: That's correct. Some of those go to the
13 Province of New Brunswick and some of those would go to
14 the -- sorry would go to EFC.

15 Q.218 - Essentially being the Province of New Brunswick,
16 correct? Okay. And although -- are there any other
17 amounts that would in fact flow to the Province or EFC,
18 sorry?

19 MS. CLARK: There are two other components which would be
20 any interest on the debt, as well as, dividend payments
21 that Transco make.

22 Q.219 - And the dividend payment am I correct is anticipated
23 to be -- budgeted to be \$13,000,000 as well?

24 MS. CLARK: Yes, that's correct.

25 Q.220 - So my quick math would say that something in excess of

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a hundred million dollars is anticipated to flow to the Province of New Brunswick and yet still have \$69,000,000 in profit at NB Power, is that correct?

MS. CLARK: The majority of that, you are correct would go to the Province of New Brunswick and that would be used to pay -- or sorry, it goes to -- it all goes to the Province of New Brunswick. The majority of that is required under legislation, or all of it is required under legislation. The majority of it will be used to pay down the legacy debt that the Electric Finance incurred at the time of the reorganization, restructuring of NB Power. So the legislation used -- it is required under the legislation that those dollars be used to pay down debt.

Q.221 - Does that apply to the \$20,000,000 guarantee fee?

MS. CLARK: No, the \$20,000,000 that would be -- that relates to guarantee fee is on the debt in the NB Power group.

Q.222 - Right. That doesn't get credited in any fashion towards repayment of the legacy debt?

MS. CLARK: No. It is what we call a debt portfolio management fee that is payable to Electric Finance.

Q.223 - Right. And I presume the dividend is not considered to be a repayment of debt, is that right?

MS. CLARK: I believe under the legislation that the

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dividend payment is also used to pay down the Legacy debt under section 37 I believe of the Electricity Act.

Q.224 - I didn't bring the Act, so I will trust you on that one. Sorry. And are -- of the \$74,000,000 that is projected for the taxes, am I correct in understanding that both of those amounts would be used for a repayment of debt, legacy debt?

MS. CLARK: That's the component -- when I said most of it, because the taxes, other than special payments in lieu of income tax are utility tax, right of way tax and property taxes. So they aren't used to pay down legacy debt.

Q.225 - And of the 74,000,000, which is that? Is that the -- which amount is that?

MS. CLARK: I am looking at the financial details, table A on page 5 of exhibit 3, I think.

Q.226 - Table A, page 5. Is that of exhibit 3?

MS. CLARK: Exhibit 3.

Q.227 - So exhibit under which tab?

MS. CLARK: Tab financial details.

Q.228 - Financial details. And which page I am sorry?

MS. CLARK: Page 5. It is the first page after the tabs.

Q.229 - Okay.

MS. CLARK: So if you look at table A, and line 8 --

Q.230 - Right.

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MS. CLARK: -- column 3, the \$42,000,000 on that line are taxes other than payment, special payments in lieu of income tax. And they are primarily right of way tax, utility tax and property taxes.

Q.231 - So \$42,000,000 would go to the Province of New Brunswick without debt repayment credit?

MS. CLARK: I am sorry, I missed that question.

Q.232 - So \$42,000,000 would go to the Province without getting credited towards legacy debt?

MS. CLARK: Yes, that's correct.

Q.233 - And \$20,000,000 would go effectively to the Province as well without getting any credit towards the debt?

MS. CLARK: The \$20,000,000 being the debt portfolio management fee?

Q.234 - Yes.

MS. CLARK: That's correct.

Q.235 - So \$62,000,000 would actually end up going to the Province and that is in anticipation of \$69,000,000 profit by NB Power, correct?

MS. CLARK: Yes, that's correct.

Q.236 - And then am I correct in understanding that as it relates to the Province of New Brunswick's balanced budget, that they would incorporate that \$69,000,000, forecasted \$69,000,000 as part of their revenue stream --

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2 I don't know if it is considered sort of like a consolidated
3 statements equivalent in sort of in a corporate
4 environment. So they can consider that as if it is income
5 of the Province of New Brunswick, is that right?

6 MS. CLARK: I certainly don't know how the consolidation
7 works with the Province. I do know that our net earnings
8 are consolidated with the Province of New Brunswick, but I
9 certainly don't know the mechanics as to where it shows up
10 on their statements.

11 Q.237 - But effectively for financial consideration purposes,
12 the Province is considered to have made \$69,000,000 for
13 that purpose?

14 MS. CLARK: Well again, this is only a forecast and --

15 Q.238 - No, that's right. No, no.

16 MS. CLARK: -- and you get variability in there. So it
17 would be whatever our year end actual results are, but
18 yes, you are right, it would be consolidated with the
19 Province, whether it be in a loss or a profit position.

20 Q.239 - And then in addition to that, they would have this
21 other \$62,000,000 being the \$20,000,000 guarantee fee I
22 will call it and the \$42,000,000 in other taxes?

23 MS. CLARK: That's correct.

24 Q.240 - So the Province of New Brunswick by my math, and again
25 I know this is all forecast, is about \$130,000,000 worth

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2 of -- and it is not cash, I know, but \$130,000,000 that they
3 get to put on their books as revenue stream and your net
4 income revenue stream, is that a layman's -- a fair
5 assessment of a layman's assessment?

6 MS. CLARK: That's correct. It does go to the Province of
7 New Brunswick. And some portion of that is required under
8 the legislation.

9 Q.241 - In fact is not all of it required under the
10 legislation? \$20,000,000 is the guarantee fee legislated?

11 MS. CLARK: I guess what I was referring to is some portion
12 of that is the \$69,000,000 is not legislated.

13 Q.242 - Okay. Now I would just like to ask a few questions on
14 I guess a smattering of things. One is on the hedging.
15 And much of this arises by virtue of the report done by
16 Mr. Logan for the Board, as consultant to the Board.
17 There is reference to the hedging in a profit, I believe
18 it was \$44.8 million as a result of the sale of hedges
19 that were not otherwise going to be required by NB Power,
20 is that right?

21 MR. GOOD: Actually that is not quite correct. The
22 44,000,000 represents total gain on hedging positions.
23 Only some portion of that was due to unwinding of fuel.

24 Q.243 - What would the rest of it have been? I know we had
25 this confused -- I had this confusion last time in

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figuring out what these unwinding them gets them money and I always thought it was a profit, but it was never actually considered by NB Power as a profit, is that what that is or -- what is the 44.8 then?

MR. GOOD: So what happens when you enter into financial hedges for fuel, you would be forecasting to buy your fuel at spot market prices, but at the same time based on your forecasted quantities, you would go out and you would enter into a financial transaction with another third party, which effectively those two things combined fix your price. You have got your floating spot market price and you have got the hedged or the hedge. And as one of them changes, the other one changes in the opposite direction. So what you end up with is a fixed price for your fuel.

If at the time that you actually enter into those hedges, if from that point on the spot market or forward market prices for fuel actually increases, then you would show a gain on your hedging, right. So that's what happening here is fuel prices have actually gone up from the point where we have entered into those hedged transactions, but the net result is the one fixed price that you are going to pay for the fuel.

Q.244 - So this is the same confusion that I had before, which

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2 I might add I am still no more further ahead. It is something
3 obviously mentally blocking here. The concept that you
4 unwound some hedges and made some money, I have some
5 better understanding on so -- of the \$44.8 million some of
6 it was profit from selling those hedges, correct?

7 MR. GOOD: That's correct.

8 Q.245 - That part I can get my mind around. How much of the
9 44.8 would that have represented?

10 MR. GOOD: I believe of the 44, it is about 21,000,000.

11 Q.246 - Was actual cash profit from selling hedges?

12 MR. GOOD: It's not from selling hedges. It is just the
13 fact that you are ultimately going to settle that hedge.
14 It is just that you no longer are going to be buying the
15 fuel, right. So you just -- at this point in time now
16 that you know you are not buying -- you are not going to
17 purchase that fuel --

18 Q.247 - Yes.

19 MR. GOOD: -- you just recognize that gain at that moment in
20 time.

21 Q.248 - All right. So I am going to go back and use the 44.8
22 because it is -- well I can't figure out what it is made
23 of. \$19.5 million of that was actually brought into in
24 2007/2008, is that right?

25 MR. GOOD: That's correct.

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Q.249 - Now I am just curious, because -- and maybe this is the same thing, I didn't know that either, but I am looking at the -- and I am sure they got marked, but I didn't mark what exhibit they were. I apologize. Oh, I guess they are part of -- these are the statements, consolidated or NB Power Holding Corporation Combined Statement of Operations for the third quarter ending December '07. And they were added as an answer to a JDI interrogatory in exhibit number 3. And I think it was interrogatory number 2 or 3 of that. I will check. I think it is part of interrogatory number 2. I know this is for a different year. But in there there is an item under "Revenue", I would call number 4, item number 4, "Gain to market of in-kind settlement." Now I thought it was confusing as to how hedging works. But I couldn't figure out anything of what that means. Is that -- well, what is that?

