

## NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF an application by Enbridge Gas New Brunswick Inc. to change its Contract Large General Service LFO distribution rate

Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on February 12th 2008.

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1 NEW BRUNSWICK ENERGY AND UTILITIES BOARD  
2 IN THE MATTER OF an application by Enbridge Gas New Brunswick  
3 Inc. to change its Contract Large General Service LFO  
4 distribution rate  
5 Held at the New Brunswick Energy and Utilities Board premises,  
6 Saint John, N.B., on February 12th 2008.

7 BEFORE: Raymond Gorman, Q.C. - Chairman  
8 Cyril Johnston, Esq. - Vice-Chairman  
9 Edward McLean - Member  
10 Steve Toner - Member  
11 Robert Radford - Member

12 NB Energy and Utilities Board - Counsel - Ms. Ellen Desmond  
13 Staff - Doug Goss  
14 - John Lawton  
15 - Dave Young

16 Secretary Ms. Lorraine Légère  
17 Assistant Secretary - Ms. Juliette Savoie

18 .....  
19 CHAIRMAN: Good morning, everyone. This is a hearing of the  
20 New Brunswick Energy and Utilities Board to consider an  
21 application by Enbridge Gas New Brunswick to change the  
22 Contract large general service LFO distribution rate. The  
23 panel for this hearing is comprised of the Vice CHair  
24 Cyril Johnston, Edward McLean, Robert Radford, Steve Toner  
25 and myself as Chair.

I will now take the appearances starting with the  
Applicant.

MR. HOYT: Len Hoyt and David MacDougall for Enbridge Gas  
New Brunswick. And we are joined by Dave Charleson, Jamie  
LeBlanc and Mark Butler.



1  
2 CHAIRMAN: Thank you, Mr. Hoyt. Atlantic Wallboard/JD  
3 Irving Limited.

4 MR. STEWART: Christopher Stewart, Mr. Chairman. Joined  
5 today by Sarah Price, Wayne Power and Mark Bettle.

6 CHAIRMAN: Thank you, Mr. Stewart. Canadian Manufacturers  
7 and Exporters NB Division? Mr. Plante here? Flakeboard  
8 Company Limited?

9 MR. LAWSON: Good morning, Mr. Chairman, Members of the  
10 Board. Gary Lawson and with me is Barry Gallant of  
11 Flakeboard and Dr. Steve Gaske.

12 CHAIRMAN: NB Energy and Utilities Board?

13 MS. DESMOND: Ellen Desmond, Mr. Chair. And here from Board  
14 staff is Doug Goss, John Lawton and Dave Young.

15 CHAIRMAN: Thank you, Ms. Desmond. I am also going to  
16 canvass the room to see what informal intervenors are  
17 present. Anybody here from Canadian Restaurant and Food  
18 services Association? Anybody here from Competitive  
19 Energy Services? Department of Energy?

20 MR. ROBERTS: Yes. Good morning, Mr. Chair. Steve Roberts  
21 from the Department of Energy.

22 CHAIRMAN: Thank you, Mr. Roberts. Ganong Bros. Limited?

23 MR. LEFEBVRE: Good morning, Mr. Chair. Mark Lefebvre for  
24 Ganong Bros.

25 CHAIRMAN: Thank you, Mr. Lefebvre. Public Intervenor?

1  
2 MR. THERIAULT: Good morning, Mr. Chairman. Daniel  
3 Theriault.

4 CHAIRMAN: Thank you, Mr. Theriault. Sucor Limited? Nobody  
5 here from Sucor Limited.

6 I have been asked to make everybody aware of the fact  
7 that we seem to have more wires than usual running along  
8 the floor. So I guess if people are bringing exhibits  
9 forward or panel members are joining the panel, I just ask  
10 you to sort of watch out for that.

11 I think at this point in time there are a number of  
12 exhibits to be marked. I believe that a draft exhibit  
13 list has been circulated and there may in fact be other  
14 documents that should be marked at this time as well.

15 I will start with the Applicant's exhibits. Prior to  
16 day we had finished, I believe, at exhibit A-5(C). And  
17 since that time we have received a couple of documents.

18 The first were follow-up responses by EGNB dated  
19 January 22nd 2008 to IRs of Atlantic Wallboard LP/JD  
20 Irving, The Energy and Utilities Board and Flakeboard  
21 Company Limited, under a covering letter of January 22nd  
22 2008. It would be my intention, by the way, to mark all  
23 of these as exhibits unless somebody does have any  
24 objection. And I am assuming, I do believe, that these  
25 have been circulated.

1  
2 So maybe I should start at this point in time and say  
3 does anybody have any difficulty with any of the proposed  
4 exhibits?

5 All right. Well then that will become Exhibit A-6.

6 The next document is follow-up responses to EGNB dated  
7 January 22nd 2008 to IRs of Atlantic Wallboard/JD Irving  
8 and Energy Utilities Board under covering letter dated  
9 January 22nd 2008 with a claim for confidentiality. And  
10 that will be A-7(C).

11 Those were all of the additional exhibits that we had  
12 on behalf of EGNB. Mr. Hoyt, are there other documents  
13 that we should mark at this time?

14 MR. HOYT: Yes. I believe there are two. We sent CVs for  
15 Jamie LeBlanc and Mark Butler and I have a copy for the  
16 Board and I have an additional 15 copies. I don't know if  
17 there is a table you want to leave the additional copies  
18 or what you would like me to do with those. I can keep  
19 them. Thanks very much.

20 CHAIRMAN: I think with respect to those additional copies -  
21 - I assume they have already been circulated to the  
22 parties but if not, you might want to circulate them here  
23 to anybody that is looking for a copy.

24 All right. The curriculum vitae of Mark Butler will  
25 become exhibit A-8. And the curriculum vitae of Jamie D.

1  
2 LeBlanc will become exhibit A-9.

3 Do you have anything additional -- I did note that  
4 there was an opening statement from one of your witnesses  
5 that had been circulated. Was it your intention to have  
6 that marked as an exhibit as well?

7 MR. HOYT: I thought that we could but I thought --

8 CHAIRMAN: He is just going to --

9 MR. HOYT: -- deliver it and it will be into the record that  
10 way.

11 CHAIRMAN: So does that complete the documentation for  
12 Enbridge Gas New Brunswick at this point in time?

13 MR. HOYT: Yes, it does.

14 CHAIRMAN: Thank you, Mr. Hoyt. Mr. Stewart, a number of  
15 documents have been submitted on behalf of Atlantic  
16 Wallboard/JDI. And again, that was circulated. I believe  
17 there were five of them. And I will read those into the  
18 record. And again, if anybody has any difficulty, any  
19 objections to having those marked, this is the time to  
20 speak up.

21 All right. Then we will assign exhibit numbers to  
22 them. The first document is evidence of Wayne Power dated  
23 January 25th 2008 on behalf of Atlantic Wallboard LP/JD  
24 Irving Limited under cover letter of January 25th 2008.  
25 That will become AWL/JDI-1.

1  
2 The next document is the evidence of John Reid dated  
3 January 25th 2008 on behalf of Atlantic Wallboard LP/JD  
4 Irving Limited under cover of letter of January 25th 2008.  
5 And that will be AWL/JDI-2.

6 The next document a response is dated February 8th  
7 2008 to IRs on NBEUB and EGNB, volume 1 of 2, that is  
8 AWL/JDI-3.

9 The next document is attachments to response dated  
10 February 8th 2008 re EGNB IR-13 and 23. That is volume 2  
11 of 2. That is AWL/JDI-4.

12 The last document is confidential response dated  
13 February 8th 2008 to EGNB IR-6. And that is AWL/JDI-5(C).

14 And is there any other documentation, Mr. Stewart,  
15 that should be marked for AWL/JDI?

16 MR. STEWART: It doesn't much matter, Mr. Chairman, but I  
17 think the confidential response is actually only 6(b).

18 CHAIRMAN: It's on -- sorry, it's on --

19 MR. STEWART: It's only 6(b). IR-6(b).

20 CHAIRMAN: Yes, okay. I will amend that then so that it  
21 will read confidential response dated February 8th 2008 to  
22 EGNB IR-6(b).

23 MR. STEWART: Just one more additional document, Mr.

24 Chairman. I appreciate that I had neglected to circulate  
25 this. Mr. Bettle from our client will be joining Mr.

1  
2 Power on his panel and I just have his résumé and a little  
3 bio and we should probably mark that as well.

4 CHAIRMAN: And that has been circulated to the parties?

5 MR. STEWART: It has not, Mr. Chairman. I apologize for the  
6 oversight but it has not. It is now. I have a couple of  
7 extra copies if anyone needs it, beyond what we have.

8 CHAIRMAN: And I guess since that is a document that wasn't  
9 previously circulated, does anybody have any problems or  
10 difficulties, objections with that? All right. That will  
11 become AWL/JDI-6.

12 And we have some documents for Flakeboard Company  
13 Limited. Mr. Lawson, I understand that there are three  
14 documents that have been filed.

15 MR. LAWSON: That is correct.

16 CHAIRMAN: I will assign exhibit numbers to those. We have  
17 evidence of Barry Gallant dated January 25th 2008 on  
18 behalf of Flakeboard Company Limited under cover of letter  
19 of January 25th 2008. That will be FCL-1.

20 The next document is the evidence of Dr. Steven Gaske  
21 dated January 25th 2008 on behalf of Flakeboard Company  
22 Limited under cover of letter January 25th 2008. That  
23 will be FCL-2.

24 And we have responses dated February 8th 2008 to IRs  
25 on NBEUB and EGNB under cover of a letter dated February

1  
2 8th 2008. And that is FCL-3.

3 Anything additional, Mr. Lawson?

4 MR. LAWSON: No, Mr. Chairman. Nothing further. Thank you.

5 CHAIRMAN: Are there any preliminary matters before we  
6 proceed with today's hearing?

7 MR. HOYT: Nothing form the Applicant.

8 CHAIRMAN: Nobody else? All right. Then I will ask the  
9 Applicant to proceed.

10 MR. HOYT: Thank you, Mr. Chair. I would like to introduce  
11 the Enbridge Gas New Brunswick panel. From right to left,  
12 Jamie LeBlanc, the Manager of Finance and Control, Dave  
13 Charleson, the General Manager of Enbridge Gas New  
14 Brunswick. And Mark Butler is the Manager of Business  
15 Development.

16 As we just mentioned, CVs for these individuals have  
17 been filed with the Board. At this time I would like to  
18 ask Mr. Charleson to confirm that the evidence dated  
19 November 5th 2007 and EGNB's IR responses dated January  
20 11th 2008, which is exhibit A-6, and EGNB's follow-up IR  
21 responses dated January 22nd 2008, exhibit 7(C) were  
22 prepared by you or under your direction and control and  
23 are accurate to the best of your knowledge?

24 CHAIRMAN: Mr. Hoyt, perhaps before we get a response to  
25 that, has the panel been sworn. Perhaps counsel to the

Board can swear the panel.

JAMIE LEBLANC, DAVE CHARLESON, MARK BUTLER, sworn.

DIRECT EXAMINATION BY MR. HOYT:

CHAIRMAN: The Panel has now been duly sworn. I don't think it's necessary for you to repeat the question.

MR. CHARLESON: Yes, it was.

Q.1 - And do you adopt that evidence of the IR responses as the testimony of EGNB in this proceeding?

MR. CHARLESON: Yes, I do.

Q.2 - Could you please deliver your opening statement?

MR. CHARLESON: Yes. On November 5th, 2007, EGNB filed its evidence in support of an application to change the rate it charges for contract large general service, light fuel oil or LFO customers. At this time I would like to provide a brief overview of EGNB's evidence to provide what we believe is important context for this hearing.

In this application EGNB has continued to use the market-based methodology for determining rates. This methodology is the same methodology that has being used by EGNB since its inception and is the methodology that the Board has used as the basis for approving EGNB's rates since that time.

Intervenors in their evidence have challenged the appropriateness of the proposed rates on the basis of



1  
2 economic harm and also some parameters used in applying  
3 the methodology. I think it is important that the Board  
4 understand what EGNB's evidence is regarding this.

5 First, it is important to understand what it is that  
6 EGNB is proposing. This application is requesting an  
7 increase to the first block of the LFO rate. This,  
8 however, is just one component of the total cost of an LFO  
9 customer of using natural gas. For a typical LFO customer  
10 under the proposed rates, the charges arising from this  
11 block only represent about 30 percent of the total cost of  
12 using natural gas.

13 For a much larger customer, like those intervening in  
14 this proceeding, the first block represents approximately  
15 20 percent. Within the rate itself there is also a demand  
16 charge component and for large consumers two additional  
17 block rates. EGNB is not proposing any increase to these  
18 rate components.

19 Also, the primary cost associated with using natural  
20 gas is the commodity itself. This can represent  
21 approximately 60 percent of the total cost for a typical  
22 LFO customer and closer to 80 percent of the total cost  
23 for a large industrial customer.

24 When all of these factors are considered, the burner  
25 tip impact to customers is significantly less than the

1  
2 impact you arrive at by looking at only one element of the  
3 cost of using natural gas. When all these factors are  
4 considered, the impact to a typical customer is roughly 18  
5 percent, and for a large customer it's approximately 11  
6 percent. EGNB does not want to downplay this fact.  
7 However, these customers are still achieving savings in  
8 comparison to the fuel alternative.

9 The last time EGNB applied for an increase to the CLGS  
10 LFO rate class, oil was trading at \$61.78 U.S. per barrel.  
11 At the time this application was filed this had increased  
12 to \$82.01, an increase of 33 percent. And since that time  
13 oil has risen further. In the 21 day average it is now  
14 trading nearly ten percent higher. At the same time  
15 natural gas prices have remained relatively stable. In  
16 fact, if EGNB were to have filed its application today,  
17 the proposed rate would have been \$5.75, or 27 percent  
18 higher than what is requested in this application.