MS. CLARK: That relates -- these are the NB Power statements. And that relates to the gain to market of the in-kind settlement of the Orimulsion settlement that we entered into on August the 2nd. So that is -- for financial accounting purposes we are required to mark that settlement to market each quarter.

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And so that ends up showing on our combined statement of operations as a gain on the -- to market because of the increase in heavy fuel oil prices.

And then on line 10 it actually comes off the statements as an expense. So it is basically an in and an out. And in those two numbers it goes on the income statement and off the income statement.

So it is a basically financial reporting requirement. We have to mark that to market each quarter.

Q.250 - Mark that to market. Probably accounting words?

MS. CLARK: Well, basically what --

Q.251 - That doesn't matter.

MS. CLARK: What it is, we value the settlement as of an August 2nd date. And each quarter we have to look at the market and see what the value of that settlement would be as of that date.

Q.252 - Yes. Okay. So it doesn't have anything to do with the \$19.5 million.

And I guess the question would be is does this statement, as we are looking at it now, reflect or incorporate any of that \$19.5 million of the \$44.8 million on the hedging?

MS. CLARK: These particular statements don't address 07/08. It would be on the 07/08 statements. But where you would

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see it would be on line 7. It would be an offset to the fuel and purchase power costs. It would show up as a credit to fuel and purchase power.

Q.253 - You say these don't address the 07/08? Isn't that what this is, year to date 07/08?

MS. CLARK: You are absolutely correct. You are absolutely correct. As of December 31st. And it would show up in that number.

Q.254 - So it was brought in by the end of December of '07?

MS. CLARK: Yes, it was.

Q.255 - And similarly would the balance of that amount, roughly \$25 million, show up in somewhere as a net on the power fuel and purchase power line for 08/09?

I think it does. And I'm just going to refer you to Mr. Logan's report. There is a reference to -- this is on page 26 of Mr. Logan's report which is marked number 6, very bottom. It is doing the reconciliation between run B and run C. And it does allude to \$25 million. It doesn't say if that is the same number.

But am I correct in assuming that that is what that \$25 million is, to your knowledge?

MR. GOOD: I'm not sure whether or not it is exactly included in the 25'. But it is definitely included in our total fuel and purchase power cost.

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Q.256 - So it has been netted out?

MR. GOOD: It has been netted out. That is correct.

Q.257 - Now while I'm on this sort of combined statement of

operations for the quarter -- ending third quarter, I

guess first of all I'm assuming that internally NB Power

has prepared a similar set of statements, at least on a

projected basis, for the entire year, either since this

time, since December. We have a variety of statements

that contemplate projections.

But I found it interesting that initially there was no

indication of these statements being available. And then

the Board directed NB Power to provide the statements to

the end of December of this year. But they didn't include

-- you didn't include in here anything to project for the

fourth quarter.

I'm assuming since fourth quarter is done, and recognizing

that you are probably still working on year-end

adjustments and so on, there must be a set somewhere of

statements of what is projected to actually have happened

in 2007 and '8, subject to final audit statements and so

on, that must be around?

MS. CLARK: So what you would be asking for would be actuals

up to the end of December and then a forecast for January,

February and March. And internally we certainly do that.

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A financial statement presentation is typically in the format that you are seeing, that we provided in the JDI response.

But we have forecasts that we submit to our boards of directors on the quarter, as I mentioned earlier. And they would include the actual costs up until the end of December and then a forecast of our costs for the remaining period of the fiscal year.

Q.258 - Now my understanding is that there is actually a board meeting taking place as we speak today?

A. Yes. That is correct.

Q.259 - And I would assume that the Board has been provided, for the purposes of this meeting, some forecast of what the financial statements for 2007, '8 for NB Power are going to look like.

Rather than necessarily just being December 31st and then projected forward for the last quarter, I presume somebody has done something a little more accurate to say look, this is what we think is going to come in, subject to final adjustments and so on.

Somebody must have done that already internally I would assume?

MS. CLARK: We have been working through this EUB process and under very short notice have put this information

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together. So the year-end isn't complete. Our audit is not complete yet.

We did send a very, very, very preliminary information, high level numbers to our board of directors for the meeting today to give them some high level understanding of what the numbers would be. Those numbers have not received much scrutiny to date. That is coming after this hearing is over.

And we have also presented a Q zero forecast at that point. So they will know what the 08/09 numbers look like. But again the 07/08 numbers were provided to them in a very preliminary format.

Q.260 - Okay. So there is a number that has -- would be fair to describe as being presumably closer to accurate than what if you provided me your December year-end statements with projected for the last quarter would be.

They are based on the reality. May not be absolutely final and correct. But they are based on the reality of the last three months, correct?

MS. CLARK: That is correct. And what we have provided in our filing for 07/08, it is very close to that number that has been provided in the filing.

Q.261 - So right now internally the projection, if my recollection is correct, initial budget projections for

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07/08 for NB Power was to be -- \$85 million or \$89 million?

It is here somewhere.

MS. CLARK: The budget was \$36 million. So that was what was budgeted for 07/08.

Q.262 - Oh, okay.

MS. CLARK: And the net earnings for 07/08 that we provided in our evidence, we expect the net earnings are 85'. But again I should note that that 85' reflects the one-time adjustment as a result of the Orimulsion settlement in 07/08.

So that was the cash portion of the settlement that came back through to NB Power to the shareholder. And it reflects the \$47 million, not the revised number that was approved by the EUB on February the 22nd.

Q.263 - So right now what is the high level number that is being provided to the Board for projected actual NB Power 2007, 2008 including the adjustment for PDVSA? And I will go through that in a second.

MS. CLARK: I haven't seen those numbers. I'm responsible for signing off on those numbers. But I haven't seen those numbers yet. And it would be irresponsible for me to talk about them in detail. I do know that they are not significantly different than what we filed in our evidence.

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2 There are two things in there that should be noted that
3 are driving the net earnings in the period. As I have
4 mentioned, one is the PDVSA settlement. And the other one
5 would be the hedge gain of the \$20 million that is related
6 to the items we talked about a minute ago.

7 Q.264 - Yes. But you had to sign off for something that was
8 going to the Board today. And you don't -- you haven't
9 seen it yet?

10 MS. CLARK: Under a typical -- in a typical year I would be
11 required to sign off on the financial statements because I
12 have been involved in this process. But the whole
13 process, including the audit of the financial statements,
14 has been delayed.

15 So what has gone to our board of directors is a very
16 preliminary number that is subject to review by me, by the
17 CFO and the auditors.

18 And if there is any changes to those numbers then we have
19 got that disclaimer noted in the statements. And any
20 changes would be provided to them at a later date.

21 Q.265 - Sure.

22 MS. CLARK: We do actually have a July meeting of the board
23 of directors where they will sign off on the financial
24 statements.

25 Q.266 - So subject to those disclaimers that you mentioned,

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2 what is currently NB Power's anticipated profit for the year
3 07/08?

4 What is the high level figure that has been given to the
5 board?

6 MS. CLARK: I believe it is in the \$85 million range plus or
7 minus \$2 million. And again there are a couple of one-
8 time events in there that weren't planned for, weren't
9 budgeted and are driving the net earnings higher than what
10 they would normally be in this period.

11 Q.267 - Okay. So it is anticipated that the last quarter will
12 only result in about a \$3 million profit?

13 I'm just taking 82' and subtracting it from 85', which I'm
14 still able to do, which is about \$3 million. So I'm going
15 to allow a \$2 million swing. I'm just going to use that
16 \$3 million.

17 It just surprises me that the first three quarters would
18 result, even with extraordinary items, in a \$82 million
19 profit and the last quarter would be \$3 million. It just
20 seems like a --

21 MS. CLARK: Well, our earnings --

22 Q.268 - -- bad year.

23 MS. CLARK: -- vary by month for different reasons, for --

24 Q.269 - Sure.

25 MS. CLARK: -- load, for fuel prices, that sort of thing.

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2 So the anticipated annual 07/08 net earnings is in the \$85
3 million range.

4 Q.270 - Okay. And then of that \$85 million -- you have
5 mentioned the PDVSA settlement, extraordinary element.
6 How much is that of that \$85 million roughly?

7 MS. CLARK: If I could direct you to the evidence which is
8 exhibit 3 I believe under financial details.

9 Page 5 again where we have table A --

10 Q.271 - Right.

11 MS. CLARK: -- there is a footnote on the \$85 million
12 projected net earnings. And it says the net earnings
13 forecast in 07/08 of 85,000,000 includes a one-time \$32
14 million recovery from the lawsuit which is \$47 million
15 before payments in lieu of taxes related to the previous
16 write-off. So net earnings without the one-time recovery
17 would be \$53 million.

18 Q.272 - So last year you anticipate profits will be in the
19 neighborhood of \$53 million without the extraordinary
20 element, correct?

21 MS. CLARK: Well, in fact when we put our budget forward we
22 were anticipating net earnings of \$36 million. And again
23 we had an unexpected hedge gain of \$20 million, in that
24 range, that impacted the earnings in that period as well.
25 So our budget for that period was \$36 million.

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And I guess that gets again to the volatility that we experienced in our earnings. In 07/08 thankfully it was in a positive direction. But it could very well in any given period be working in the opposite direction.

Q.273 - So your budget was \$36 million. And now you are anticipating -- now what you want is to come close to doubling that to \$69 million.

Now my math may not be as strong for that math. I guess it is not quite doubling it.

MS. CLARK: I think again it gets to the volatility that we have in our earnings. I mean, our budget for the previous year in 07/08 was \$21 million. And we are looking at 85,000,000 -- 69'.

And again in 08/09, even with those levels, we are still looking at a very, very minimal retained earnings level in the NB Power Group of companies.

Q.274 - So \$85 million less \$32 million with the extraordinary gives you the \$53 million.

There is some extraordinary component in the \$69 million as well I presume, some of these similar kind of extraordinary elements in 07/08 -- or 08/09, I'm sorry?

MS. CLARK: No. That is our budget number for 08/09, our forecasted net earnings. But in year there could be significant variability in those numbers as a result of

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2 weather or hydro or some other unforeseen events.

3 Q.275 - So is it fair to compare the \$53 million to the \$69

4 million then, both sort of what I will call ordinary

5 operating income, none of which could be described as

6 probably accounting with proper terms?

7 MS. CLARK: So I think I understand your question. The net

8 earnings -- we budget for net earnings. And it is always

9 a positive number that we are budgeting for.

10 And I guess it is comparable year over year in that we try

11 to budget a number that allows us to have enough earnings

12 to deal with any volatility within the year as well as

13 deal with ensuring we have the ability to make our

14 interest payments and pay down principal on our debt as it

15 comes due. So the numbers are comparable from that

16 perspective.

17 Q.276 - So 07/08 budgeted \$36 million profit. In fact it is

18 going to come in at 85,000,000. But if you take out what

19 I'm going to call the extraordinary it is going to be

20 53,000,000, correct?

21 MS. CLARK: That is correct.

22 Q.277 - The \$36 million equivalent that you want for this year

23 is \$69 million?

24 MS. CLARK: That is correct.

25 Q.278 - Now if the pattern continues that \$69 million from

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2 last year -- I haven't had a chance to look at the previous
3 years because I'm not sure what the history is like. But
4 if the pattern continues, 36' relative to 53', that 69'
5 will grow to \$100 million or so.

6 If you had the same kind of -- taking out the
7 extraordinary piece to make it 85', the 36' to 53' would
8 be an equivalent to going from 70' -- 69,000,000 to \$100
9 million or more, correct?

10 MS. CLARK: We are putting together our '09, '10 budgets
11 now. And I don't know what the net earnings levels would
12 be.

13 I do know that we would be putting forward some sort of
14 interest coverage in that period as well. I don't know at
15 this point in time what it is.

16 Q.279 - No. I'm sorry. I'm just trying to compare budget to
17 what comes in for the year relative to budget. So
18 budgeted \$36 million. And you came in at, depending what
19 you used, \$85 million or \$53 million. You are budgeting
20 \$69 million for this year.

21 If you follow the pattern of what I will call success,
22 financial success -- because most companies, when they
23 make more money than they plan, consider it a success,
24 that \$69 million could grow to \$100 million or more?

25 MS. CLARK: It could. But I do know when we did our Q4

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forecast that we presented to the boards of directors, that we have got significant pressure on the \$69 million for the reasons we have mentioned, the load changes, the flooding situation that happened a few weeks ago.

So there is significant pressure, increased fuel prices, significant pressure on that \$69 million already. So it is just as likely that we can see it go the other way as an increase.

Q.280 - On the other hand you had significant pressure on fuel prices in '06, '07 -- sorry, 07/08. Because we heard all about it in the last hearing.

Because the whole reason for the need for this increase was significant pressure on fuel prices, correct? And yet you came in significantly higher than anticipated.

Agreed?

MS. CLARK: In that year we did. But there is no guarantee

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Q.281 - No.

MS. CLARK: -- that that would happen in '09, '10 --

Q.282 - No.

MS. CLARK: -- or 08/09 rather.

Q.283 - Life doesn't bring any guarantees. I will agree.

I'm curious. There is reference again in Mr. Logan's report that the PDVSA fuel is only being used in

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Dalhousie.

Now does that in any fashion impact the economic benefit -
- I assume not -- economic benefit to NB Power of that
settlement?

MR. GOOD: No. It doesn't impact the settlement value.

Q.284 - Yes. I assumed that.

Again to Mr. Logan's report, I just -- there was reference
in something. I didn't know what it meant. And I thought
probably you might be able to help me with it.

On page 12 of his report -- again this is exhibit 6 --
page 12 there is a series of bullets at the top. And the
third bullet talks about "External market purchases were
enabled, permitting PROMOD to consider purchasing energy."

What does that mean? What does this paragraph mean?

MR. GOOD: Typically -- typically when we do a PROMOD run
for our budget we would only include in it firm purchases
that are in place at the time that the PROMOD run is done.
In December however when we looked at market conditions
and we realized that there was such a significant spread
between the relative cost of heavy fuel oil and the cost
of natural gas, we said -- and the fact that we had to
replace so much energy because of the Point Lepreau
refurbishment outage -- we said we really should be
recognizing the benefit of purchasing, the fact that we

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can purchase energy at a lower cost than by generating it internally.

Q.285 - Did the result of that -- PROMOD run B and C or A and C -- I don't know. Let's use B and C for the moment. You mentioned that there was a change in the purchase power level for B and C, the amount of power that was required. Was there a change in the cost per megawatt hour of power as a result of the PROMOD -- as a result of the inputs in the PROMOD run between B and C?

MR. GOOD: I'm not sure I know what you mean when you say --

Q.286 - Well, when there is -- I understand that the PROMOD run will do a calculation based on the variable costs -- the various costs that get inputted for calculations. So in October -- or for October, September a PROMOD run is done to calculate, you know, amongst other things, what the cost for power will be in the forthcoming fiscal period charged to DISCO, is that right?

MR. GOOD: That is correct.

Q.287 - When you redid the PROMOD run in December, early December, was there a change in -- would there have been a change in the calculation of what the cost to DISCO would have been for its power? Not in terms of its global cost, because obviously that is going to vary, as you had indicated. They are

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2 taking less. So it is going to cost less.

3 But the unit cost of power, did it change?

4 MR. GOOD: No. We did not reset the vesting energy price.

5 We stayed with the price that was set for October 1st.

6 Q.288 - Okay.

7 MR. GOOD: However though for combined NB Power the benefit

8 of those reduced purchases -- or the reduced cost because

9 of those purchases is reflected in NB Power's fuel and

10 purchase power costs for the year.

11 Q.289 - Right. Now what would be -- would that have had a

12 negative or a positive impact if you had actually changed

13 the vesting price to DISCO?

14 MR. GOOD: It would have had a positive impact on DISCO.

15 Q.290 - Positive as in made it cheaper?

16 MR. GOOD: Made it cheaper.

17 Q.291 - So if you had rerun the PROMOD run in December to

18 change the variables, as you did for the C run, and then

19 changed the vesting price, that would have reduced the

20 vesting price that was otherwise used in October?

21 MR. GOOD: I believe that is correct, yes.

22 Q.292 - But yet you didn't change it?

23 MR. GOOD: At that point it was kind of irrelevant. It

24 would have just been moving money from one company to

25 another company.

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And since management at that point was prepared to go forward and recommend to the board, and the board accepted, that they should be looking at the combined NB Power for the rate increase, it was irrelevant.

Q.293 - Okay. For that purpose it is irrelevant.

But wouldn't you agree that that also means that the numbers that are in the -- for DISCO that are in the EUB interrogatory answers -- are not right either?

Because they I presume used the October vesting price which is a higher than it should have been price.

MR. GOOD: Right. But once again, working under the confines or, you know, the constraints of the PPA's, they say you set the vesting energy price on October 1st, and regardless of what happens after that date, you stick with that vesting energy price.

Q.294 - Well, we are not unfamiliar with that. We have heard that a few times in the past.

But in this case it was decided that it was needed, because of the uncertainty, to make a change and to do a new run in December.

So it is fair to say though one needs to be cautious in using the DISCO information that was supplied in answer to the EUB interrogatories. Because they overstate the power purchase if in fact you redid a calculation based on

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2 the December figures?

3 MR. GOOD: And I think that gets to the very heart of why we
4 filed this information on a combined basis. Because that
5 is how everybody was looking at it, was the combined
6 results for NB Power Group of companies.

7 Q.295 - I think there are probably only a few people in this
8 room who would agree -- wouldn't disagree or would agree -
9 - would disagree with the idea that that is a good thing
10 to do all the time. But that is for a debate of another
11 day I guess.

12 There is also this mention of the \$32 million out-of-
13 province change in the out-of-province gross margin. And
14 you had indicated that some part of that, or a significant
15 -- I can't remember the terminology you used -- a
16 significant part of it would flow down to DISCO.

17 How is that -- and I can't remember under the PPA how that
18 piece of the \$32 million change would be allocated between
19 them under the PPA's.

20 Who would bear the burden of that?

21 MR. GOOD: DISCO would bear the bulk of it.

22 Q.296 - How is it determined as to how it is allocated between
23 them under the PPA?

24 MR. GOOD: When the PPA was originally constructed and began
25 October 1st 2004 there was a five-year forecast done at

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2 that time of what export gross margins would be. So those

3 annual numbers for that five-year period was what we call

4 hardwired into the PPA.