19 Increasing distribution rates is always a concern for  
20 EGNB, regardless of the size of the increase. Any  
21 increase affects our customers cost of using natural gas.  
22 However, EGNB must also balance these concerns against the  
23 impact to the deferral account if rate increases are not  
24 applied for when they are supported by market conditions.  
25 EGNB remains committed to living up to its value

1  
2 proposition of delivering target levels of savings to its  
3 customers.

4 EGNB has demonstrated over the past few years that if  
5 market conditions dictate that prices should be reduced,  
6 it will do so through the use of a rate rider. Similarly,  
7 if market conditions allow for rates to be reinstated we  
8 will do so. These adjustments are all made with a view  
9 towards delivering on the value proposition of target  
10 savings.

11 At the same time EGNB must also be sensitive to  
12 managing the costs that are flowing to the deferral  
13 account. These amounts will have to be recovered from  
14 customers at some point in time and allowing this account  
15 to grow unnecessarily is not in the long-term interest of  
16 all customers.

17 EGNB must, and does, continually look to balance these  
18 interests, providing the appropriate incentive to convert  
19 to and continue using natural gas, while also minimizing  
20 additions to the deferral account.

21 I would like to just briefly address one proposal in  
22 AWL's evidence regarding the methodology. Mr. Reid has  
23 suggested that a time horizon that is longer than 21 days  
24 be used as the basis for determining the commodity prices.  
25 In his evidence he proposes that a 60, 90 or even 365 day

1  
2 average be used. His basis for using a longer period is  
3 that the rates established in this proceeding are likely  
4 to remain in effect for one or more years.

5 Mr. Reid does not seem to acknowledge that the rates  
6 established in this proceeding will establish the maximum  
7 rate until such time as EGNB applies for new rates, and  
8 that EGNB may, as it has done in the past, apply rate  
9 riders when necessary to reduce rates to reflect changes  
10 in market conditions.

11 EGNB has used a 21 day average for establishing the  
12 commodity prices in its market-based rate methodology  
13 since rates were first established in 2000. Since that  
14 time the Board has approved changes to EGNB's rates on  
15 three occasions. The 21 day average has always been the  
16 basis used for establishing these rates, and it has never  
17 been questioned until now. There is good reason that it  
18 has never been challenged. In a market-based rate  
19 environment, EGNB needs to be responsive to changes in  
20 market conditions.

21 The period of times used to establish the pricing will  
22 determine the responsiveness to market volatility. This  
23 time period should be long enough to consider major market  
24 price events, yet ignore minor market price events. A  
25 major market event, such as a terrorist act which impacts

1  
2 supply or sustained cold or economic downturn which  
3 impacts demand, will have an impact on the intermediate to  
4 long-term pricing. A minor market price event, such as  
5 the threat of a tropical storm or hurricane, which has  
6 little to no impact on supply, will impact pricing in the  
7 short-term up to seven days. It is important that the  
8 duration used allows EGNB to be responsive, but also  
9 considers major market price events while ignoring minor  
10 events. The 21 day average balances these elements.

11         Retail oil prices change frequently in response to  
12 market conditions, and EGNB's rates need to be able to  
13 respond to these changes. All one has to do is to look at  
14 how maximum prices are established for heating oil in New  
15 Brunswick. According to the EUB website, maximum prices  
16 are set every week. However, the maximum price for a  
17 product can change sooner if there is a significant  
18 increase or decrease in the benchmark price. If the  
19 average market price for home heating oil changes five  
20 cents in one day, the maximum prices will be changed.  
21 This is an immediate response to market signals, not a  
22 response to a long-term trend in prices.

23         Since the purpose of EGNB's market-based rates is to  
24 provide target savings in comparison to fuel alternatives,  
25 the methodology used for establishing the price needs to

1  
2 be reasonably reflective of the manner in which the  
3 competing fuel prices are set. The same 21 day average  
4 used to establish the maximum delivery rate is used to  
5 determine the need for and size of a rate rider.

6 If a longer time horizon is used to establish EGNB's  
7 rates, it runs significant risk of being out of step with  
8 the competing fuel.

9 In an inclining market a delayed response to a long-  
10 term average would mean that costs are being added to the  
11 deferral account unnecessarily. In a declining market  
12 EGNB would not be able to lower its rates in a timely  
13 manner to maintain its competitive advantage over the  
14 alternate fuel.

15 Losing this competitive advantage over the alternate  
16 fuel -- losing this competitive advantage will impact  
17 EGNB's ability to grow its market or even maintain the  
18 customers it has today. The ability to respond to both of  
19 these market conditions is important to successfully  
20 managing the market-based model and deferral account.  
21 EGNB believes the 21 day average continues to provide the  
22 necessary ability to respond.

23 EGNB typically has the ability to adjust its rates on  
24 a monthly basis through the use of rate riders. The  
25 current process for implementing a rate rider requires

1  
2 EGNB to provide the EUB with at least 14 days to review  
3 and approve any rider request. After allowing the time to  
4 determine the applicability of a rider and prepare the  
5 application, this will generally result in a monthly cycle  
6 for applying rate riders. By using a 21 days average, the  
7 time period used for evaluating commodity pricing matches  
8 this cycle, providing the ability for EGNB to be  
9 responsive to changes that are occurring in the  
10 marketplace.

11 As the Board acknowledged in their January 18th  
12 decision, EGNB has demonstrated that if market conditions  
13 change, it will apply to lower its rates. The Board  
14 expects EGNB to continue to do so and since EGNB has seen  
15 this as an effective means of managing ever changing  
16 market conditions it expects to do so. The continued use  
17 of the 21 day average best positions EGNB for this.

18 In summary, EGNB's evidence is clear. The applied for  
19 rates result from the application of the Board approved  
20 methodology to changes in market conditions. The  
21 methodology as it is currently approved provides EGNB with  
22 the tools necessary to be responsive to changes in the  
23 pricing of the fuels it is competing against.

24 The applied for rates provide the proper balance  
25 between providing a sufficient economic incentive to

1  
2 convert to and continue to use natural gas, and maximizing  
3 cost recovery so that additions to the deferral account  
4 will be minimized and not unduly burden the utility and  
5 future customers.

6 EGNB believes it is appropriate, just and reasonable  
7 that the Board approve the rates as applied for.

8 Q.3 - Thank you, Mr. Charleson. This panel is ready for  
9 cross-examination.

10 CHAIRMAN: Thank you, Mr. Hoyt. Mr. Stewart, do you want to  
11 come forward.

12 CROSS EXAMINATION BY MR. STEWART:

13 Q.4 - Mr. Charleson, I have been in the back of the room sort  
14 of frantically taking notes as you were talking away. and  
15 just a couple of quick questions to start. Enbridge Gas  
16 New Brunswick does not sell natural gas to Atlantic  
17 Wallboard, does it?

18 MR. CHARLESON: No, it doesn't.

19 Q.5 - And you don't sell Atlantic Wallboard the facer paper  
20 that they use in their production process?

21 MR. CHARLESON: That's correct.

22 Q.6 - You don't sell them their gypsum or any other materials  
23 that they use as part of their manufacturing?

24 MR. CHARLESON: That's correct.

25 Q.7 - And the rates that you charge, and indeed the rates that



1  
2 this application pertains to, are for the delivery of  
3 natural gas that Atlantic Wallboard already owns from your  
4 city gate or your custody transfer station to their plant,  
5 correct?

6 MR. CHARLESON: That's correct. This rate application  
7 applies for distribution rates that are based on a market-  
8 based methodology that looks at the total cost of using  
9 natural gas and arrives at a distribution rate that will  
10 provide an economic incentive to use natural gas.

11 Q.8 - Thank you. That's a nice little long answer to the  
12 short question. Bottom line is you deliver the gas from  
13 the valve on the Maritimes Northeast System to their plant  
14 and that's what you charge them for, correct?

15 MR. CHARLESON: That's what the distribution rate reflects  
16 the delivery of gas to an LFO customer.

17 Q.9 - Right. And you are the local distribution company who  
18 in fact does that local distribution. That's the business  
19 you are in.

20 MR. CHARLESON: That's correct. Right.

21 Q.10 - And so when you speak of your rate increase here that  
22 you have applied for as a percentage of using the cost of  
23 natural gas, what you are really doing is lumping the  
24 service you provide in with the cost of a product that  
25 Atlantic Wallboard buys from someone else, isn't that

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correct?

MR. CHARLESON: Again we are applying a market-based rate methodology that looks at the total cost of using natural gas. So it is important that the cost of the commodity is factored into what arrives at the distribution gate and the derivation -- the very derivation of the distribution rate incorporates the cost of commodity in arriving at the distribution rate.

Q.11 - Thank you. But that wasn't the question I asked. The question I asked was in your opening statement you said -- and I think you actually quoted two numbers. You said our rate increase will increase the cost of using natural gas by a certain percentage. Isn't that what you said?

MR. CHARLESON: That's correct.

Q.12 - Right. And when you calculate that percentage, what you really did was you took your rate increase for your distribution services and your total resulting distribution costs, and lumped it together with the cost of natural gas that Atlantic Wallboard buys from someone else, correct?

MR. CHARLESON: That's correct.

Q.13 - Right. And so as I believe you said a minute ago, what you are applying for here is to increase the rates for the first block of the LFO -- the charges for the first block

1  
2 of the LFO rate from \$2.3910 to \$4.5428, correct?

3 MR. CHARLESON: That's correct.

4 Q.14 - And that has nothing to do with the cost of natural gas  
5 commodity other than you use that in your formula to  
6 calculate the rate?

7 MR. CHARLESON: Correct. That's an important part of the  
8 formula.

9 Q.15 - Right. So your rate increase isn't about the cost of  
10 using natural gas, it's about an increase in the cost of  
11 local distribution rates, correct?

12 MR. CHARLESON: I would disagree with that.

13 Q.16 - You sell natural gas to Atlantic Wallboard?

14 MR. CHARLESON: We apply a market-based rate methodology  
15 which looks at the total cost of using natural gas.

16 Q.17 - All right. I'm talking about Atlantic Wallboard.

17 Atlantic Wallboard -- you will agree with me that it will  
18 pay you, if this rate increase is approved -- I calculate  
19 it at \$852,108 per year more, is that correct?

20 MR. CHARLESON: Based on the information received from  
21 Atlantic Wallboard, yes.

22 Q.18 - Right. Assuming that they are going to max out in the  
23 first block, their volumes will exceed the first block?

24 MR. CHARLESON: Yes.

25 Q.19 - Right. And so that charge, that extra \$852,000, that's

1  
2 solely with respect to local distribution services and  
3 nothing to do with their purchase of natural gas from  
4 another party?

5 MR. CHARLESON: That's correct.

6 Q.20 - Mr. Charleson, could I ask you to turn to -- it's your  
7 evidence. I think it has been marked as exhibit A-3, page  
8 2 of 11.

9 MR. CHARLESON: I have that.

10 Q.21 - And question and answer 5, the question is, could you  
11 review the Board approved methodology for setting  
12 distribution rates, and you then over the next sort of two  
13 pages outline the formula in essence that is used to  
14 calculate -- or that you used to calculate the  
15 distribution rate that you are seeking in this  
16 application, correct?

17 MR. CHARLESON: That's correct.

18 Q.22 - And you have a little chart on the next page, page 3 of  
19 11, where you calculated your number, is that correct?

20 MR. CHARLESON: That's correct. The derivation of  
21 distribution rates.

22 Q.23 - And at the bottom of that page you say Enbridge  
23 continues to feel that oil is the most appropriate  
24 benchmark against which to set its LFO rate and it's  
25 generally the predominant existing energy alternative for

1  
2 customers within this class and in any case remains an  
3 alternate fuel source for these customers after  
4 conversion. I guess that's the basis upon which you  
5 suggest that your formula is still relevant and  
6 appropriate?

7 MR. CHARLESON: Yes.

8 Q.24 - And then if we turn over to the next page, page 4 of  
9 11, you add another basis, also generally speaking oil and  
10 natural gas commodity prices tend to track one another,  
11 that is, when the price of oil goes up, so does the price  
12 of natural gas and vice-versa, that's correct, that's your  
13 evidence?

14 MR. CHARLESON: That's correct.

15 Q.25 - And that was one of the bases upon which you suggest  
16 that your formula is still relevant for determining rates  
17 today?

18 MR. CHARLESON: Yes. The combination of the alternate fuel  
19 and also the historic relationship between oil and gas.

20 Q.26 - Right. And I think, as you told us in your opening  
21 statement, but I think it's elsewhere here in your  
22 evidence as well, that has been the approach and the basis  
23 for this methodology since you first applied for your  
24 first LFO rate in the summer of 2000, correct?

25 MR. CHARLESON: That's correct.

1  
2 Q.27 - And the theory is, as I understand it, that while the  
3 price of oil and natural gas tend to generally track each  
4 other, there will be times when the spread, the market  
5 spread, is a little wider or a little narrower over a  
6 period of time. And the rate rider, as you talked about,  
7 can be used if the spread narrows a little bit and you  
8 need to reduce your rate because the market spread has  
9 been squeezed, so to speak, is that correct?

10 MR. CHARLESON: Yes. The rate riders can be used to adjust  
11 the distribution rates within the maximum rate that has  
12 been approved. So again, if that -- say the oil to price  
13 relationship is squeezed, as Mr. Stewart put it, we would  
14 apply a rider to reduce the rate. And similarly, if that  
15 ratio then expanded again, we would look to reinstate the  
16 rates but only up to the level of the maximum rate -- the  
17 approved rate by the Board.

18 Q.28 - Right. And if the spread gets wider still, you apply  
19 to raise the ceiling like you have in this application,  
20 correct?

21 MR. CHARLESON: That's correct. However, as I also  
22 indicated earlier this morning -- earlier in my  
23 statement -- the current spread would have led to a price  
24 that would be 27 percent greater than what we have applied  
25 for, and EGNB is not applying to change its original

1  
2 application.

3 Q.29 - Well we are going to come back to that, but it's true  
4 that you have applied for a 90 percent increase in the  
5 first block LFO rate because this gas -- this market  
6 spread has widened to the point to allow you to do that,  
7 that's why you are here?