5 So in this year the credit I believe is \$19.4 million.

6 That was the estimate, you know, back in October of 2004

7 of what export gross margin would be.

8 DISCO gets that amount. If there is a excess above that

9 or a shortfall below that of less than 80 percent or more

10 than 120 percent --

11 Q.297 - They share?

12 MR. GOOD: -- then Genco and DISCO will share that

13 shortfall.

14 Q.298 - Okay.

15 MR. GOOD: Okay. Now I should point out that when we were

16 talking about out-of-province gross margin here, this also

17 includes -- I mentioned earlier that Point Lepreau has a

18 participation agreement.

19 And the revenue from that would be included in this as

20 well as transmission expenses and revenues. But the bulk

21 of it is dealt with under this mechanism.

22 Q.299 - There was reference perhaps to some explanation. But

23 how many people work approximately at Point Lepreau

24 generating station normally, roughly?

25 MR. GOOD: I think the number is roughly about 700.

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Q.300 - Now as a layman -- and you can see I'm a layman on a whole variety of things, including nuclear generating stations.

But it seems to me when you shut down a plant that employs 700 people for 18 months that there would be no need to have all 700 people still working there if you have contracted out the work to do or refurbishment.

So -- and now there was an indication earlier that 70 percent of the systems are still running, which I can't quite understand how you still run 70 percent of the systems and still end up with no power. But maybe somebody can take me through that explanation.

How come there are still 700 people -- in fact how come there are more than 700 people really working there now and yet they are running 70 percent and generating no power?

MS. CLARK: During the period of the Lepreau outage, as I mentioned earlier, there is still regular maintenance going on. The employees are still there. They are doing -- some of them have been working on the capital program. Some of them are still working on the -- in the plant. There is security.

And I did ask the question myself because I needed to understand it. And the answer I got was that if you think

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2 about the refurbishment as replacing the engine in a car, and
3 that is the reactor parts, there is still all the
4 maintenance going on, the fine-tuning of things like the
5 shocks and the mufflers and the tires and the other
6 components of the plant.

7 So I did ask that very specific question that you are
8 asking. And as I said before, it is to -- while the
9 plant, while the reactor is not running, we can get to
10 certain areas of the plant that you couldn't get under a
11 normal operating condition.

12 So the engineering folks are still employed there, the
13 maintenance people, the security people. And 70 percent
14 of the systems are still running. It is only the reactor
15 parts and the reactor area that is undergoing a complete
16 refurbishment.

17 Q.301 - And will 70 percent of the systems run all the time
18 for the entire 18 months? And if so what are they doing
19 besides keeping people busy?

20 MS. CLARK: I think it is much more than keeping people
21 busy. And I don't have the details as to what they are
22 doing.

23 But I know there are -- there is work going on during that
24 period that requires that number of employees.

25 Q.302 - So do you know if the 70 percent operating capacity

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will continue to be the case for the entire 18 months?

MS. CLARK: It is not operating capacity. But I do believe that 70 percent of the systems running throughout the plant will be running through that extended period.

Q.303 - Now there has been an increase from the 700 to -- and I don't know if it is sort of considered as dedicated to the Nuclearco. But there has been an increase in the manpower at least anyway for this project. A significant number of people have been added.

So what is the manning level anticipated, peopling level?

I don't know if manning is an appropriate word anymore. The level of employment anticipated during this 18-month period at Nuclearco when you consider the regular people and the extra people?

MS. CLARK: I'm not sure of that. Although I do know in the response to that IR that I wouldn't expect there would be additional people added in '09, '10.

So whatever we are seeing in 08/09, my understanding would be that would probably be at the maximum level.

Q.304 - What is that though? I'm just wondering what the people level --

MS. CLARK: I don't have that information.

Q.305 - Oh, you don't know? Okay.

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The number is \$8 million worth of extra wages. Is that plus and contracted?

MS. CLARK: And again that is mostly attributed to the Point Lepreau outage. There would be some other costs in turn related to other areas of NB Power.

And I should add that that has no bearing on the 08/09 revenue requirement or the 08/09 information that has been provided.

Because that is being charged to the capital program during this period. So it doesn't have any bearing on the cost that you are seeing in front of you.

Q.306 - Are any of the 700 people being contracted to work with AECL to either be paid back by AECL to help them fulfil -- to aid AECL to fulfil their obligations in the refurbishment, or to at least reduce the cost of the AECL project by some contribution that NB Power will be making for personnel on the refurbishment component.
Or are all 700 people basically just going about their own business regardless of the refurbishment component?

MS. CLARK: I don't have that information. I don't know. I don't have the details on the Point Lepreau refurbishment outage. I don't have it with me. I'm sorry.

Q.307 - You would agree, again as an outside observer who knows nothing about such things, that having a plant shut

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down for 18 months, to have 700 people working, with all 700 people continuing to work on the plant, while there are a whole bunch of other contractors working there, that there isn't any -- that they aren't doing something to either get -- work towards the refurbishment project, either by way of a reduced cost, that that is odd, reduced cost or at least get paid by AECL for their efforts?

MS. CLARK: What I'm saying is I don't know. I don't know the answer to that question. I do know that the staff that are working there are either working on the refurbishment itself or working on the regular maintenance that is going on at the plant. And I do know that there is a significant oversight on that project to ensure that it works within the budgets that have been established. And I don't believe that there would be any people there not working on one of those two items.

MR. LAWSON: I think I'm done. But I just would like to check something first if I might.

Q.308 - Just one other question on clarification. And it was referred to in the course of evidence earlier. Under the -- and again this is exhibit number 4, the responses to IR's. And it is under the EUB IR's. And more specifically on page 15.

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I just didn't quite understand the statement that was made in that -- I guess the second paragraph. "The existing power purchase agreements are inconsistent with the view of self-sustaining and breakeven and will require change to support the self-sustaining view at an operating company level."

You see where I'm -- perhaps you could explain to me what you mean, and more importantly what action if any NB Power has with the intention to making some changes so that the PPA's will in fact be consistent with that?

MS. CLARK: So if I can take you back to the \$16 million loss in DISCO. If you looked at the DISCO information in isolation you would see a \$16 million loss. And as you know, in the last EUB hearing the Board approved 1.1 times interest coverage for DISCO.

Well, if you looked at the DISCO segment of information today you wouldn't see that. And the Board I believe in their decision also indicated that they agreed with NB Power, DISCO's plan for self-sufficiency over the longer term. This certainly does not line up with what self-sufficiency over the longer term would be.

And so what we were saying in this response is the decision was made on a combined basis. Because to look at DISCO in isolation you would be seeing a \$16 million loss,

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2 which does not line up with what you would have seen in the
3 last hearing or what the EUB would have approved in their
4 February 22nd decision.

5 So there are certain changes to the PPA's that were
6 anticipated to get us to \$16 million for DISCO in 08/09.
7 And those are being -- those will be approved by the board
8 of directors at the next meeting.

9 But as I indicated earlier, there are other changes,
10 longer term changes required to the PPA's. We didn't have
11 Orimulsion. Fuel prices have increased more significantly
12 than we had planned. There are capital structures that
13 didn't materialize.

14 So those are some of the longer term issues we have with
15 the PPA's that need to be resolved.

16 Q.309 - And is there any particular plan to how to resolve
17 those and whether or not you are going to come to the
18 Board to consider how the approach will be by NB Power as
19 to resolve them under the PPA's?

20 MS. CLARK: The planning for some of those changes are under
21 way. Certainly NB Power may have some views on those.
22 And we would have to bring those in front of the EUB at
23 the next hearing to ensure that those changes were
24 prudent.

25 We are also working -- we intend to work with

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government to ensure that they understand the issues that the PPA's are creating for the company as a whole, and hopefully be able to make some longer term changes to those PPA's that would work in the best interest of all the companies.

Q.310 - The piece about the self-sustaining component of NB Power, has the current government given direction to NB Power to continue on the path of looking to be a self-sustaining operation?

MS. CLARK: I don't believe that we have had any direction from the Provincial Government on that specific item.

Q.311 - So is it fair to say the only direction that you are aware of is the direction that government did give to operate on a breakeven basis?

MS. CLARK: That is correct.

MR. LAWSON: Those are all the questions I have. Thank you.

CHAIRMAN: Thank you, Mr. Lawson. Mr. Wolfe, are you prepared to ask questions at this time? I would ask you to come forward.

MR. WOLFE: Thank you, Mr. Chairman.

CROSS EXAMINATION BY MR. WOLFE:

Q.312 - The first question I would like to ask about is some of the costs on deferral accounts at Point Lepreau. If we can go to Appendix D in document number 3 under

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statement of earnings on page 2.

In here somewhere I read, and it is shown here, that the difference in depreciation or amortization is \$29 million between last year and this year in your budget?

MS. CLARK: That is correct.

Q.313 - And then I heard this morning, one of you said that part of the deferral account was depreciation.

So how much of Lepreau -- how much of this 29,000,000 had been the deferral account? Or how much depreciation is in the Lepreau deferral account altogether?