8 MR. CHARLESON: That's correct. The market-based  
9 methodology arrives at a rate that we have applied for.

10 Q.30 - Well let's back up a little bit to when you first used  
11 this approach in the summer of 2004 -- or 2000 -- excuse  
12 me. And it's true that at that time the market spread so  
13 to speak allowed for an LFO rate that was 79.01 cents per  
14 gigajewel, correct?

15 MR. CHARLESON: That's correct.

16 Q.31 - But now you are saying, and I believe what I heard you  
17 say in your opening statement, is that the market spread  
18 is no longer 79.01 cents, the market spread is now up to  
19 \$5.75, correct?

20 MR. CHARLESON: That's correct. Market conditions have  
21 continued to change over the years and we have looked to  
22 respond to those changes through the setting of our  
23 rates.

24 Q.32 - And I just divided the two numbers, but that's an  
25 increase of 7.28 times, does that sound reasonable?

1  
2 MR. CHARLESON: I will take your math.

3 Q.33 - But for the moment at least you are just applying for a  
4 \$4.5428 increase in the -- or up to that level based on  
5 that market spread for the first block LFO rate?

6 MR. CHARLESON: That's correct, because at the time we filed  
7 this application, that's the rate that the market-based  
8 methodology would allow for.

9 Q.34 - Okay. And it's also true that most of the difference  
10 between the original 79.01 cents and the \$5.75 has  
11 happened in the last two years and a bit, isn't that  
12 correct?

13 MR. CHARLESON: Perhaps you can step me through how you  
14 arrived at that.

15 Q.35 - Okay. Well in December of 2005 your first block LFO  
16 rate was still -- was up from the 79.01 cents up to 92.73  
17 cents, correct?

18 MR. CHARLESON: I believe the number was 97.73 cents.

19 Q.36 - Maybe I have a typo. So it's 97.73 cents up from your  
20 original rate in 2000, six years before that, of 79.01  
21 cents, correct?

22 MR. CHARLESON: I don't believe it was six years before  
23 that.

24 Q.37 - I'm sorry. Five years before. I apologize.

25 MR. CHARLESON: Yes.



1  
2 Q.38 - 2000 to 2005.

3 MR. CHARLESON: Yes. Correct.

4 Q.39 - And then in January 2006 it jumped up to the current  
5 rate of \$2.3910 cents, correct?

6 MR. CHARLESON: The maximum rate at that time was approved  
7 as \$2.3910. However for a period of time after that was  
8 approved there were some rate riders in place that  
9 reduced that rate.

10 Because again the market conditions had changed  
11 between the time the application had been filed and the  
12 approval of the rate.

13 So EGNB applied riders to continue to reflect and  
14 deliver the target savings level. And then over a period  
15 of time during 2006 those rates were reinstated to the  
16 approved level.

17 Q.40 - Right. And so in fact because you had applied your  
18 rate rider you didn't get up to the \$2.3910 level until  
19 later in 2006, isn't that right?

20 MR. CHARLESON: That's correct. Because again we were  
21 monitoring market conditions and adjusting our rates  
22 accordingly.

23 Q.41 - Right. So the market spread though up to its current  
24 level occurred later in 2006, is that correct? When did  
25 you remove your last rate rider?

1  
2 MR. CHARLESON: The final rate rider was removed I believe  
3 in June of 2006. However the market spread had been  
4 wider at the time -- you know, at the time the original  
5 rate was approved by the Board in December of 2005, the  
6 market spread had been there and then narrowed and then  
7 widened again. It just shows that the market will move  
8 up and down.

9 Q.42 - Right. So if we are talking about when the current  
10 spread trends started, your rate of -- current rate of  
11 \$2.3910 started in June of 2006. And now you want to  
12 increase it 4.5428?

13 MR. CHARLESON: That's what the market conditions support.

14 Q.43 - I'm not quite sure your point in mentioning the current  
15 number of \$5.75. Is it your intention to apply for a  
16 rate increase up to that level now?

17 MR. CHARLESON: No, it's not. Our sole intention of  
18 mentioning that was as an indication that market  
19 volatility continues. And there will be changes in terms  
20 of the price, oil to gas price relationship.

21 Q.44 - Why aren't you going to do that?

22 MR. CHARLESON: At this time we have an application before  
23 the Board to establish rates for 2008. And my  
24 understanding of the procedures are that a single  
25 application can be processed for a year.

1  
2 If market conditions are the same in the fall of  
3 2008 then we would likely look to bring forward another  
4 application for a change to rates for 2009.

5 Q.45 - So you are not committing to put rates even higher than  
6 what you are asking for today?

7 MR. CHARLESON: What we are committing to is that we will  
8 continue to look to provide target savings that provide  
9 an incentive for people to convert to and continue to use  
10 natural gas.

11 Q.46 - Can I ask you, Mr. Charleson, to turn to exhibit A-4.  
12 And that is your response to Flakeboard IR number 12.

13 VICE CHAIRMAN: Could you repeat that reference,  
14 Mr. Stewart?

15 MR. STEWART: I certainly can. I'm looking at the EGNB  
16 response to Flakeboard IR number 12, I believe part of  
17 exhibit A-4, Flakeboard interrogatory number 12.

18 Q.47 - And Mr. Charleson, if I could ask you please to turn to  
19 page 2 of 6 of your response to Flakeboard interrogatory  
20 number 12.

21 And a little bit of the old a picture is worth a  
22 thousand words. As I understand it, this graph that you  
23 have produced at the top of the page shows this market  
24 spread that we were talking about between the price of  
25 oil and natural gas, is that correct?

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MR. CHARLESON: That's correct. Right.

Q.48 - And I appreciate that you have expressed it in U.S. dollars per Mbtu. But it is the relative difference that counts in this particular case, right?

MR. CHARLESON: Yes. Right.

Q.49 - So if we look at this graph -- and there is sort of an annual -- and I'm sort of reading your indication as we go across.

If we look at June of 2000. See that about in the middle of your graph there?

MR. CHARLESON: Yes.

Q.50 - Okay. So that would have been when you made your first rate application and the first time you utilized this methodology that you are suggesting should be used again to the Board, correct?

MR. CHARLESON: Correct.

Q.51 - And if we look backward for the previous 10 years, the price of oil and natural gas has, as I think you indicated, generally tracked each other?

MR. CHARLESON: Yes. But also if you look back to say in 1990 through '91 or '92, there was a wider spread at that point of time. And on a percentage basis you are probably getting close to the types of spreads that we are experiencing today.

1  
2           So I think it helps to reinforce that there will be  
3 points in time where the spreads will expand and then  
4 come back together.

5 Q.52 - Right. And that is why you have your ability to apply  
6 to increase your rates a bit and use your rate rider a  
7 bit, right?

8 MR. CHARLESON: Correct.

9 Q.53 - But if we look back at June, certainly the previous  
10 seven or eight years, your statement about the prices  
11 tracking each other is a very accurate statement. Those  
12 lines are pretty close together in that graph?

13 MR. CHARLESON: I assume you are talking June 2000?

14 Q.54 - June 2000, yes.

15 MR. CHARLESON: Yes. So what you will notice as well is  
16 there are points in time where natural gas has spiked and  
17 kind of deviated from there and move away. So there has  
18 been volatility in that relationship over those years.

19 Q.55 - Right. There is -- and you can see them a mile away.  
20 In 2000 and in 2002 there is a spike, a short-term rise  
21 in natural gas prices?

22 MR. CHARLESON: Yes. It just shows there is volatility in  
23 both commodities.

24 Q.56 - Okay. So let's move forward to your last rate case.  
25 Now that was, you know, in the fall of 2005, correct?

1  
2 MR. CHARLESON: Correct.

3 Q.57 - Now we got quite a large gap emerged there, do we not?

4 MR. CHARLESON: There was a gap in the later part of 2005,  
5 that is correct, where natural gas went above oil.

6 Q.58 - And so you came to the Board and asked for a price  
7 increase?

8 MR. CHARLESON: The application had been filed prior to that  
9 runup in prices on natural gas. That runup in natural  
10 gas prices at that time was --

11 Q.59 - I thought you based your numbers on August '05 data?

12 MR. CHARLESON: The data was up to August '05. However, if  
13 you remember in 2005 is when hurricanes Katrina and Rita  
14 had a significant impact on natural gas supply. Those  
15 hurricanes hit in the later part of August. I think  
16 August 23rd or so is when the first hurricane hit.

17 And that had an immediate impact on natural gas  
18 pricing, which was after the point in time our  
19 application was filed or the time period that we were  
20 looking at the price relationship.

21 Q.60 - And then, as you told us, you used your rate rider,  
22 because the gap narrowed again, didn't it, in later  
23 2005 -- early 2000' --

24 MR. CHARLESON: At the time the rate was approved by the  
25 Board, the pricing relationship between oil and natural

1  
2 gas had narrowed.

3 And as a result that is why a rate rider was  
4 applied. Again, we responded to market conditions  
5 through the use of a rate rider.

6 Q.61 - And when prices widened in June of 2006, you took the  
7 rate rider away?

8 MR. CHARLESON: That's correct.

9 Q.62 - So let's look at the end of the chart which is more or  
10 less today. It is true that not once in the preceding 18  
11 years has the gap been anything close to what it is  
12 today?

13 MR. CHARLESON: I would have to disagree with that on a  
14 percentage basis.

15 Q.63 - Okay. I'm not asking for a percentage basis. Show me  
16 another point in time where the gap is as large as today?

17 MR. CHARLESON: On a pure dollar value I would agree. But  
18 again --

19 Q.64 - Is there a time where it is even half that?

20 MR. CHARLESON: On a dollar basis? Perhaps there has been  
21 instances where natural gas has been higher than oil for  
22 that amount.

23 Q.65 - Okay. I'm talking about oil higher than natural gas.  
24 That is what I'm talking about here.

25 MR. CHARLESON: No.

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Q.66 - So not once in the preceding 18 years has there been a spread even half as big as what we got today, isn't that correct?

MR. CHARLESON: On a dollar basis. However, on a ratio basis, in the relationship between the two, I would say there has been.

Q.67 - And you are charging your rates in dollars, aren't you?

MR. CHARLESON: That's correct. But it is a relationship between the two on a dollar basis.

Q.68 - That is what I'm talking about. I'm talking about the gap, size of the gap. It is twice as big as it has ever been in the preceding 18 years today, isn't it?

MR. CHARLESON: At this point in time, yes.

Q.69 - And at least today it is true that the price of oil and natural gas -- you kept talking about market volatility -- they no longer tend to track each other, do they?

MR. CHARLESON: I would disagree with that.

Q.70 - Because --

MR. CHARLESON: I think if you look at our response to the Board's interrogatory number 10, we indicate our views in terms of the relationship between oil and natural gas.

Q.71 - Okay. I understand your view. But these are your numbers?

MR. CHARLESON: But I think the numbers, again you are



1  
2 looking at a point in time -- there will be points in  
3 time where the two commodities may appear to disconnect  
4 from one another and there will be variances, because  
5 there is different market forces impacting one commodity  
6 more than the other. Again in 2000' --

7 Q.72 - That is my point precisely. I agree with you 100  
8 percent.

9 MR. CHARLESON: At points in time.

10 Q.73 - Right.

11 MR. CHARLESON: It is a long-term -- it is a trend, a  
12 historical trend we are talking to.

13 Q.74 - Right. And so if we are looking at historical trends  
14 we should look at the differential based on, well, the  
15 long 18-year period or a longer period, not just a brief  
16 snapshot in time, correct?

17 MR. CHARLESON: In terms of using oil as a basis for -- as  
18 the alternate fuel for establishing the price, it is the  
19 long-term relationship that gives us confidence. Also  
20 the fact that oil is the alternate fuel.

21 Again the majority of our customers do have oil as  
22 an alternate fuel. 13 out of the 20 customers have oil  
23 as an alternate fuel. And that is why oil is used as the  
24 comparative.

25 Q.75 - And what has happened here today, Mr. Charleson, isn't

1  
2 it that oil prices -- and I wrote on my page -- I used  
3 the word "skyrocketed", but maybe that is a bit  
4 melodramatic. And when I go to the gas pump I don't -- I  
5 feel like they have skyrocketed. But they have gone up  
6 significantly.

7 But to use your words from your opening statement,  
8 gas prices have remained relatively stable, correct?

9 MR. CHARLESON: That's correct.

10 MR. STEWART: Can I ask you, Mr. Chairman, to turn to EGNB  
11 IR number 2. That is part of exhibit A-4.

12 Q.76 - And if you could, could I ask you please to turn to  
13 page 2 of 2 of that IR response.

14 Now about halfway down the page, subparagraph (c)  
15 you talk about the LFO total market potential. And I  
16 assume that is total market potential in your franchise  
17 area or the province of New Brunswick?

18 MR. CHARLESON: It is total market potential that we see  
19 within a reasonable proximity to where our distribution  
20 system is or where the Maritime system runs today.

21 Q.77 - Okay.

22 MR. CHARLESON: So we are not including say potential LFO  
23 customers in the norther part of the province, which is  
24 part of our franchise.

25 Q.78 - Okay. Fair enough. So you have 20 customers, LFO

1  
2 customers?

3 MR. CHARLESON: That's correct.

4 Q.79 - You have 20 today?

5 MR. CHARLESON: That's correct.

6 Q.80 - You had 19 in your construction plan for 2008. I don't  
7 think much turns on that, but -- is that just a typo or -

8 -

9 MR. CHARLESON: I would have to check. Again, some of it  
10 can be timing in terms of when somebody comes on.

11 Q.81 - And I appreciate that Atlantic Wallboard may have come  
12 on line there too.

13 But you are confident you have 20 today?

14 MR. CHARLESON: Yes.

15 Q.82 - Okay. And you don't have any noncustomers on a natural  
16 gas main, LFO potential customers left, as far as you are  
17 aware?

18 MR. CHARLESON: That's correct.

19 Q.83 - And you don't have any LFO noncustomers or potential  
20 customers, and you use the term "in very close  
21 proximity", is that correct?

22 MR. CHARLESON: Where we put the five in terms of the  
23 regardless of location is really where we didn't look to  
24 distinguish between what would be deemed very close  
25 proximity or a little bit further away.