MS. CLARK: The \$29 million that you were referring to in the explanation of the amortization expenses actually is a change in the amortization between 07/08 and 08/09. The amount related to Point Lepreau that is being deferred in 08/09 is \$30 million.

So if you were -- on a comparable basis in 08/09 we have a total of \$184 million in amortization and decommissioning.

And of that amount 30,000,000 relates to the Point Lepreau refurbishment. And that is the portion that would be deferred.

And it is included -- if I can take you to Hand-out #2 I handed out earlier, it is included in the \$178 million in the period costs that are being deferred during the Point Lepreau refurbishment outage.

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2 Q.314 - So in this line that is called "Budget 2008, 2009" the
3 235,000,000 deferral does not have that 30,000,000 in it
4 then?

5 MS. CLARK: Yes, it does. What you are seeing on those
6 prospective financial statements under the 235' is two
7 different items. We have got the portion of the PDVSA
8 deferral. And we also have the \$221 million for the Point
9 Lepreau generating station refurbishment.

10 So there is two items in there. 221' of it relates to the
11 Point Lepreau generating station. And of that 221',
12 30,000,000 relates to the amortization.

13 Q.315 - Okay. And so the depreciation is down by 29,000,000.

14 So in actual fact it is all moved into the deferral
15 account then?

16 MS. CLARK: No. None of the \$29 million change that we are
17 talking about is going into the deferral account. If I
18 can take you to page 21 of exhibit 3 under financial
19 details.

20 Q.316 - That is at the start of it?

21 MS. CLARK: It is the fourth tab in I believe, page 21.

22 Q.317 - Yes. I have it.

23 MS. CLARK: Okay. The \$29 million that we are referring to
24 in that explanation on line 21 is addressing the change
25 between 07/08 and 08/09. And the amortization that we are

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referring to in particular to Nuclearco in that explanation is when we started this refurbishment we shortened the life or we ended the life of some of the assets that were being refurbished during that period.

So you are seeing a year over year change in the amortization expense. Because some of the assets at Lepreau were fully utilized, fully depreciated because they were -- it was the end of their life. And they were going to be refurbished in 08/09 and would have a new life after the refurbished plant. So that is explaining the change year over year in the \$29 million.

Now in the 08/09 number in column 3, of the 184', \$30 million of that would be going into the deferral.

Q.318 - But you already told me that it was up there in the 235' line -- in line 4 you said. So it can't be on both lines there. You have overstated your earnings by \$30 million.

MS. CLARK: The costs on the income statement are all direct costs on the income statement. So all of the Lepreau costs would be showing up on our income statement for 08/09 in the component in which the costs are.

So OM&A is in the OM&A line. Amortization is in the amortization line. Interest is in the interest line. And then we take them off the income statement through the

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regulatory deferral adjustment and defer them to the balance sheet to be recognized in a future period as a cost. So they are embedded in the different cost elements.

178' -- if I could take you to an NBEUB response, Question 2 it shows the segmented earnings by company. And the Nuclearco costs show up in the different components there.

And those are the costs that show up on the income statement and then are deferred through the regulatory deferral.

Q.319 - So on that statement it shows \$30 million for Lepreau.

And the rest of it is deferred then?

MS. CLARK: Are you looking at the segmented earnings for Nuclearco?

Q.320 - The one you told me go to the EUB, Question number 2?

MS. CLARK: Right.

Q.321 - It says Nuclearco -- it says that depreciation is \$30 million for the current year?

MS. CLARK: So that portion would show up on your amortization line on the income statement and then would be deferred in the regulatory deferral adjustment.

So that it has no impact on earnings in 08/09 and is put on the balance sheet and deferred in a future period -- deferred to a future period to be collected in rates

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2 over the life of the refurbished Lepreau.

3 Q.322 - Okay. So when you move money from the depreciation
4 account is it going to come back to the depreciation
5 account when it restarts? Or are you going to redo it to
6 have 24 1/2 years of the deferral account?

7 MS. CLARK: So this is going through the specific items on
8 the income statement at this point in time, being deferred
9 through the regulatory deferral and will be included in
10 rates over a future period, included in our costs over a
11 future period.

12 And the newly refurbished Lepreau will have additional
13 amortization associated with it that will be expensed over
14 the life of the refurbished Lepreau.

15 Q.323 - Which will be how long?

16 MS. CLARK: It's 25 years to 2034 I believe.

17 Q.324 - Out of curiosity then why have an account to defer or
18 an account to depreciate when they are both the same thing?
19 Why have both?

20 MS. CLARK: The capital project is -- for accounting
21 purposes there is a new asset being created. So we are
22 looking at extending the life of Lepreau. And that
23 creates a capital project. And that can be deferred and
24 collected in rates over a future period.

25 Normally with these period costs or these nonfuel type

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2 costs for the ongoing work that is at Lepreau during the 08/09
3 period, we don't have any mechanism in order to collect
4 those. So they would have to be recovered in rates today.

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6 We have legislation that was enacted that allowed us to
7 defer those costs to a future period to be collected in
8 rates. The only other option we would have had was to
9 incur those costs today and have that reflected in a rate
10 increase today.

11 CHAIRMAN: Mr. Wolfe, I think we are going to take a break
12 at this time. I see that we have been at this for a
13 couple of hours. So we will take a 10 or 15-minute break.
14 (Recess - 3:25 p.m. - 3:45 p.m.)

15 CHAIRMAN: I hope everybody appreciates the cool air. All
16 right, Mr. Wolfe, you can resume your questioning.

17 Q.325 - The only thing is this Lepreau thing is like a billion
18 dollars, give or take, and if you are going to depreciate
19 25 years, that means there is \$40,000,000 of new costs
20 coming at us in a couple of years, roughly.

21 MS. CLARK: The portion of the capital costs I think are a
22 billion 22, and whatever that number would be divided over
23 25 years would be the increase in costs associated with
24 the nuclear --

25 Q.326 - So it's around \$40,000,000 a year?

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MS. CLARK: That's correct.

Q.327 - And then the deferral account is new money coming at us again and that's going to be 15, 20,000,000, something like that, per year?

MS. CLARK: You are correct in that the costs being deferred in 08/09 that it would normally be considered regular maintenance, but the legislation allows us to defer those would be an additional cost collected over the 25 years as well.

Q.328 - So in a couple of years then the new starting point is 55,000,000 higher then?

MS. CLARK: There will be increased costs, that's right, associated with the refurbished Lepreau as well as the deferral costs.

Q.329 - Earlier on Mr. Lawson's questions you said that the 19 and a half million was in the three/quarter statement that actually came for the actual -- for the year 07/08. You said the 19 and a half million of settling the hedges was in that statement?

MS. CLARK: Yes, I believe it is.

Q.330 - So can I ask then is it in the statement that's in document number 3 where you show the forecast -- or sorry -- the five months of actual and seven months of forecast? Is it in there as well?

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MS. CLARK: No, it isn't in that number. It was included between the period of August and December, some time in there. So it is reflected in the statements filed in response to the Board order related to JDI number 2, but it wouldn't have been in our original filing.

Q.331 - Okay. So on this filing then you are saying your net earnings are 85,000,000 and yet you have still got another 19 and a half million to come. So now you are telling us we lost 20,000,000 in the fourth quarter for NB Power as a whole?

MS. CLARK: I don't have the details of quarter four -- the particular details, but what I do know is the preliminary numbers for 07/08 show net earnings of around \$85,000,000, and there are swings in various categories from the forecast in any given period, but up until December 31st of 2007 the results show net earnings of \$82,000,000.

Q.332 - Which includes the 19 and a half?

MS. CLARK: Yes, that's correct.

Q.333 - And the 19 and a half is not in the 85, so to be the same that means we had to have lost 20,000,000 in the last quarter?

MS. CLARK: There are a number of other factors that I don't have the details on, but you are correct in that, the 19.5 million dollars is not in table A of our evidence, but is

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in the statement for December 31st, which I guess once again shows the volatility that we have in our costs in any given period.

Q.334 - Okay. Earlier this morning I heard one of you say that -- and I'm probably paraphrasing -- you said Genco costs and DISCO costs are virtually the same? That was to Ms. Desmond this morning.

MS. CLARK: What I said or what I intended to say was that the costs from the generators come through to DISCO through the PPAs, so they are -- the costs of the generating companies for the most part are the costs that flow through the PPAs to DISCO and get reflected as PPA costs in DISCO.

Q.335 - If you go to the EUB question number 2, and that's on page 3, it says here that for the budget year that Genco is going to make \$72,000,000, DISCO is going to lose 16,000,000. If I go to previous years -- if I go to the nine month one that was in JDI question number 2, NB Power had made 82,000,000 up until then. We also had the nine month DISCO statement and that shows a loss of 14.7 million dollars for DISCO. And I recall the last hearing that we had all the years back since deregulation and that was true on very one of those years, that the DISCO earnings was much, much less than either Genco or NB

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Power. Is that -- am I correct on that?

MS. CLARK: I would agree with you that in previous hearings the Genco numbers were typically higher than the DISCO numbers, but on a combined basis for 06/07 we were projecting net earnings of \$21,000,000, and in 07/08 we were projecting earnings of \$36,000,000. So the earnings for the NB Power group took into account the lower earnings in DISCO and the higher earnings in Genco.

Q.336 - But in actuality it didn't turn out to be that way, because at the end of the third quarter, DISCO is a negative number. I had the DISCO third quarter numbers that you sent me if would like to see them? All I am saying is that every year since deregulation that DISCO has shown a much, much lower number than Genco or NB Power in every year since deregulation. So to go and say that the right thing to do is have DISCO with 1.1 times earnings or interest costs and then to work up the other ones, all we are doing is insulating the profits of Genco and of NB Power?

MS. CLARK: I guess what you are saying is in support of what we are proposing is that in this case the NB Power boards of directors looked at the information on a combined basis, so they could made a decision on the 3 percent. To look at DISCO alone, we would have been

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2 recording net earnings of 16 -- a loss of \$16.3 million under
3 the current PPAs. So even with the PPA changes that we
4 were talking about, the \$16.3 million loss in DISCO. So
5 we had to look at the information on a combined basis to
6 keep the rate increase at that level.

7 Q.337 - So are you talking about changing PPAs to make it more
8 reasonable as to cost between the different companies
9 then?

10 MS. CLARK: On a go forward basis, we would be looking at
11 recommendations for PPA changes for various reasons, as I
12 have mentioned earlier.

13 Q.338 - Several times this afternoon, you talked about
14 retained earnings and how it was important to be a
15 positive number. If I go to document number 3 again and
16 Appendix D, again there is a statement of earnings and
17 deficits. You are showing a positive -- a retained -- a
18 positive retained earnings of 33 million at the end of
19 this budget year?

20 MS. CLARK: That's correct.

21 Q.339 - Now if I go back and look at March 31st of '06, you
22 started that period with \$107 million negative retained
23 earnings, am I correct?

24 MS. CLARK: Yes, that's correct.

25 Q.340 - So in three years, we have -- the retained earnings

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have gone from \$107 million negative to 33 million positive.

So somewhere along the way we start out with a huge negative number. And all I am saying is that NB Power had made a lot of money in the last three years and been able to bring the retained earnings from -107 to a positive 33.

So it is not as bleak as some people would think?

MS. CLARK: You are right, we have moved from a negative position and what we are proposing for 08/09 should circumstances play out as we have assumed, we would be looking at a net earnings level of \$33 million on revenue of \$1.3 billion that is certainly not any kind of what I would consider a healthy retained earnings level for a company.

Q.341 - What is a healthy retained earnings level?

MS. CLARK: I don't have a particular number in mind. I do know that the independent expert believed that 1.75 times interest coverage would be an acceptable level of earnings and retained earnings level over a 10 year period A.

Q.342 - My only other question is that several times this

afternoon, you talked about the extra costs in this year because of flooding. And I know that one of your power plants went down because of flooding. Do you have business interruption insurance as a corporation?

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MR. GOOD: I believe we only have business interruption service on the nuclear plant, but not on the thermal stations.

Q.343 - Or they hydro?

MR. GOOD: Or they hydro.

MR. WOLFE: Thank you, Mr. Chairman. That's my questions.

CHAIRMAN: Thank you, Mr. Wolfe. Mr. Peacock?

CROSS EXAMINATION BY MR. PEACOCK:

MR. PEACOCK: Thank you, Mr. Chair. I would love to continue my crusade against high service charges, but unfortunately it is outside the scope of this proceeding.

Q.344 - So I guess I only have a few questions and they are most mostly dealing with the OM&A. For reference I would like to allude to document 4 in DISCO -- and specifically DISCO's response to JDI question number 7, outlining any initiatives that might reduce OM&A costs in the '08, '09 budget.

In DISCO's response the utility states that the focus in '08, '09 is on cost management and process improvements which will result in cost containment and reductions over the longer term, rather than immediate reductions in OM&A costs. From this response, at least to this applicant or to this intervenor, it would appear that the utility does not see -- does not see the need to focus on immediate

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reductions in OM&A. Are there any specific OM&A reductions in this year's budget that have lowered DISCO's costs that you might be able to share with the Board?

MS. LEAMAN: As it relates specifically to DISCO's OM&A, which the number I believe was \$106 million for '08, '09.

We do have initiatives that have carried forward from '04, '05 that have -- we have sustained those savings, but in addition, we do have about a million dollars worth of savings embedded in '08, '09 as well.

In top of that there will be additional savings beyond '08, '09 related to two IT projects that we currently have underway that will generate savings between 2 and \$3 million on a go forward basis.

Q.345 - Would that be 2 or \$3 million in each year or --

MS. LEAMAN: 2 and \$3 million for each year.

Q.346 - Future budget year?

MS. LEAMAN: Future budget.

Q.347 - Would it be fair to state -- and I guess this is to help me understand some of the testimony given this morning. Would it be fair to state that as a result of lower export sales and higher fuel costs that this utility, if it did not receive the 3 percent increase, would be facing a potential shortfall of close to 60 million if it wasn't able to -- roughly 30 million in

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terms of --

MS. CLARK: If you take the out-of-province margin and the average increase of fuel cost per megawatt hour, you are talking about \$60 million. So our net earnings level or earnings before taxes would be reduced by \$60 million, you are correct.

Q.348 - In it's last ruling, the Energy and Utilities Board struck from your revenue requirement -- or from DISCO's revenue requirement the Energy Advisers' Service, because it seemed to think that the service overlapped to a degree with the work of Efficiency New Brunswick. That particular ruling arguably saved the ratepayer roughly half a million dollars. Is the Energy Advisers' Service still being offered by DISCO? And is it in fact found within your '08, '09, OM&A budget?

MS. CLARK: The \$600,000 that the EUB disallowed as part of the February 22nd decision is included in the '08, '09 forecast for DISCO, because the Board had approved that, that budget in December of '08 -- '07, sorry. So we are still providing those services to customers. As a result of the decision, we have been working with Efficiency New Brunswick to ensure that there is no duplication of services provided to customers. Shortly we will be establishing terms of references between the two

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groups and we will be establishing rules and responsibilities between those two groups as well.

Q.349 - So given that your in fact clarifying the various roles between the utility and Efficiency NB, would it be correct to assume that the Advisers' Service will in fact be in the revenue requirement for future years in some sort of modified form?

MS. LEAMAN: Yes, I believe so.

Q.350 - If the service was in fact removed entirely from OM&A either this year or in future years, would that not represent a potential cost savings of over a half million dollars to ratepayers?

MS. LEAMAN: If the decision was made that those services were in fact a duplication, it would. But DISCO believes that those services are not necessarily duplication at all. There is actually a number of activities that our energy advisors perform that are of value to customers, specifically as it relates to DISCO's products and services. We are providing education on the product and services that we provide, trying to help consumers make wise decisions as it relates to their electricity consumption. Our energy advisors perform a number of activities that are specific to DISCO. They -- I know we mentioned it last year at the last rate application that

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they do take numerous seated energy calls from customers. And in this past year, in '07, '08, we actually responded to over 4,500 customer inquiries that were escalated to those seated at energy advisors. And they are dealing with questions that are high bill complaints, metering issues, information on our water heater program, questions around security deposits, rate applications, so there is a number of information providing that is passed on to customers as a result of the work that they do.

Q.351 - From that description, however, it seems that a significant portion of the Energy Advisers' Service would in fact overlap with what I would assume to be the duties of a customer service representative?

MS. LEAMAN: The calls that are escalated to the energy advisors are calls that the agents themselves, the customer interaction agents don't have enough information or enough knowledge to be able to answer those questions responsibly.

Q.352 - I guess I will end my cross in the manner of one or two questions. From our perspective any savings that the utility can in fact generate would be of benefit to a low income ratepayer in this province. And we saw the Board's ruling on the question of the Energy Advisers' Service as a positive one in the sense that it in fact struck some --

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a significant amount of dollars from the revenue requirement.

And that of course allowed for an easing of rate pressures. Did the -- do you know if the -- either DISCO's Board or the Board of Directors of the NB Power group of companies examined the role of energy advisors subsequent to the Board's ruling?

MS. LEAMAN: I guess since the ruling, DISCO management has looked at the role of the energy advisors and that is why we are working very closely with Efficiency New Brunswick to make sure that there is no duplication and that the role that our energy advisors are providing to customers today is of benefit in the future.

Q.353 - But has there been any discussion among Board of Directors as to the continued role?

MS. LEAMAN: I am not --

Q.354 - Or has it only been a management discussion?

MS. LEAMAN: I am not aware of any discussion at the Board of Director level.

Q.355 - I guess as a final question, are there any other potential cost savings of a half million that may be found within OM&A, because you know I see the Energy Advisors as one that may be an obvious cost savings. Are there others that you may be able to direct me towards?

MS. CLARK: I believe that OM&A costs as presented are

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prudent OM&A costs and are necessary to provide the services to the ratepayers.

MR. PEACOCK: Thank you, Mr. Chair.

CHAIRMAN: Thank you, Mr. Peacock. I think that last question is what we call going fishing.

MR. PEACOCK: One can always hope.