1  
2 They are -- you know, the range in terms of the  
3 proximity to main. One of the LFO customers is within  
4 three kilometers of our main. However, there are some  
5 challenges in terms of getting main to that customer.

6 Q.84 - Okay.

7 MR. CHARLESON: Three of the other ones are say within 10  
8 kilometers of main. And then one is -- the final one is  
9 a bit further away.

10 Q.85 - Okay. Let's talk about that. You told us that there  
11 are none in very close proximity. And let's talk about  
12 the five that you have identified as potential customers  
13 regardless of their location, okay.

14 MR. CHARLESON: Right.

15 Q.86 - So where are these five? Let's go through them. I  
16 don't know who they are, so pick --

17 MR. CHARLESON: Okay. We do have one that is in the -- say  
18 the Fredericton/Oromocto area.

19 Q.87 - Right. And is that the one that is within three  
20 kilometers but you have a challenge?

21 MR. CHARLESON: Yes.

22 Q.88 - What is the challenge?

23 MR. CHARLESON: Again there is -- we have a highway crossing  
24 that we have to get through to get main to them. And  
25 there are some challenges in terms of DOT permitting that

1  
2 we are trying to address.

3 Q.89 - To be able to service that customer?

4 MR. CHARLESON: Correct.

5 Q.90 - So right now you can't service that customer?

6 MR. CHARLESON: Today we can't. But our intention is to be  
7 able to get there.

8 Q.91 - And we have four more. Who are the other four?

9 MR. CHARLESON: There are -- the other four are in  
10 communities that we don't currently serve.

11 Q.92 - All right. What communities are they?

12 MR. CHARLESON: Unfortunately, I think getting into there  
13 could start to identify who that potential customer is.

14 Q.93 - Well that is not confidential. You have identified a  
15 customer. Why is that confidential?

16 MR. HOYT: The specific community will identify who the  
17 particular customer is. That would be of concern to  
18 EGNB. If it is information that could be provided in  
19 confidence we would consider it.

20 But again we are going to be concerned about  
21 disclosing the identity of the customer. We have no  
22 trouble dealing with the distances from existing main and  
23 so on. I think it should address Mr. Stewart's concern.

24 MR. STEWART: Well, with respect to noncustomers.

25 CHAIRMAN: I think they have been identified perhaps as

1  
2 potential customers.

3 Q.94 - Have you had any discussions or negotiations with these  
4 four parties?

5 MR. CHARLESON: With one of them definitely.

6 Q.95 - With one of them you have?

7 MR. CHARLESON: Yes.

8 Q.96 - All right. Okay. Fair enough.

9 Where does that one -- how far out are they away  
10 from any current infrastructure?

11 MR. CHARLESON: They are -- they are the one that's a bit  
12 further away than the rest. They are the farthest away  
13 from main.

14 Q.97 - Okay. How far?

15 MR. CHARLESON: Say approximately 30 kilometers.

16 Q.98 - So you had to build 30 kilometers of pipe to get to  
17 this customer?

18 MR. CHARLESON: Correct.

19 Q.99 - Okay. And that leaves three more that you haven't  
20 spoken to?

21 MR. CHARLESON: We have had some -- there have been  
22 discussions with at least one of those customers a number  
23 of years ago. And so they are still viewed as being a  
24 potential target conversion.

25 And then the other customers that we saw were in

1  
2 proximity to that customer. And we viewed that if we  
3 were able to serve the one customer, then the others  
4 would be potential customers as well.

5 Q.100 - But to be clear, you haven't spoken to the last two at  
6 all?

7 MR. CHARLESON: That's correct. But they are still  
8 potential customers. We haven't spoken to a large number  
9 of residential customers. But they are still potential  
10 customers.

11 Q.101 - And two you haven't spoken to at all. I'm working  
12 backward from five. Four and five you haven't spoken to  
13 at all.

14 Three you spoke to a number of years ago. How many  
15 years ago?

16 MR. BUTLER: The last discussion would have been in about,  
17 subject to check, 2005.

18 Q.102 - Okay. And what was your LFO rate then?

19 MR. BUTLER: I can't remember.

20 Q.103 - That wasn't going to be a test. But was it before --  
21 2005 I have a rate of -- Mr. Charleson corrected me --  
22 97.73 cents?

23 MR. BUTLER: That is quite possible, yes.

24 Q.104 - And that customer didn't convert at that time?

25 MR. BUTLER: That's correct.

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Q.105 - And you haven't spoken to them in I guess two or three years, depending on what time of year you spoke to them?

MR. CHARLESON: The circumstances surrounding their concerns with conversion at that time haven't changed at this point in time.

So there are still things that we need to see happening or that they would also need to see happening before the conversion would make sense.

Q.106 - Okay. And what are those? Anything to do with price?

MR. CHARLESON: No. It had more to do with some operating considerations within the facility.

Q.107 - Okay. So number three, who you spoke to two or three years ago, had some operating concerns in their facility that had caused them to decline to convert at least until this point.

And as far as you know, those operational concerns remain today?

MR. CHARLESON: Correct.

Q.108 - So that is three, four and five. One you can't get to currently although you are exploring being able to get to them.

And two is some 30 kilometers away, is that correct?

MR. CHARLESON: That's correct. And I think if you look at the response to the Board's interrogatory number 7, we



1  
2 indicate the potential concerns that that customer may  
3 have had regarding this rate increase.

4 And in that response we had indicated that we have  
5 contacted, that we have talked with that potential  
6 customer regarding the impact, potential impact of this  
7 increase on their decision to convert.

8 And they have indicated that they still see savings,  
9 significant savings that they would achieve from  
10 converting to natural gas. And the rate increase would  
11 not impact their decision to convert.

12 Q.109 - Well, if you are going to tell us what your evidence  
13 is then tell us who they are?

14 MR. HOYT: Mr. Stewart has had that answer in response to  
15 the EUB IR for some time.

16 CHAIRMAN: I'm wondering what benefit there would be to this  
17 hearing to identify these potential customers. That is  
18 really what I think -- I don't know if your question to  
19 him, whether that was sort of a rhetorical question or --

20 MR. STEWART: No. It was a real question, Mr. Chairman. I  
21 mean, it is one thing to say look, you know, I have some  
22 customers and I don't want to identify. I have no desire  
23 to get into the way of people's business activity.

24 But now he is leading what is hearsay evidence.  
25 They told us what their opinion is and their view is of

1  
2 this rate increase. And he said that with a view to  
3 suggesting that this potential customer has no objection  
4 to this.

5 That is a different kettle of fish. I mean, with  
6 respect that is not on. So either you tell me who is  
7 saying these things and add some weight to that comment  
8 or withdraw the comment.

9 CHAIRMAN: Mr. Hoyt?

10 MR. HOYT: It is a regulatory hearing. I mean, it is in an  
11 IR response. I don't think it is hearsay.

12 CHAIRMAN: I would suggest if the response is in the IR  
13 response already, he said nothing more than to refer the  
14 Board to that IR. I haven't looked at it. Perhaps, you  
15 know, it might be useful for us to turn up the IR.

16 MR. HOYT: And I would suggest that that would be useful,  
17 Mr. Chair.

18 MR. STEWART: But it is the purpose for which the evidence  
19 is being used that concerns me, Mr. Chair.

20 CHAIRMAN: Well --

21 MR. STEWART: I mean, as long as we are clear there is no  
22 evidence from this party about what they think about this  
23 rate increase or that there is no evidence from this  
24 party about, whoever they are, about that they don't  
25 object to it or it doesn't interfere with their plan,

1  
2 then that is fine with me.

3 CHAIRMAN: You know, that party, at least at this point in  
4 time, has not testified before this Board. And so I  
5 think you can, you know, rest assured that we are not  
6 going to take those comments as if we had heard from some  
7 party that has not testified.

8 MR. STEWART: Fair enough. That was my only concern,  
9 Mr. Chair.

10 Q.110 - And this customer that is 30 kilometers away, you  
11 don't have any intention of building a pipe to them in  
12 2008, do you, customer number 1?

13 MR. BUTLER: We -- possibly to start construction in 2008.

14 Q.111 - Okay. Is that mentioned in your construction plan you  
15 filed with the Board last month?

16 MR. CHARLESON: I don't recall. I would have to check.

17 Q.112 - Okay. Well, let's check.

18 MR. BUTLER: I should maybe just point out we don't have a  
19 signed agreement with the customer yet. We are still  
20 negotiating with them. So it may or may not happen in  
21 2008. It is possible.

22 Q.113 - Okay. So you don't have any signed agreement with  
23 this customer yet?

24 MR. CHARLESON: Not yet.

25 Q.114 - And in your construction plan for 2008 you weren't

1  
2 anticipating adding any new LFO customers to your system,  
3 right?

4 MR. CHARLESON: That's correct. And my recollection now  
5 from the construction plan, it likely would not be  
6 identified in the construction plan, because there was no  
7 signed customer associated with that.

8 That still doesn't mean that we wouldn't necessarily  
9 construct facilities to serve that customer again if they  
10 signed with us, and if again the economic conditions for  
11 the company support expansion to that customer.

12 Q.115 - Right. You certainly have no current plans in the  
13 works to build this pipe?

14 MR. CHARLESON: Again we don't have a signed customer as  
15 yet.

16 Q.116 - Okay. Fair enough.

17 Mr. Charleson, could I ask you to turn to exhibit A-  
18 6. That is your response to Atlantic Wallboard IR number  
19 2 or the follow-up response.

20 CHAIRMAN: What was the reference again?

21 MR. STEWART: Sorry, Mr. Chairman. It is exhibit A-6,  
22 response to Atlantic Wallboard interrogatory number 2 or  
23 the follow-up response or the standard response. I think  
24 they were marked separately.

25 CHAIRMAN: This is the response to Atlantic Wallboard number

1  
2 2?

3 MR. STEWART: Correct, follow-up, the expanded version.

4 CHAIRMAN: Yes.

5 Q.117 - Now Mr. Charleson, in response to Atlantic Wallboard -  
6 - I'm going to call it interrogatory 2(k) which appears  
7 on page 2 of 3 -- you spelled out the additions and the  
8 potential reductions to the so-called deferral account,  
9 is that correct?

10 MR. CHARLESON: That's correct.

11 Q.118 - I'm just waiting. And so what you have spelled out  
12 for us there is the contribution so-called or the  
13 additions to Enbridge's deferral account through to the  
14 end of 2007 as actual numbers and then projected forward  
15 '08, '09 and '10 I guess?

16 MR. CHARLESON: That's correct.

17 Q.119 - Okay. And these are -- well, certainly there has been  
18 no increase to the end of 2007. So that is based on  
19 current rates, is that correct? Those are actual  
20 numbers?

21 MR. LEBLANC: That's correct.

22 Q.120 - Okay. And the projections, as I think you noted  
23 above, for 2008, 2009, 2010 are not taking into account  
24 the current increase that you have actually applied for  
25 here?

1  
2 MR. CHARLESON: That is correct.

3 Q.121 - So if I could ask you to turn over the next page, to  
4 page 3 of 3.

5 And in the first paragraph you go through for 2006  
6 how you arrived at the amount you contributed to the  
7 deferral account, is that correct?

8 MR. CHARLESON: Correct.

9 Q.122 - And -- well, once again a picture is worth a thousand  
10 words. Why don't we have a look at your regulatory file.  
11 You are familiar with that.

12 Mr. Charleson, do you recognize that document I just  
13 handed you as a copy of your 2006 regulatory financial  
14 statements that you are referencing in that paragraph at  
15 the top of page 3 of 3 of IR number 2 follow-up?

16 MR. CHARLESON: Yes, I do.

17 MR. STEWART: And Mr. Chairman, could we or should we -- we  
18 should have that marked as an exhibit.

19 MR. HOYT: Mr. Chair, I just wanted to ask though if those  
20 financial statements are different than what is attached  
21 to Flakeboard IR follow-up response number 13 where we  
22 filed the regulatory statements for 2003 to 2006, if it  
23 is the same statement. I don't know if Mr. LeBlanc knows  
24 that there are differences or not.

25 MR. STEWART: I don't know. I just -- based on the

1  
2 invitation I got before, I went to the Board office and  
3 got a copy myself before that IR was responded to. I  
4 assume they are the same. That is why I put the cover  
5 letter on. Because it looks like what is in the files.

6 MR. HOYT: Mr. LeBlanc is indicating that they are the same.  
7 So I believe that they are --

8 CHAIRMAN: Are they already in evidence?

9 MR. HOYT: Yes. They are in evidence as part of the  
10 response, the EGNB follow-up response to Flakeboard 13,  
11 where the regulatory statements for 2000 to 2006 are  
12 filed. And this particular one I believe is the 2006  
13 version.

14 MR. STEWART: Well, fine by me.

15 CHAIRMAN: In that case we won't need to mark it as an  
16 exhibit.

17 MR. STEWART: You don't need to mark it as an exhibit then.

18 CHAIRMAN: Rather than having to turn up the evidence we can  
19 follow along with the document you passed out.

20 MR. STEWART: Fair enough. All right.

21 Q.123 - So if you could just lead us. I'm going to ask you to  
22 walk me through this, if I could. So if I could -- at  
23 least on the version I handed around, if you turn to the  
24 third page in, it is page 1 of 14, appendix A.

25 Do you see that?

1  
2 MR. LEBLANC: Yes, I do.

3 Q.124 - Okay. And actually, let's turn to the next page  
4 first, page 2 of 14. And it is with some trepidation I  
5 talk about a financial statement to an accountant. And  
6 I'm a lawyer. But bear with me.

7 As I understand it, if I look in about the middle of  
8 this page I see a total revenue number for 2006, that  
9 being \$14.124 million, is that correct?

10 MR. LEBLANC: That's correct.

11 Q.125 - Okay. So that was your total revenue for 2006.

12 And then if I go down two-thirds of the way or  
13 three-quarters down the way, I see an item that is  
14 identified as total expenses being \$18.457 million?

15 MR. LEBLANC: Correct.

16 Q.126 - And then we get the sort of -- I'm not sure this is an  
17 accounting term, but what I would call the operating loss  
18 of \$4.333 million?

19 MR. LEBLANC: Correct.

20 Q.127 - Okay. And in the expense item there is "interest on  
21 amounts due to associates and affiliates and other  
22 interest \$7.13 million."

23 What is that?

24 MR. LEBLANC: It is interest on long-term borrowing by the  
25 company.



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Q.128 - Right. And you borrow that money from associated and affiliated companies, correct?

MR. LEBLANC: That's correct.

Q.129 - So that is the interest you pay your sister company on the loans they make you?

MR. LEBLANC: Yes.

Q.130 - And then -- if we then go to the very bottom row, we have your regulated return on equity of \$14.551 million?

MR. LEBLANC: Yes.

Q.131 - And as I understand the evidence that you have given us, that is not the borrowing. That is the actual investment that the shareholders or the equity holders of Enbridge Gas New Brunswick have made in your company.

And they have a regulated 13 percent rate of return on their capital, correct?

MR. LEBLANC: Are you saying that the 14.551 million is the investment?

Q.132 - No. I'm saying that is the 13 percent on their investment.

MR. LEBLANC: Yes. There are some minor items. But yes, essentially.

Q.133 - Right. I know you have got the, you know, allowance for funds during construction?

MR. LEBLANC: Yes.

1  
2 Q.134 - But generally that is the profit on the investment of  
3 13 percent that you are allowed or your investors are  
4 allowed to earn every year?

5 MR. LEBLANC: Yes. That is the return that is allowed as  
6 per -- has been approved by the Board.

7 Q.135 - Right. And so when I add the 4.33 million operating  
8 loss plus the mandatory return, what I call profit or  
9 return on the investment, I get the \$18.884 million  
10 contribution to the deferral account?

11 MR. LEBLANC: Correct.

12 Q.136 - So that we are clear then, the \$18.884 million  
13 contribution to the deferral account that you have  
14 identified for me on the previous page here in IR number  
15 2 response 2(k) is made up of 4.333 operating losses plus  
16 another 14 1/2 million of return on investment that your  
17 investors are guaranteed?

18 MR. LEBLANC: It can be determined in that way, yes.

19 Q.137 - Okay. So let's flip back to page 1 of 14 of appendix  
20 A. And then you have a list of assets. In the 1-2-3-4-  
21 5-6 -- seventh item down under 2006 you have got  
22 102,168,000?

23 MR. LEBLANC: Yes.

24 Q.138 - That is the balance of the deferral account as of  
25 December 31, 2006, is that correct?

1  
2 MR. LEBLANC: Correct.

3 Q.139 - And that is because in 2006 you added in, as you told  
4 us before, this \$18.884 million?

5 MR. LEBLANC: That's correct.

6 Q.140 - Now beside that number, the 102 number, you have a  
7 deferral account balance for the end of 2005?

8 MR. LEBLANC: Yes.

9 Q.141 - When I subtract those two I don't get the 18.884. Why  
10 not? There seems to be -- and I'm not trying to be coy -  
11 - there seems to be \$313,000 difference?

12 MR. LEBLANC: Actually that is specifically related to a  
13 change as a result of the review of the consultant on  
14 behalf of the Board.

15 They reviewed our '06 results and found an item that  
16 they felt should be adjusted. So the '06 cumulative  
17 balance has been adjusted according to that amount.

18 Q.142 - Up \$313,000?

19 MR. LEBLANC: Correct.

20 Q.143 - So you really contributed \$19.197 million to the  
21 deferral account in 2006?

22 MR. LEBLANC: Yes. It was the 18' within the year. And the  
23 rest is a result of an adjustment as a result of the  
24 review of the '06 statements.

25 Q.144 - Right. And the adjustment was -- the addition was

1  
2 \$19,197 million?

3 MR. LEBLANC: The difference between these two numbers  
4 certainly, yes.

5 Q.145 - Right on. Okay.

6 Now I noted that you listed deferral account as an  
7 asset. That is because it is something you own which you  
8 will get back, right?

9 MR. LEBLANC: Correct.

10 Q.146 - Now can I ask you to turn back to page 214 again. Now  
11 in response to AWL IR 2 (g) you told me that -- remember  
12 that total revenue number, the first one I referred you  
13 to --

14 MR. LEBLANC: Yes.

15 Q.147 - -- the \$14.124 million?

16 MR. LEBLANC: Correct.

17 Q.148 - Your revenue for 2007 was up to \$18.4 million,  
18 correct?

19 MR. LEBLANC: Those numbers don't -- aren't apples and  
20 apples comparison. The 18.4 million actually compares to  
21 the 12.3 million in 2006.

22 Q.149 - So what would your total revenue then be when you add  
23 in these other numbers?

24 MR. LEBLANC: For 2000' --

25 Q.150 - For 2007?

1  
2 MR. LEBLANC: In response to (g) I believe we lay it out.

3 Total gross revenue of \$51.7 million. And the way that  
4 is determined, if you want comparative numbers to '06,  
5 the 18.4 million in our response is equivalent -- is the  
6 '07 equivalent to the 12.3 million in '06.

7 The 18.3 million in installation services is  
8 equivalent to, under installation services, the revenue  
9 of 8.9 million.

10 Q.151 - Can you give me the number, the total revenue number?

11 So in 2006 you had a total revenue of \$14.124 million.

12 And I just want to know what that is for 2007.

13 MR. CHARLESON: Perhaps we could undertake to provide that  
14 to you after our break. Again I'm a little concerned  
15 with doing the math on this one.

16 MR. STEWART: No problem. If you want to take a break and  
17 do it that is fine with me.

18 CHAIRMAN: I think this is probably a good time to take a  
19 break in any event. So we will take about 15 minutes and  
20 be back about 10 after 11:00.

21 (Recess - 10:55 am. - 11:10 a.m.)

22 CHAIRMAN: Mr. Stewart, you can resume your cross  
23 examination.

24 Q.152 - Thank you, Mr. Chairman. I think where we were before  
25 we took a little break is that we were using the

1  
2 regulatory statement for 2006 as a bit of a template and  
3 coming up with some numbers for 2007, and I think where  
4 we ended off specifically is the total revenue number for  
5 2006 was \$14.124 million, and you were going to give me  
6 that number for 2007.

7 MR. LEBLANC: Correct. So keeping in mind that the EUB  
8 consultant hasn't reviewed the '07 statements yet, but  
9 the preliminary numbers, the equivalent number to your  
10 14.1 million is 22 million for 2007.

11 Q.153 - Okay. And then if I go down -- and I probably should  
12 have asked you this before the break, now that I say it  
13 out loud -- but if I go down, what is the equivalent  
14 number for the total expenses number, the 18.457 million?

15 MR. LEBLANC: Actually I was calculating by hand here, but I  
16 can't -- I can't give you that specific number without  
17 again going away, because there are things in our regular  
18 statements that are not necessarily in the regulatory  
19 statements in our adjustments. So I can't give you that  
20 exact number.

21 Q.154 - Okay. Well we know the regulatory deferral, the  
22 equivalent of the 18.884 number, I know that that got  
23 adjusted after, we know that that's going to be 15.496,  
24 correct?

25 MR. LEBLANC: Correct.

1

2 Q.155 - Do you know what the rate of return on equity would  
3 be, the 14.451?

4 MR. LEBLANC: That is the number that I can't -- I can't  
5 give you -- I can't produce at this moment, and therefore  
6 I can't work backwards to get the number you require.

7 Q.156 - Would you expect that the total expenses for 2007  
8 are -- I mean, I notice they actually went down from 2005  
9 to 2006. Would they go down for 2007 as well?

10 MR. LEBLANC: Again, I'm not able to answer that question.

11 Q.157 - Are you aware -- would the number be in order of  
12 magnitude reasonably consistent with that?

13 MR. LEBLANC: Yes.

14 Q.158 - So then it would be a fair comment to say that, even  
15 though I appreciate you can't calculate the exact number  
16 for me, your -- the loss of \$4.33 million for 2006 is  
17 actually an operating profit so to speak.

18 MR. LEBLANC: For 2007?

19 Q.159 - Yes.

20 MR. LEBLANC: Yes, I believe there is a small profit.

21 Q.160 - Right. And that's why when you add in your 13 percent  
22 return on investment, the return on equity, which isn't  
23 going to be any lower than a \$14.55 million --

24 MR. LEBLANC: Correct.

25 Q.161 - -- it's going to be higher, there is profits to offset

1  
2 that. So that reduces the amount contributed to the  
3 deferral account to be from 18 the year before down to  
4 15-and-a-half in 2007.

5 MR. LEBLANC: That's correct.

6 Q.162 - So while you don't have the exact number at your  
7 fingertips, based on its current rates, Enbridge Gas New  
8 Brunswick made an operating profit before you work in  
9 your regulated return on equity, correct, in 2007?

10 MR. CHARLESON: That's correct. However, it's important to  
11 remember that the return on equity is an important part  
12 of the total operating cost and that that return is part  
13 of what helps to stimulate the investment in this  
14 organization.

15 Q.163 - I couldn't agree with you more, that an investor in a  
16 company's return on equity is very important to their  
17 ability to invest in their product, isn't that correct?  
18 I think that's what you just told me.

19 MR. CHARLESON: Yes.

20 Q.164 - Right. And I take it then that your contribution to  
21 the deferral account for 2007 is made up of -- or is  
22 sourced from or exists because your profits aren't --  
23 your operating profits are not significant enough to  
24 offset this 13 percent return on investment that you have  
25 had approved by the Board, isn't that correct?



1  
2 MR. LEBLANC: Yes. And that's consistent with every other  
3 year that we have been in operation, correct.

4 Q.165 - Well no. Have you had operating profits in previous  
5 years too?

6 MR. LEBLANC: No. This is the first year.

7 Q.166 - Right.

8 MR. LEBLANC: But my point is that the calculation of the  
9 deferral and contribution to the deferral is consistent  
10 with every other year.

11 Q.167 - Right. You used the same approach?

12 MR. LEBLANC: Yes.

13 Q.168 - It's just that this year the contribution to the  
14 deferral account is nothing but return on equity?

15 MR. LEBLANC: Really the way contribution to the deferral is  
16 calculated, you know, I said earlier that one way to get  
17 to your number is the way that you have proposed, but  
18 really the way the deferral is calculated is first we  
19 calculate the required revenue -- regulatory required  
20 revenue, and then we deduct the expenses that we have  
21 incurred from a regulatory point of view, and if there is  
22 insufficient revenue to offset the regulatory cost, then  
23 an addition is made to the deferral.

24 Q.169 - Right. So another way to get the same exact number is  
25 to take your total revenue less your total expenses, and

1  
2 add in your regulated return on equity.

3 MR. LEBLANC: Yes. Because the regulated return on equity  
4 is one of the costs -- the regulatory costs as approved  
5 by the Board.

6 Q.170 - Right. And the Board allowed you to earn 13 percent  
7 on your equity, correct?

8 MR. LEBLANC: That's correct.

9 Q.171 - And I assume that Enbridge Gas New Brunswick is not  
10 prepared to reduce that rate of return on its equity in  
11 order to lower its deferral account, is that correct?

12 MR. CHARLESON: That's correct.

13 MR. LEBLANC: Right.

14 Q.172 - But you are certainly prepared to have your ratepayers  
15 reduce their return on their equity by increasing their  
16 costs, in my client's case by \$852,000, isn't that  
17 correct?

18 MR. CHARLESON: Again, Enbridge Gas New Brunswick provides a  
19 service -- a distribution service to its customers.

20 Through that service it commits to a value proposition of  
21 providing target savings level. We continue to deliver  
22 on that value proposition. And that is the service that  
23 customers are aware of when they sign up. They are aware  
24 of the rate methodology when they sign up with us. And  
25 we are being consistent in terms of how we have applied

1  
2 that methodology.

3 Q.173 - Okay. Let's be clear. You had an operating profit in  
4 2007, correct?

5 MR. LEBLANC: Correct.

6 Q.174 - Correct.

7 MR. CHARLESON: Prior to consideration of the return on  
8 equity.

9 Q.175 - Right. So the only reason you are contributing to  
10 your deferral account in 2007 based on the current rates  
11 you have today before any of this increase, is your need  
12 to make your return on equity, correct?

13 MR. CHARLESON: Correct. I guess it depends on what you  
14 allocate first, the return on equity or your operating  
15 expenses. It's which sequence do you apply those in  
16 first.

17 Q.176 - Well you will agree that most businesses, certainly  
18 all your ratepayers, have to pay their bills before they  
19 calculate their profits and their return on equity, don't  
20 you think?

21 MR. LEBLANC: Correct.

22 MR. CHARLESON: Correct.

23 Q.177 - And so we are clear, Enbridge Gas New Brunswick  
24 doesn't need any of this increase to meet its operating  
25 expenses, it needs this increase to make sure its

1  
2 investors earn their 13 percent return on equity,  
3 correct?

4 MR. CHARLESON: Enbridge Gas New Brunswick needs to be a  
5 sustainable business. To be a sustainable business you  
6 have to be able to maintain investment and growth in the  
7 organization. To do that you have to be able to provide  
8 a return to your investors.

9 Q.178 - And you would agree with me, Mr. Charleson, that that  
10 statement is equally true for every single one of your  
11 commercial ratepayers, isn't it?

12 MR. CHARLESON: That's right. And every business has to  
13 manage their costs and their expenses so the can provide  
14 the type of return that their investors are looking for.

15 Q.179 - Right.

16 MR. CHARLESON: And that's what we are doing. We are  
17 managing our business.

18 Q.180 - Right. But every other business except yours doesn't  
19 have a regulated rate of return, does it?

20 MR. CHARLESON: In some cases there may be elements of a  
21 regulated business where you would ---

22 MR. LEBLANC: All businesses -- there are other businesses  
23 that have a regulated rate of return

24 Q.181 - Do any of your ratepayers?

25 MR. LEBLANC: Not that I'm aware of.

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MR. CHARLESON: Do any of the businesses that we serve, is their return capped?