CHAIRMAN: I guess it is the Voice of Real Poverty and I have been advised that they will not be here today. They will be hear tomorrow to make a presentation.

So I am going to see if there is any questions of the Panel. Mr. McLean?

MR. MCLEAN: No.

CHAIRMAN: Ms. Morrison? Mr. Radford?

MR. RADFORD: Yes. I guess most of my comments would be directed to Mr. Morrison. I am at a distinct disadvantage of being here today because I was not at the rate hearings. But on the other hand it may be an advantage. So you have to educate me on helping me along through this situation. But I want you to go back to your corporation or your client and tell me what a great job these three witnesses have done here for you today.

MR. MORRISON: I am sure to do that, Mr. Radford.

MR. RADFORD: Would you please? But I am somewhat offended that neither the CFO or the CEO has given evidence here

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today on a decision that affects almost every business, ever
person in the province of New Brunswick.

So I would like you to take that message back s well. But
perhaps you are going to call them in the morning?

MR. MORRISON: Well on that point, Mr. Radford, and I just
want to make sure that are clear about this --

MR. RADFORD: Yes, please.

MR. MORRISON: -- when this matter was scheduled for the
time --

MR. RADFORD: Two months ago.

MR. MORRISON: Yes. There was a Board of Directors meeting
that was scheduled. We notified the Board, Board Staff of
that conflict. And I also understand that Michael Gorman,
the Vice-President of Legal contacted Board Counsel last
week and again made it clear that it wasn't by virtue of
any type of slight to the Board or otherwise that vice-
presidents would not be here. So that's the first point.
The second point is that when we went through the last
couple of rate hearings, and if you look at what happens
in many other jurisdictions in terms of the people who
appear as witnesses for the utility at these hearings, it
is usually not people at the vice-president -- at the
executive level. Taking vice-presidents away from the
operation of the business for extended periods of time,

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and the last hearing lasted several months, the one before that was even longer, puts a tremendous strain on the ability to manage the utility properly.

Now albeit, I will agree that perhaps there needs to be a greater staffing level in the Regulatory Affairs Department of the utility. I agree with that. But I think on a go forward basis, as you said these witnesses did a very good job.

MR. RADFORD: Excellent job.

MR. MORRISON: And they are the people that work with the numbers on a day-to-day basis. And it is not a question of our trying to not provide the best witness available to give the evidence. It was really -- I think it was a conscious decision and certainly I was consulted to have the right people to answer the questions.

Now there were some policy questions that came up today that obviously these witnesses weren't --

MR. RADFORD: They are not the decisionmakers.

MR. MORRISON: They are not the decisionmakers. Quite frankly, we didn't anticipate that there would be the focus on some of the policy issues that there were today.

And that may be a failing on my part as well. I can assure you that there was no intention in any way, shape or form to offend the Board or to put forward witnesses

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2 that would not be able to answer the questions. And I do want
3 to say that on a go forward basis I think it is reasonable
4 to anticipate unless there is going to be a number of
5 policy issues that come up that you are probably going to
6 see witnesses or we would propose to put forward witnesses
7 who would be at the director level, because these are the
8 people that work with the numbers.

9 In the last couple of rate hearings, I think it was
10 probably essential that there be policy witnesses on the
11 panel, because quite frankly there was an entirely -- we
12 had just gone through restructuring with the new
13 Electricity Act. It was almost all policy. The numbers
14 really took -- and I shouldn't say a back seat -- normally
15 numbers are what drives a revenue requirement hearing or a
16 rate hearing, not policy. If policy wasn't a predominant
17 issue in the last two rate hearings, it certainly was one
18 of equal importance to the numbers.

19 So I am not apologizing, Mr. Radford. I am trying to
20 explain the thought process that went in in selecting this
21 panel.

22 MR. RADFORD: Are they available tomorrow?

23 MR. MORRISON: That I don't know, but I will check and find
24 out.

25 MR. RADFORD: Listening to your words very carefully, when I

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2 as last here at the interim rate hearing I saw the CFO sit
3 here all the time and not say a word, but she was here.
4 She is not here today. One thing that you said to me last
5 year, last May, which I bought into and signed the interim
6 rate order, was that you were losing -- your client was
7 losing \$300,000 per day. I am in numbers. Those were big
8 numbers. No company can operate on that basis. I would
9 like to ask these witnesses, what direction the CFO or the
10 CEO gave to you to reduce your costs? From that -- and
11 that was made very clear, you were losing \$300,000 a year
12 -- \$300,000 a day and we gave you the money, what
13 direction did staff of the corporation receive to reduce
14 costs, because you couldn't operate on losing \$300,000 a
15 day, any business can't. What were the directions, please
16 and who did they come from?

17 MS. CLARK: So in our 07/08 application, the one I think you
18 are talking about, there were as I said before when we put
19 our planning together, we look at balancing customer
20 service with the environment and with safety. And the
21 cost reductions would be included in some of the targets
22 that we have set through our planning process.
23 There were initiatives going on in '07, '08 that we
24 continued with not just because we were losing \$300,000 a
25 day, but initiatives throughout the year. Angela Leaman

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has talked about some of the initiatives in DISCO. But some of the bigger initiatives that were looking at were on the generation side trying to find an appropriate blend of fuel because quite honestly reducing OM&A by half a million dollars wasn't going to have the huge impact some of the -- if we spent more of our time on the fuel side we could get better savings or improve productivity. So we were looking at trying to get an appropriate blend of fuel so that we could have larger savings in the '07, '08 period.

MR. RADFORD: So where did the savings come from? Did you get them?

MS. CLARK: So the savings themselves were included in the budget that we had put forward and there were no other savings in addition to those. They were what we were planning -- the blend stayed the same is what I should say. And the savings were what we had anticipated in our planning process.

MR. RADFORD: Just to push it a little further. Who gave you the direction to reduce the costs? Who did it come from? Did it come from the CFO and CEO or did it not come at all?

MR. GOOD: Well speaking personally, the direction that I would have received would have been from my boss, the VP

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2 Generation, who probably working with the CEO and CFO would
3 have had those sort of discussions, but the message
4 coming to me would have come to my from my boss. And I
5 can say that throughout the year last year, certainly
6 working with the Genco management team one of the messages
7 we were getting was things are tight. You know, we need
8 to make sure that we are spending our money prudently and
9 whatnot.

10 So as we went throughout the year, if there was --
11 something came up in another area, an unexpected cost,
12 certainly my boss was putting the pressure on us as a team
13 to find those costs in another area within Generation in
14 order to keep to our budget target.

15 MR. RADFORD: Gave me this chart to look at. What is the
16 perfect situation for a corporation to break even using
17 that chart? You are here to at least break even. Is it
18 to sell less? Or to sell more? Where do you make --
19 there is seven lightbulbs out here. Obviously -- and this
20 is not -- I am not being smart or -- I mean obviously the
21 hotel save money by those bulbs. What does that do to
22 you? Does that -- is that less energy being used saving
23 you money or is it costing you money? I haven't got that
24 part straight?

25 MR. GOOD: In some respects it is costing us money when you

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2 look at the very -- because of the way we dispatch our
3 generation resources from least cost to most expensive, if
4 you are able to reduce your overall generation, that's
5 your generation requirements, you will save money. At
6 some point you cross a threshold though where that
7 reduction in load is actually going to cost you money.

8 MR. RADFORD: Well is there anywhere that you can figure
9 from that chart -- could you give me a chart where the
10 perfect situation would be in regards to sales on costs?

11 MR. GOOD: Yes, I think we would have to do some analysis on
12 that.

13 MR. RADFORD: Would you do that, please?

14 MR. GOOD: Okay.

15 MR. RADFORD: Thank you. And the only other -- just on an
16 education point, in regard to your borrowings, are we
17 borrowing -- or is the corporation borrowing in Canadian
18 dollars or are you borrowing in American dollars or some
19 foreign currency do you know?

20 MS. CLARK: We are borrowing all in Canadian dollars.

21 MR. RADFORD: Thank you.

22 CHAIRMAN: Thank you, Mr. Radford. Just with respect to
23 this analysis that you have requested, when would that be
24 available? Again, I guess we have today and tomorrow
25 slated and Friday if necessary slated for these hearings

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2 Is this analysis something that you could do overnight or is
3 this a project that would take longer? I just want to
4 kind of get some sense. We haven't had any undertakings I
5 guess to date and I just want to get a sense of the
6 analysis that has been asked. Is that something you can
7 provide relatively quickly?

8 MS. CLARK: I am not sure what the analysis is going to look
9 like at this point in time. And I am not sure that I can
10 give you what you are looking for. I mean if you look at
11 the residential rate, it depends on -- I guess our
12 statement of earnings is the best example of that. We
13 have a \$69 million net earnings target, and if you look at
14 any particular customer class, let's say residential for
15 example, depending on the cost to supply that and the rate
16 structure that is supporting that, you are not -- you
17 won't have a one-to-one relationship. And you would have
18 to look at things over -- basically at the income
19 statement level I think to answer the question. I am not
20 sure that I -- that we are going to be able to do what you
21 are looking for, unless I know more specifically --

22 MR. RADFORD: I understand what the Chairman has asked
23 because we don't want to delay the thing at all, but maybe
24 just help me through it. When you are purchasing energy,
25 like when I look at your graph there, when you are

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purchasing energy, are you making money or losing money?