Q.182 - Well I bet they would all take a cap of 13 percent in a heartbeat.

MR. CHARLESON: I'm not so sure.

Q.183 - Let's look at your projections for additions to the deferral account in IR-2-K for 2008, 2009 and 2010. They are dropping substantially.

MR. LEBLANC: That's correct.

Q.184 - And that's based on only charging your customers the rate you charge them today, not with this increase, correct?

MR. LEBLANC: That's correct.

Q.185 - Okay. And so even at current rates you are projecting that not only will you not have an operating loss but you will have sufficient revenue to actually recover your full 13 percent rate of return on your investor's investment and you, by the end of 2010, because you will actually -- you won't need a contributed deferral account, you can actually start paying it?

MR. LEBLANC: That's correct.

Q.186 - Right. And once again that's without any more -- that's the rates you have today.

MR. LEBLANC: Yes.

1  
2 MR. CHARLESON: Assuming that market conditions will  
3 continue to support those rates.

4 Q.187 - Well I assume you are prepared to stand by your  
5 projections. They are accurate, as best you can?

6 MR. CHARLESON: They are projected at this time.

7 Q.188 - Right. And if I could ask you to turn to page 3 of 3  
8 of your response to AWL interrogatory number 2 follow-up.  
9 Down below you have created a little chart there in kind  
10 of smaller print or smaller font, and when I look at the  
11 row, it's fourth up from the bottom, it says regulated  
12 net earning. That number is equivalent to what your 2006  
13 number of 4.33 million dollar loss, isn't that correct?

14 MR. LEBLANC: Yes, that is correct.

15 Q.189 - So in 2008 your projection was an operating profit of  
16 \$14.4 million.

17 MR. LEBLANC: Yes.

18 Q.190 - 2009 an operating profit of \$23.666 million?

19 MR. LEBLANC: Correct.

20 Q.191 - And an operating profit in 2010 of \$27.709 million?

21 MR. LEBLANC: Yes.

22 Q.192 - In other words your operating profits are high enough  
23 that not only do you meet all your expenses but you can  
24 meet your full rate of return that your investors  
25 require.

1  
2 MR. LEBLANC: That's correct.

3 MR. CHARLESON: That's correct. It helps to demonstrate  
4 that we are being successful in terms of growing this  
5 business.

6 Q.193 - At the rates you currently charge these numbers are  
7 based?

8 MR. CHARLESON: Correct.

9 Q.194 - If this rate application is approved, what is your  
10 projected revenue increase on an annual basis? We know  
11 that, assuming they continue to use you, there will be  
12 \$852,000-plus for both Atlantic Wallboard and Flakeboard,  
13 so that's 1.9 million -- excuse me -- 1.7 million. How  
14 much from the rest of your customers?

15 MR. CHARLESON: What assumptions would you like applied to  
16 that?

17 Q.195 - I would like to apply that application is approved.

18 MR. CHARLESON: For this and our other application?

19 Q.196 - No. Just this one. I'm only talking about the LFO  
20 one.

21 MR. CHARLESON: If you look at the response to Flakeboard  
22 interrogatory number 1, and this was in the follow-up as  
23 well --

24 Q.197 - Okay. Number 1?

25 MR. CHARLESON: Number 1 on page 4 of 4.

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Q.198 - Sorry. I'm looking at the -- okay. Page 4 of 4.

Okay. So you are projecting -- I would have to subtract the 32.468 million less the 29.037 million?

MR. CHARLESON: Yes. However, that does also assume the increases in the general service rates in the other rate classes.

Q.199 - Okay. So -- well let's do it that way since those are the numbers we have in front of us.

MR. LEBLANC: The number that you are looking for is -- if you just go to line LFO tier 1 and you take the difference between the two end columns. It's 1.8 million.

Q.200 - Okay. And if your other rate increase is approved it's going to be 3.431 million per year?

MR. LEBLANC: Correct.

Q.201 - And that increased revenue will come about without any additional investment or expansion of infrastructure on Enbridge's part?

MR. CHARLESON: Well a portion of that revenue comes from the customer additions that are occurring within 2008 as well. So it's not strictly -- it's not taking the 2007 customer base and looking at what comes from there. There is also growth in the customer base that will also provide additional revenue that would be greater.



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Q.202 - Right. But there has got to be no -- you are not anticipating any new LFO customers in 2008?

MR. CHARLESON: That's correct. In the LFO class.

MR. STEWART: Mr. Chairman, I think those are my questions. I will take one minute to have a quick look here.

CHAIRMAN: Certainly.

Q.203 - Mr. Charleson, are you aware of another instance where the Board has departed from your formula when setting the rates?

MR. CHARLESON: I'm not aware of it.

MR. STEWART: Those are my questions.

CHAIRMAN: Thank you, Mr. Stewart. So the next intervenor cross examination would be CME, but I don't see Mr. Gallant. So Mr. Lawson.

CROSS EXAMINATION BY MR. LAWSON:

Q.204 - Thank you, Mr. Chairman. Good morning, panel. I may be a little slower but partly because I will hopefully eliminating some of the questions because there seems to be some similarity in some of the lines of questions that I had and Mr. Stewart had. And I do apologize to the extent that I duplicate some of them as well, but I will try to minimize that for the sake of all.

But I just want to again affirm, you folks are in the gas distribution business, correct?

1  
2 MR. CHARLESON: Correct.

3 Q.205 - And that is what is regulated and we are dealing with  
4 today, the gas distribution business?

5 MR. CHARLESON: That's correct. Although the commodity  
6 sales that Enbridge Gas New Brunswick provides as well  
7 are also subject to some rules and regulations.

8 Q.206 - The question was that's what was being regulated today  
9 -- sorry -- here?

10 MR. CHARLESON: This application is the delivery rates.

11 Q.207 - Right. And would you also agree that with the  
12 business proposition that the lower your rates are, that  
13 the more likely it is that people will become customers,  
14 all other things being equal. Not dealing with the  
15 relative price of gas and oil, the lower your rates are,  
16 the cheaper the distribution costs are, the more likely  
17 they are going to buy distribution services.

18 MR. CHARLESON: I believe we addressed that point in our  
19 response to an AWL interrogatory, and that was in  
20 interrogatory number 7, and that was part C of that  
21 response where we acknowledge that, yes, if the rates are  
22 lower it has that potential. But we must recover the  
23 maximum amount of the cost of providing distribution  
24 service while providing the economic incentive for new  
25 customers and continuing use. So we have to balance the

two interests.

Q.208 - Yes. No, I think I have heard you say that at least a few times this morning and I have a feeling it's not going to be the end.

Now I want to deal firstly with incentives. You would agree that Flakeboard, my client, received not a single penny of incentives from EGNB in the conversion for their conversion to natural gas, is that right?

MR. CHARLESON: When we use the word "incentives", we are not just talking about providing cash.

Q.209 - Did they receive any cash?

MR. CHARLESON: They received no cash incentive, no.

Q.210 - And they were paid nothing under any guarantees, savings?

MR. CHARLESON: No. We did take a risk on providing them a guarantee of a payback.

Q.211 - The answer is no, is that correct?

MR. CHARLESON: But they received their payback.

Q.212 - They did not receive any money from EGNB to convert?

MR. CHARLESON: Correct.

Q.213 - They paid the conversion costs themselves.

MR. CHARLESON: Correct.

Q.214 - Now dealing again with the issue of incentives, I

would like to refer to IR number 1 of Flakeboard's, V --

1  
2 sorry -- VII -- at page 4 of 4, exhibit -- I guess it's  
3 A-6, the follow-up reply, just to be consistent.

4 CHAIRMAN: That's at exhibit A-6, Mr. Lawson?

5 MR. LAWSON: A-6, yes, Mr. Chairman.

6 CHAIRMAN: And what was the IR follow-up you are referring  
7 to?

8 MR. LAWSON: Number 1.

9 CHAIRMAN: Follow-up to whose --

10 MR. LAWSON: Sorry. Flakeboard's.

11 CHAIRMAN: Thank you.

12 Q.215 - I have a number of questions related to this IR and  
13 related information. So perhaps first in the Roman  
14 Numeral VII on page 4 of 4, the signings that we are  
15 talking about here are the signings -- am I correct in  
16 describing it as the annualized revenue -- is that a  
17 correct description -- annualized revenue of any new  
18 signings in any respective year?

19 MR. CHARLESON: Yes. It is the annualized distribution  
20 revenue that is expected from when we sign a customer.

21 Q.216 - So the forecasted -- there is no guarantee that you  
22 will actually generate that level of revenue, correct?

23 MR. CHARLESON: That's correct. We may generate more or  
24 less depending on when -- you know, once they have  
25 actually converted.

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2 Q.217 - So an incentive can be paid. And the customer might  
3 for example close down a year later. And you would  
4 receive only one year's revenue generation, is that  
5 right? Possibility?

6 MR. CHARLESON: That's a possibility, yes.

7 Q.218 - Now in the first part of the answer, before the table,  
8 you referred to the numbers did not include distribution  
9 revenue associated with strategic projects.

10 What are strategic projects?

11 MR. BUTLER: They would be large one-off projects, I would  
12 say similar to your client's project. At the time we  
13 would have referred to that as a strategic project as  
14 opposed to the standard customers that are added through  
15 our normal sales and marketing programs.

16 Q.219 - So statistics were given for the amount of incentives  
17 paid in each of the respective years. I'm just trying to  
18 find which interrogatory that is in. IR number 5. Yes.  
19 IR number 5 of Flakeboard's, again follow-up A-6, 1(a).

20 It has a chart that identifies the incentives have  
21 been given to two different classes broken down just as  
22 commercial and residential in each of the respective  
23 years.

24 Are those incentives inclusive of any incentives  
25 that are paid in "special projects"?

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MR. BUTLER: Yes, they are.

MR. CHARLESON: Yes, they are.

Q.220 - Now how many special projects would you have had for example in 2007?

MR. CHARLESON: In 2007 there would have been -- there would have been two.

Q.221 - And why would they not be included in new signings that are in your answer in exhibit -- I'm sorry, in IR number 1?

MR. CHARLESON: The distribution revenue signings are something that we track within the sales part of our organization. It is a measure of the performance of our sales staff. And that is the information that has been tracked throughout the history.

A strategic project is something that is typically dealt with outside of the normal sales channel and as a result isn't rolled into our overall distribution revenue signings, the way we track our information internally.

Q.222 - But if there are two last year, I submit it would have been very easy to provide the information?

MR. CHARLESON: It could have been, I suppose. But again we are trying to target in terms of the normal course of business in terms of distribution revenue signings.

Q.223 - So let's just leave it aside for the moment. And I

1  
2 would like to sort of just cross-reference the  
3 interrogatory number 5 follow-up, 1 of 4, that chart we  
4 just looked at in terms of the incentives paid. We  
5 cross-referenced that to the signings.

6 And admittedly we don't have the information with  
7 respect to the strategic projects. So I'm going to keep  
8 them out of the equation.

9 And I'm going to look at for example -- let's start  
10 with 2005. And I will look at the actual numbers where  
11 they are available.

12 So the actual numbers for signings anticipated  
13 annualized earning for signings that year were \$2.9  
14 million roughly?

15 MR. CHARLESON: Correct.

16 Q.224 - And then when I cross-reference that with the amounts  
17 of incentives paid in 2005, \$4.5 million was paid for  
18 incentives, correct?

19 MR. CHARLESON: Yes. That's correct.

20 Q.225 - And then as I move to 2006 you paid \$6.8 million in  
21 incentives?

22 MR. CHARLESON: That's correct.

23 Q.226 - And you generated annualized income from that,  
24 anticipated annual income of \$2.7 million. You paid out  
25 almost \$7 million. And you got an annualized income of

1 forecast \$2.7 million?

2  
3 MR. CHARLESON: That's correct. However, 2006 is one of  
4 those years where we started to see one of our strategic  
5 projects incentives started to be paid related to that.  
6 So that 6.8 million does include some dollars associated  
7 with the strategic projects.

8 Q.227 - We have a handicap because you chose not to tell us  
9 how much the revenue stream was from special projects.

10 Do you know how much that was?

11 MR. CHARLESON: I don't have that. We could undertake to --

12 Q.228 - Do you have an order of magnitude you can give me?

13 MR. CHARLESON: In 2006 it would have been about \$1.2  
14 million.

15 Q.229 - So \$4 million perhaps rounded up, \$4 million  
16 potentially in total signings versus \$6.8 million in  
17 monies given to various customers? We don't know what  
18 the customers were or what --

19 MR. CHARLESON: Oh, I'm sorry. The number I was referring  
20 to was the amount included in the 6.8 million related to  
21 incentives.

22 Q.230 - Oh, okay.

23 MR. CHARLESON: So you take 1.2 million off the incentives.

24 Q.231 - It is going to be \$5.6 million paid to generate \$2.7  
25 million?



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MR. CHARLESON: Correct.

Q.232 - So double of the years, two years basically signings, is that right, were paid incentives in that year roughly?

MR. CHARLESON: Roughly.

Q.233 - And then can we go through the same thing for 2007.

You had \$11.8 million in incentives paid in 2007 under IR number 5 follow-up. And we have \$5 million identified here.

Roughly what were the special projects incentives paid in 2007 for those two customers?

MR. CHARLESON: In 2007 there is actually an incentive only paid related to one of the strategic projects. The second strategic project has incentives in subsequent years. The impact of that would have been about \$5.6 million.

Q.234 - \$5.6 million out of the 11' --

MR. CHARLESON: 11.8.

Q.235 - Sorry?

MR. CHARLESON: Out of the 11.9, 5.6 would have been related to a strategic project.

Q.236 - So \$6 million roughly. The signings on that 11' -- that \$6 million, what would the annualized revenue stream be anticipated for that roughly \$6 million in special projects?

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MR. CHARLESON: It would be roughly a million dollars.

Q.237 - The annualized revenue would be a million dollars?

MR. CHARLESON: Yes.

Q.238 - And the incentives paid were how much again?

MR. CHARLESON: In 2007 it was --

MR. LEBLANC: 5.6.