MR. GOOD: Well I will say this. When we purchase it is typically because we are looking at what is the cost to purchase versus the cost to generate that electricity in-house, and obviously we would purchase if it is least cost or less cost.

Now in terms of our total cost of fuel and purchase power relative to what we make when we sell energy in-province, that's a -- I don't know that I can answer your question.

MR. RADFORD: Well maybe that's all you can do. That's all I am trying to figure out whether it's sales need to go up or sales need to go down, you know, that's what I am just trying to be educated on.

MR. GOOD: Right.

MR. MORRISON: Mr. Chairman, someone has passed me a note about what this analysis might look like. And it is complicated because it depends on the load, or customer class, time of day, time of year. It really I think to answer the question -- and I am just a brief discussion with Mr, Larlee, you are really looking at almost a demand side management study or something akin to that to say okay, which is the profitable load, which is the not profitable load, which load do you keep, which load do you

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2 try to get rid of? When I say get rid of put it in an
3 incentive program to reduce the "unprofitable load",
4 perhaps increase the profitable load. It's a complicated
5 business --

6 MR. RADFORD: Okay.

7 MR. MORRISON: -- and I don't know if it lends itself to
8 simple answers.

9 MR. RADFORD: It is purely an education that I am trying to
10 get out of this what -- where you should be in running a
11 corporation, that's all.

12 MR. MORRISON: No, and I understand. I understand your
13 concern.

14 MR. RADFORD: Because if you are in selling shoes or doing
15 something you know what you have to sell, you know how
16 much you have to pay for your product, so you know what
17 you have to do to at least break even as Mr. Lawson kept
18 harping on.

19 MR. MORRISON: And I guess in this case it would be
20 determining which line of shoes you know longer want to
21 sell.

22 MR. RADFORD: That's right. Exactly. Thank you. No, I
23 don't want to hold up anybody that -- undertakings or
24 anything like that, Mr. Morrison. And again I
25 congratulate the witnesses. They have done an excellent

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job here today.

CHAIRMAN: So Mr. Radford just for the record, it is my understanding then that you are not really looking for an undertaking to provide this analysis?

MR. RADFORD: That is correct.

CHAIRMAN: Yes, Mr. McLean?

MR. MCLEAN: To move maybe to more general questions. I would like to ask the Panel that on the statements you prepare is there a deadline for your monthly statements when they are supposed to be completed? So far after -- you do them every month is that correct? And so the month end is on the month end and when are the statements supposed to be done?

MS. CLARK: So our annual financial statements we call --

MR. MCLEAN: No, monthly.

MS. CLARK: The monthly financial statements?

MR. MCLEAN: Yes.

MS. CLARK: We have what we call a five day month end close.

And we have financial results available at a very high level on the 5th day of the following month, the fifth working day of the following month. And that information I would say by day 11 -- day 11, day 12 is presented to the executive for a review. And we take statements -- take the statements to the Audit Committee four times a

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year. And so those are also reviewed by the Audit Committee.

MR. MCLEAN: So why then would we then see so much information here that's five months into the year when the year is over and we still have seven month projection, as opposed to statements that are -- in other words, we should be able to see now the April statements for this year, the first month of the year, should we not? Maybe it is a high level and maybe they are not audited, but are they available for last month?

MS. CLARK: April 2008, our internal statements, actual compared to budget, would be complete at this time.

MR. MCLEAN: But they are not -- okay, but they are not shared with the Board? They are not submitted in any --

MS. CLARK: They are internally generated statements and they don't go outside the corporation in any way until the annual financial statements are released in accordance with the legislation.

MR. MCLEAN: Okay. Thank you.

MR. RADFORD: Just one follow-up so I get it straight. The 3 percent increase amounts to \$37 million, was that correct? Did I see that some place?

MS. CLARK: That's correct. Approximately 37 million.

MR. RADFORD: And you are showing a profit of -- if you had

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the 37 million, you are going to show a profit of sixty something is that correct?

MS. CLARK: That's correct. With the in-province revenue increase of \$37 million in '08, '09, we would have forecasted net earning so \$69 million, which results in interest coverage of approximately 1,27 times.

CHAIRMAN: Mr. Johnston?

VICE-CHAIRMAN: My questions relate to the amendments to the power purchase agreements that have been discussed. If I understood the evidence correctly, the proposal was put forward to your Board of Directors and the evidence that we have here today is largely based upon proposed amendments to the power purchase agreements, is that correct?

MR. GOOD: That's correct. I would classify most of those amendments though really as interpretation of the agreement as to -- instead of big significant changes.

VICE-CHAIRMAN: All right. Could you give me some indication of the nature of the amendments that we are talking about?

MR. GOOD: Sure. One of the amendments, for example, was to revise the guidelines for calculating the vesting energy price to be able to include forecasted energy purchases. The guidelines as they currently stand don't allow those

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to be included when we set the vesting energy price, but we wanted to make that change --

VICE-CHAIRMAN: Just let me stop you there, Mr. Good, because I think that is an interesting topic. So the -- I think it is Section 6.2 of the vesting agreement sets out how the vesting energy price is going to be determined or it is somewhere around that point. And there are two changes in the way it has been done here if I understand correctly in the consolidated statements.

The first one relates to the inclusion of unpurchased power or proposed power purchases within the pricing mechanism. And the second one relates to the time, which was done again in December, rather than being done in late September. Are there other changes that were made?

MR. GOOD: Actually if I can just clarify the budget run that was done in December, there is nothing in the PPAs that prohibit that. The PPAs say that by October 1st, you will do a forecast of fuel purchase power costs to serve DISCO and you will set the vesting energy price at that time. The PPA doesn't say anything about well subsequent to that if there is revised information and Genco wants to you know redo PROMOD to forecast its own fuelling purchase power costs. There is nothing in the PPA that prohibits that.

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VICE-CHAIRMAN: No, but we would not base rate decisions on that second run ordinarily?

MR. GOOD: Correct. Correct.

VICE-CHAIRMAN: Or you would not, excuse me. I shouldn't say we. So there is the change in that a rate decision has been based on a PROMOD that was done after the time that would ordinarily be directed by the PPAs?

MR. GOOD: Correct.

VICE-CHAIRMAN: Now there is one example of the changes to the PPAs and is that what you would consider to be an interpretative change or do you anticipate that is going to be committed to writing some point?

MR. GOOD: Oh, that will be committed to writing. That is one of the amendments that's going forward for discussion. And that is actually kind of a change. That is a change. Some of the things that I am referring to in terms of interpretation is, for example, related to Point Lepreau refurbishment. The PPA says that the guidelines for setting the vesting energy price tell you what to assume before refurbishment and what to assume after refurbishment, i.e., that you would assume Point Lepreau as operating at an 80 percent capacity factor, but the agreement to silent what do you assume during the period of the refurbishment. So the Operating Committee started

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2 discussing this issue months ago, as I say, back in the summer
3 about how that should be interpreted. And that's the sort
4 of change that like I say we just wanted to formulize in
5 an amendment to the PPA, but it is really more of an
6 interpretation to when the agreement is silent on
7 something.

8 VICE-CHAIRMAN: So this is an area where the agreement is
9 silent and something has to be put in place?

10 MR. GOOD: Something has to be decided.

11 VICE-CHAIRMAN: Are there other -- we have talked generally
12 today so often about these amendments to the PPAs, are
13 there others you can direct me to?

14 MR. GOOD: Those are the -- the ones that really impact '08,
15 '09 are all related to that Point Lepreau issue. There
16 are a number of things that are inter-connected there.
17 How do you model Point Lepreau? How much energy is DISCO
18 entitled to? And at what price and so on and so forth.
19 So those are the things that really impacted '08, '09.
20 A couple of the other amendments that we have been working
21 on and that are going forward are really more for the
22 longer term at this point.

23 VICE-CHAIRMAN: Thank you. That's the only topic I wanted
24 to raise.

25 CHAIRMAN: Thank you, Mr. Johnston. Mr. Morrison, are there

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any questions that you would like to put to the Panel after everybody else having had their opportunity to perhaps clarify anything that they have testified to today?

MR. MORRISON: I had anticipated having a little bit of time this evening to look at that. As you know, Mr. Chairman, I normally shy away from any redirect unless I think it is absolutely necessary, but I would like to have the opportunity to consult with my colleagues before I make a final decision on that. I understand that we are going to be here tomorrow in any event so chances are I won't, but there may be.

CHAIRMAN: All right. I think on that basis we will call it a day. We will adjourn until 9:30 tomorrow morning. We will start with any redirect that you may have. And you are absolutely right, my experience being involved in hearings with you is that it is generally short. So we should be able to hear from Mr. Logan shortly -- I suppose sometime before 10:00 o'clock tomorrow. So we will start at 9:30 tomorrow. We are adjourned until that time.

(Adjourned)

Certified to be a true transcript of
of the proceedings of this hearing,
as recorded by me, to the best of
my ability.

Reporter