MR. CHARLESON: -- \$5.6 million.

Q.239 - 5.6 times annualized revenues were paid as an incentive?

MR. CHARLESON: Yes.

Q.240 - Now who pays those incentives?

MR. CHARLESON: Ultimately the incentives are recorded as a cost. And I believe in one of our IRs --

Q.241 - I mean, if you know the answer you don't have to refer to the IRs.

MR. CHARLESON: Well, it was more just I believe in IR response number 5 indicates that the incentives are recorded as an asset on the books. Ultimately they are paid for. They will be paid for through rates.

Q.242 - So EGNB pays for it and then charges the customers to pay them back. Is that essentially right?

MR. CHARLESON: They are to be amortized over time. And again the amortization is a 41-year amortization period. In a lot of cases, when you are looking at incentives,

1  
2 especially at the residential level, there will be  
3 several years worth of revenue required to offset the  
4 incentive payment.

5 However, there is a long-term revenue stream  
6 anticipated from paying that incentive. And so it is  
7 viewed as a justifiable payback on that investment.

8 Q.243 - In the case of the one project in 2007, did you get  
9 any guaranteed secured payments of revenue streams in the  
10 future?

11 MR. CHARLESON: No, we didn't. Again it was predominantly a  
12 residential type project where the expectation is once  
13 there is a conversion there they will continue to use  
14 natural gas.

15 The other component that comes into play as well is  
16 through these conversions there are other revenues that  
17 are generated.

18 In some cases we do the installation service work  
19 associated with that as well, which helps to offset some  
20 of the cost related to the incentives and provides  
21 additional revenue to offset the impact of that.

22 Q.244 - Did that happen in this one case?

23 MR. CHARLESON: Yes, it did.

24 Q.245 - And how much did you generate by way of revenue for  
25 that project roughly?

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MR. CHARLESON: I knew there was a good reason for having an accountant here with me. We would be saying roughly about \$2 million.

4

5

Q.246 - Profit on that one project?

6

MR. CHARLESON: On installation services. That's correct.

7

Q.247 - Did you actually do the installation, sir?

8

MR. CHARLESON: Either we did it or through the use of contractors.

9

10

Q.248 - Now just looking at 2008 then, we have got \$7 million in forecast signings and almost \$20 million in incentives.

11

12

13

Now can you segregate out there the special projects for 2008?

14

15

MR. CHARLESON: Again, in 2008 there would be say a million dollars associated with special projects.

16

17

Q.249 - So in that case we take it off and we will round down.

18

So if we take that off the \$19.5 million, you get \$18.5 million to generate \$7 million in revenue?

19

20

MR. CHARLESON: Correct.

21

Q.250 - Would you agree that that is a lot of money to spend for -- relative to the amount spent, a relatively modest revenue signing with no certainty of revenue streams?

22

23

24

MR. CHARLESON: Again, we believe it to be a prudent

25

investment in terms of growing the distribution system.

1  
2 Again, there will be installation services margin will be  
3 achieved to help to offset some of those costs.

4 But also what we are finding is we will continue to  
5 look to grow the business and increase the number of  
6 customers. In the early years we really captured a lot  
7 of the low-hanging fruit. So the customers that are  
8 easier to convert were a lower incentive, especially in  
9 the commercial sector where there is a better, an easier  
10 payback equation. And therefore the incentives have been  
11 able to be lower.

12 We are now moving into segments of the commercial  
13 market that are more challenging to convert. The payback  
14 equations are more difficult to make work in terms of  
15 generating the sale. So the incentive to spend is  
16 increasing to help to convert those customers and grow  
17 the customer base.

18 However, the key part of looking at any of the  
19 incentive payments that we are making is what is the  
20 payback into the business. And again we see all of these  
21 additions that we are making. And factoring in the  
22 incentive payment that is there has been profitable  
23 addition for a business that helps to grow and create the  
24 customer base that we need to be sustainable and to move  
25 out of the development period.

1  
2 Q.251 - The last three years, my quick math suggests -- and I  
3 don't have an accountant with me to help me, so I  
4 apologize -- about \$38 million or thereabouts in  
5 incentives has been paid out, is that right?

6 MR. CHARLESON: Over the last three years?

7 Q.252 - Sorry. Last two years and forecast 2008?

8 MR. CHARLESON: Roughly.

9 Q.253 - So \$38 million in three years that you have given to  
10 customers to sign up.

11 And the revenue stream that you generated in that  
12 same time from new signings -- and are these new signings  
13 all -- these are all customers, am I correct, in page  
14 4 of 4 of follow-up number 1 on the chart in Roman  
15 Numeral VII?

16 MR. CHARLESON: Excluding the strategic projects.

17 Q.254 - Okay. But it includes some customers who do not  
18 receive incentives?

19 MR. CHARLESON: That's correct.

20 Q.255 - So you can't even attribute all of these signings that  
21 are on here to the incentives. Some customers get  
22 incentives, some do not?

23 MR. CHARLESON: That's correct. We evaluate carefully all  
24 of the incentives that were paid to determine where it is  
25 necessary to provide incentive, what level of incentive

1  
2 is appropriate to help to drive the business forward and  
3 to grow the customer base.

4 Q.256 - Right. So even if you allocated on an annual basis  
5 for that \$38 million, or whatever the number calculates  
6 to be, is 7, 5, 12, 14 -- 15,000,000 plus a million  
7 dollars. So \$16 million plus -- what was the amount for  
8 the other special project, I'm sorry?

9 MR. CHARLESON: 6 point --

10 Q.257 - Both were a million dollars each?

11 MR. CHARLESON: In revenue.

12 Q.258 - Revenue?

13 MR. CHARLESON: Well, no. The revenue on one of them is  
14 greater than a million. We didn't talk about the revenue  
15 there.

16 Q.259 - Okay. What would the revenue anticipate being there?  
17 That is the 2007 one?

18 MR. CHARLESON: It is more in 2008. And given the nature of  
19 that strategic project I can't really get into the  
20 revenue stream from it. It is greater than a million  
21 dollars.

22 Q.260 - Less than 2 million?

23 MR. CHARLESON: Probably greater than 2 million.

24 Q.261 - And it is the one you are paying \$1 million for?

25 MR. CHARLESON: That is the anticipated incentive, the

1  
2 forecast incentive in 2008. However, I think it is  
3 important to recognize as well that when you look at that  
4 say \$38 million in incentives amortized over 41 years,  
5 that is about a million dollars a year to generate 15 or  
6 \$16 million a year in revenue.

7 Q.262 - Well, now let me get to that. Because that  
8 anticipates that there is nobody getting any money on  
9 that incentive investment.

10 Am I right in understanding that when you pay out  
11 the money you are getting a return on your investment on  
12 that money in the meantime, is that correct?

13 MR. CHARLESON: Perhaps you can clarify what you mean by --

14 Q.263 - Okay. When the incentive is paid out it is not  
15 included in your profit and loss statements, correct? It  
16 is not part of your operating expenses?

17 MR. CHARLESON: No. It is part of our rate base or part of  
18 our capital.

19 Q.264 - If we just look at the financial statements we were  
20 looking at earlier for 2006, for example, filed with the  
21 Board, the regulatory statements.

22 Could you show me where incentives factor in here?

23 MR. LEBLANC: There are actually no incentives in these  
24 financials, in the income statement. In the balance  
25 sheet they are.



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Q.265 - So where is it in the balance sheet?

MR. LEBLANC: There is a line called deferred -- development O&M capitalized cost net.

Q.266 - So that is -- and bear with me. I again don't have an accountant with me. And I don't have a lot of accounting knowledge. So I'm afraid I'm going to have to get you to take me through.

That is on the asset side of your balance sheet?

MR. LEBLANC: Right.

Q.267 - And you say for example in 2006 you had this asset of \$39 million?

MR. LEBLANC: That's correct.

Q.268 - And is that almost exclusively made up of incentives or --

MR. LEBLANC: No. It is a combination of a variety of operating expenses that are seen as part of the cost of developing the natural gas industry in New Brunswick, including incentives, yes.

Q.269 - Now the fact that you carry it as an asset would suggest that you get a rate of return on that number, is that right?

MR. LEBLANC: Yes. That's correct.

Q.270 - So if for example the \$40 million, \$39 million in 2006 was mostly made up of incentives, you are getting a rate

1  
2 of return on that \$40 million?

3 MR. LEBLANC: Yes.

4 Q.271 - So the more you give in incentives the more money you  
5 make as profit in this business --

6 MR. CHARLESON: It increases the return, that's --

7 Q.272 - -- is that right?

8 MR. LEBLANC: Yes. Because the incentives is an investment  
9 in the development of the business and the industry. And  
10 therefore we do --

11 Q.273 - My point is the more you give away the more you earn?

12 MR. CHARLESON: And the more revenue we are able to  
13 generate.

14 Q.274 - I recognize that. And that money that you are giving  
15 away is to be repaid, correct, to you?

16 MR. LEBLANC: It will be collected from the customer base  
17 over time.

18 Q.275 - Yes. So that the customer you are giving money to  
19 today will inevitably have, included in his or her or its  
20 rates in the future, monies to pay back that money?

21 MR. CHARLESON: That's correct.

22 MR. LEBLANC: Correct.

23 Q.276 - And I notice the incentives are broken down only in  
24 commercial and residential. You are not tracking them by  
25 class at the moment, is that right?

1  
2 MR. CHARLESON: No. At this point we generally -- we track  
3 them just by kind of the commercial and residential  
4 breakdown.

5 Q.277 - So have you anticipated how it is that the recovery  
6 will take place? Should a class that has received  
7 incentives repay those classes incentives?

8 MR. CHARLESON: At this point, again because we haven't  
9 turned our attention to what cost of service looks like.  
10 No. That would obviously factor into part of our  
11 analysis. But we are not at that point yet.

12 Q.278 - You haven't been tracking to be able to do that?

13 MR. CHARLESON: We do have information regarding the  
14 incentives that have been paid to each customer.

15 Q.279 - So you could have provided us a breakdown beyond  
16 commercial and residential because you are going to have  
17 to be able to do that someday?

18 MR. CHARLESON: It would have been onerous as it is  
19 currently tracked on paper documents.

20 Q.280 - Now again I would like to just refer to that number 1  
21 in A-6, Flakeboard interrogatory number 1 follow-up.

22 I just have questions of curiosity about some of the  
23 numbers in here. Maybe I could start with the HFO class  
24 for example.

25 Now I look at the page before this which has the

1  
2 forecast volumes by class. And in 2007 the volume for  
3 HFO was 778. And in 2008 the volume is anticipated to go  
4 up by 23 percent, I think the mathematical calculation  
5 is, to 957.

6 But when I flip to the forecast revenue on the next  
7 page, Roman Numeral V, I notice that the 2007 revenue and  
8 the 2008 revenue are in fact not exactly the same. They  
9 dropped by a thousand dollars.

10 The revenue -- or the forecast volume goes up by 23  
11 percent and the revenue doesn't change. Why is that?

12 MR. CHARLESON: We would have to check on that.

13 Q.281 - Would you agree it is wrong?

14 MR. CHARLESON: I agree that it looks like there may be an  
15 inconsistency there that you would have to check.

16 VICE CHAIRMAN: Mr. Lawson, could you just direct us to  
17 exactly what tables you are referring to? Because I  
18 found some of the information and not the rest.

19 MR. LAWSON: The key is it has to be A-6 as opposed to the  
20 original A-4. And it is in follow-up version of  
21 interrogatory number 1.

22 VICE CHAIRMAN: Yes.

23 MR. LAWSON: And if you look at Roman Numeral V --

24 VICE CHAIRMAN: Yes.

25 MR. LAWSON: -- on page 3 of 4 --

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VICE CHAIRMAN: That gives us the volume.

MR. LAWSON: -- that gives you the volume.

On page 4 of 5 under Roman Numeral VI, if you look down at the bottom of the list of customers, HFO.

VICE CHAIRMAN: Yes.

MR. LAWSON: And so I have only used the comparisons of the 2007 and then the 2008 with and without increases.

VICE CHAIRMAN: Thank you very much. Sorry for interrupting.

MR. LAWSON: No problem at all. More important that you follow.

Q.282 - So next I would like to take a look at LFO Tier 2 customers. The same analogy. Just I guess a little mystery on my part.

There is no rate increase for Tier 2 customers, correct?

MR. CHARLESON: Correct.

Q.283 - Now if I look at the volume, again the page preceding for the Tier 2 customers, it appears as though the volume in 2007 and 2008 in that class will be not significantly different as forecast, correct, 522 versus 5' --

MR. CHARLESON: That's correct. That is what the table is showing.

Q.284 - Then when I look at the revenue stream I see that from

1  
2 2007 to 2008 the revenue is increasing by a multiple of  
3 15 times.

4 Now without a rate increase I cannot reconcile that.  
5 Can you?

6 MR. CHARLESON: No. I'm having some difficulty doing that.  
7 So I think there is a couple of things we need to check  
8 between these two tables.

9 Q.285 - I'm just going to jump up then to the SGSRE, a whole  
10 series of letters. And I'm just curious to know why it  
11 is for that class in 2008, under the no increase column,  
12 it is contemplated that you would have a million and  
13 thirty-six thousand dollars in revenue, but with the  
14 increase you will see a drop in that number.

15 Is there an increase contemplated for that class?

16 MR. CHARLESON: No, there is not. And actually under --  
17 when Mr. Stewart was asking his questions earlier  
18 regarding this table, I had kind of put a question mark  
19 beside that because something was looking a little out of  
20 sorts to me.

21 So like I say, I think between these two tables  
22 across the various classes, I think there is something we  
23 have to check. And we will do that --

24 Q.286 - I believe I'm correct in stating that the reason why  
25 there is this follow-up interrogatory is because I had

1  
2 asked you with respect to some uncertainty in  
3 reconciliation in the first answer, is that right?

4 MR. CHARLESON: With regards to the table in response to  
5 part 6, with increase in no increase column, yes, there  
6 was a --

7 Q.287 - So you have corrected it. And this is what has been  
8 submitted as the corrected version. And I guess you  
9 probably agree that some of these numbers are apparently  
10 wrong, correct?

11 MR. CHARLESON: They are giving me cause for some concern,  
12 yes.

13 Q.288 - Now -- and I would assume, given that this is the LFO  
14 rate increase application, that there is some more  
15 reliability with respect to the information on the LFO  
16 Tier 1.

17 So could we take a look at that. If I look again at  
18 the 2007 revenue stream for Tier 1, it is \$3.1 million  
19 roughly. And then it is contemplated with no increase  
20 that you are going to go up to a modest amount of an  
21 increase, is that right?

22 MR. CHARLESON: In 2000' --

23 Q.289 - Immaterial as accountants might say. 2007 and then  
24 2008 without an increase?

25 MR. CHARLESON: Correct.

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2 Q.290 - When I look at the volume that we are dealing with in  
3 the preceding page, number 5, forecast volume for Tier 1  
4 is in 2007 854 terrajoules and almost doubled to 1.5  
5 million terrajoules --or 1,500 terrajoules.

6 Yet without an increase you are contemplating  
7 virtually nothing by way of the increase in revenue.

8 Would that -- is that wrong too then?

9 MR. CHARLESON: I think it is going to be subject to the  
10 review that we are going to do over lunch.

11 CHAIRMAN: Perhaps I can clarify this review that Mr.

12 Charleson is referring to. Is this intended to be an  
13 undertaking to provide an updated version of this  
14 response?

15 MR. HOYT: I have noted it as an undertaking to determine  
16 why there is this consistency. And if an updated  
17 response is what is required we will provide one.

18 CHAIRMAN: Thank you.

19 Q.291 - Would you agree that this information is extremely  
20 important for this application, this information specific  
21 to the forecast revenues?

22 MR. CHARLESON: Given that you have requested this  
23 information on behalf of your client, I would assume it  
24 is important to your client.

25 Q.292 - Don't you think it is probably important to the Board



1  
2 as well?

3 MR. CHARLESON: I believe it is something that will be of  
4 value to the Board.

5 Q.293 - Without the undertaking maybe you can't answer this.  
6 But have you contemplated what the -- and maybe because  
7 of the tallying here it is not a fair question. But do  
8 you know what the anticipated revenue increase for 2008  
9 is for this application?

10 I mean, if we do the mathematical calculation we  
11 don't have confidence that it is right. But is there  
12 some sense of what it is? I would have thought you would  
13 be wringing your hands every time you thought of the  
14 number.

15 MR. CHARLESON: Well, we will defer until we provide that  
16 undertaking.

17 CHAIRMAN: We have gone beyond 12:00 o'clock. And I'm  
18 wondering if in order to help with this line of  
19 questioning, if in fact we took the noon break now and  
20 give the panel an opportunity to review this table and  
21 determine whether or not some changes needed to be made.  
22 In that respect would a little additional time over lunch  
23 be useful?

24 I don't know how long the panel anticipates it might  
25 take to make this analysis.

1  
2 MR. CHARLESON: It is a matter of capturing the person back  
3 in the office that has got the data. But hopefully we  
4 will be able to get ahold of her quite quickly.

5 CHAIRMAN: All right. Well, perhaps we could take a little  
6 extra time.

7 Mr. McLean is just wondering if perhaps there may  
8 be, Mr. Lawson, any other tables that you might be cross  
9 examining on that you feel that a similar type of check  
10 might be appropriate while we have a break.

11 MR. LAWSON: I don't think so.

12 CHAIRMAN: That is about as noncommittal as you can get.

13 MR. LAWSON: I don't know. I don't anticipate that there  
14 will be. But I guess I can't forecast the answers, only  
15 the questions.

16 CHAIRMAN: You don't have any other tables though that you  
17 feel should be looked at. You don't have questions that  
18 would be similar to the ones you have posed on these  
19 tables?

20 MR. LAWSON: I don't think so, Mr. Chairman. Most of the  
21 information, because the one that is the most germane  
22 one, as far as I'm concerned, is the revenue one. So I  
23 spent a lot of time on it.

24 And of course we would like the extra time partly  
25 because we want to certainly give them adequate time to

1  
2 be able to prepare. But I would like to have some time  
3 to look at it. Because it is all brand-new information.

4 CHAIRMAN: Sure. Well, it is close to 10 after 12:00.

5 Would 1:30 then be sufficient time do you think for the  
6 panel to put that together and to give Mr. Lawson some  
7 time to have a look at it?

8 MR. CHARLESON: I would hope so. And perhaps if we end up  
9 needing a little more time, Mr. Lawson would be able to  
10 advise the Board.

11 CHAIRMAN: Sure. We will adjourn then until 1:30 unless in  
12 fact additional time is needed. I'm going to also -- I  
13 would like to advise the parties that the Board has a  
14 commitment later on in the afternoon. And so today we  
15 will not go beyond 3:30.

16 Thank you. So we are adjourned till 1:30.

17 (Recess - 12:10 p.m. - 1:30 p.m.)

18 CHAIRMAN: Are we ready to proceed?

19 MR. HOYT: Yes. Just to give you an update on that  
20 undertaking, the panel has people working on providing a  
21 response. It wasn't ready at this moment. We thought  
22 rather than writing off the afternoon we should come  
23 back.

24 I have spoken to Mr. Lawson who indicated that he  
25 can continue with his cross. And with respect to that

1  
2 particular undertaking we will make the panel available  
3 tomorrow morning if necessary.

4 MR. LAWSON: I may just keep them so that they will be  
5 available.

6 CHAIRMAN: Mr. Lawson, do you want to continue your cross  
7 examination?

8 MR. LAWSON: Thank you, Mr. Chairman.

9 Q.294 - Just before we leave that interrogatory number 1  
10 follow-up -- I don't think this is going to be the same  
11 kind of problem -- but just an explanation I'm looking  
12 for.

13 So this is A-6 again, follow-up -- Flakeboard  
14 interrogatory number 1 follow-up. I'm referring to page  
15 2 of 4. And I notice that the annualized -- I'm sorry.  
16 And this is Roman Numeral II.

17 The actual annualized through-put for each class for  
18 the LFO Tier 2 was 2007, 212 terrajoules. And that the  
19 actual, which is in Roman Numeral V, bottom of page 3,  
20 was 522 terrajoules. Sorry, the forecast, I'm sorry, was  
21 522.

22 So the actual was 212 and the forecast was 522. And  
23 I'm just wondering if there was an explanation for that?

24 MR. CHARLESON: At the time we would have been preparing the  
25 forecast for 2007 there was an expectation of a couple of

1  
2 LFO customers coming on and some load from those. One of  
3 those did come on late, very late in the year. The other  
4 one hasn't materialized as yet.

5 Q.295 - Now I remember in the discussion that prompted the  
6 change -- this follow-up IR number 1 answer -- that you  
7 had alluded to something about -- I thought you just  
8 indicated a loss of an LFO customer that made a  
9 difference in the numbers, is that right?

10 In 2007 did you lose an LFO customer?

11 MR. CHARLESON: Now that you raise that -- and I believe I  
12 may have misspoke myself this morning then with Mr.  
13 Stewart. There was -- my colleagues remind me there was  
14 one LFO customer that we lost during the course of the  
15 year.

16 Q.296 - Now did you lose them as an LFO customer or as a  
17 customer altogether?

18 MR. CHARLESON: As a customer altogether.

19 MR. LEBLANC: It is a very small load.

20 MR. BUTLER: It's a very small heating loaded to maintain  
21 some heat in the building.

22 MR. LEBLANC: They are still heating the building.

23 Q.297 - Oh, I see, okay. And they have stopped production, is  
24 that it?

25 MR. LEBLANC: Correct.

1  
2 Q.298 - I would like to -- and you did deal with some of this  
3 issue previously. But again refer you to Flakeboard IR  
4 number 2 in A-4, page 2 of 2, where you identified a  
5 number of customers in the LFO total market potential  
6 class.

7 CHAIRMAN: IR number 2 was it?

8 MR. LAWSON: IR number 2, I'm sorry.

9 CHAIRMAN: Yes.

10 MR. LAWSON: Page 2 of 2 in IR number 2 of Flakeboard.

11 Q.299 - And in it, in paragraph (c) on that page you identify  
12 the five customers, regardless of their location,  
13 customers -- potential customers, not yet customers.

14 And I notice that the terrajoule capacity of those  
15 clients or estimated amounts of potential is  
16 significantly close to the actual total of the 20 that  
17 you already have, is that right?

18 MR. CHARLESON: That is what that table is showing, yes.

19 Q.300 - And to your knowledge that would be correct, that the  
20 total of those five potential customers are almost as  
21 great in capacity or in terms of needs?

22 MR. CHARLESON: Yes. That's correct.

23 Q.301 - So I would assume that some of those are or perhaps  
24 all of them are fairly large customers, LFO customers or  
25 potential customers?

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MR. CHARLESON: They all qualify for the LFO rate class.

Q.302 - Right. But if 20 represents 1200 terrajoules and 5 represents almost that, these are large customers relative to the average of your current customer base, correct?

MR. CHARLESON: Correct.

Q.303 - And I would assume in your zeal to grow the business that you would be aggressive in trying to pursue these five individual customers as potential customers, correct?

MR. CHARLESON: Definitely we are interested in attaching those customers. The one that we are probably closest to attaching, we have been pursuing with some zeal for a few years. And it is always just kind of just within grasp.

Q.304 - Yes. Okay. And let's look at the 30 kilometer one. Is that the one that you have been pursuing and always within grasp? Or is that --

MR. CHARLESON: Yes. That's --

Q.305 - And I presume that when you make a decision of whether or not you will make a deal with this person, this potential customer, that you do a business case analysis of that 30 kilometer distance pipe, is that right?

MR. BUTLER: That's correct.

Q.306 - And I would assume, correct me if I'm wrong, that

1  
2 there is not much by way of other customers in the  
3 neighborhood at the end of the 30 kilometer pipe?

4 MR. BUTLER: You are correct.

5 Q.307 - So it is almost on a stand-alone basis that you have  
6 to do the analysis of this particular customer?

7 MR. BUTLER: That's right.

8 Q.308 - So would you take me through what kind of an analysis  
9 that you do as to when it makes economic sense for EGNB  
10 to install 30 kilometer type pipe like that?

11 MR. BUTLER: Well, the concern with this case or any case  
12 where there is one large load in an area, we need a  
13 guarantee that we are going to recover our costs of  
14 serving that customer and that those costs don't end up  
15 being borne by other customers essentially.

16 So the -- we request some form of a guarantee,  
17 whether it is a letter of credit or a parental guarantee,  
18 that over a certain period of time we will recover those  
19 costs.

20 Q.309 - So you actually do an analysis of what the cost would  
21 be to put in the pipe, amortize that over your standard  
22 period of amortization for the pipeline, is that right?

23 MR. BUTLER: No, not in a case where there is one particular  
24 customer. Like a standard amortization period for large  
25 customers is 20 years.



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Q.310 - Right.

MR. BUTLER: So it would be too risky to wait 20 years to see whether we recover our costs right on.

Q.311 - So you look for a significantly shorter period of time for the amortization?

MR. BUTLER: Yes.

Q.312 - And then you factor in I presume some operational costs associated with running that pipeline as well?

MR. BUTLER: That's correct.

Q.313 - And then you say we need to ensure that -- are there any other factors in the cost side of the equation I'm missing?

MR. BUTLER: No. You have identified them as the capital costs and the operating costs.

Q.314 - And then you say we need a certainty that we will recover that level of costing over a fixed period of time, whatever you determine to be the reasonable time frame?

MR. BUTLER: Correct.

Q.315 - So that LFO potential customer would in fact be looked at on strictly cost basis, cost recovery basis?

MR. BUTLER: Yes. And in this particular case, this is a community that we never intended to serve. So when we initially presented our proposal to the Province we had

1  
2 done an analysis of -- we wanted to serve as many  
3 communities as possible or provide service to as many  
4 customers as possible.

5 So essentially those communities that we identified  
6 were deemed to be feasible. So this isn't something that  
7 we would do to attach a customer in Saint John for  
8 example, or St. Stephen. St. Stephen was one of those  
9 communities that was identified in the proposal. The  
10 community that we are talking about now was never  
11 identified.

12 So if it doesn't stand on its own and recover all of  
13 its costs, essentially all of the other ratepayers would  
14 have to recover those costs.

15 MR. CHARLESON: I guess the important element to that though  
16 is when we look at the recovery of those costs, it is  
17 assuming the use of market-based rates for the revenue  
18 stream.

19 Q.316 - How then do you ensure that you are going to have a  
20 recovery of costs?

21 MR. BUTLER: The recovery is expressed as a net present  
22 value number. So it is a net present value of the  
23 revenues that we require to recover the costs.

24 Q.317 - But your pricing, whatever formula is used for pricing  
25 for that customer, would contemplate that you need

1  
2 assurance that your costs would be recovered.

3 You need to be sure that your costs would be  
4 covered, correct?

5 MR. BUTLER: Correct.

6 Q.318 - And it is possible that customer might, using whatever  
7 formula rates that might arise, that customer might  
8 generate just enough money to cover the costs of  
9 operating that line, correct?

10 MR. BUTLER: Correct.

11 Q.319 - That can't be said for example of the Flakeboard  
12 plant, is that right? Because they would propose anytime  
13 you asked in fact they would pay the cost of the line and  
14 that would be enough generation of revenue for you.

15 That wouldn't be acceptable to you would it?

16 MR. BUTLER: No. As I explained, we looked at all of these  
17 communities as a whole and said we can serve all of these  
18 areas. It is feasible in other words.

19 And obviously some customers produce more revenue  
20 than others. And some recover their costs sooner than  
21 others.

22 Q.320 - So a customer who is stand alone and has no other  
23 customers to help feed the revenue stream for you folks  
24 may be able to do this on a cost basis.

25 But a customer like Flakeboard, because there are a

1  
2 whole bunch of other customers to serve, don't get the  
3 benefit of having only recovery?

4 MR. CHARLESON: I'm not sure -- I think I'm following the  
5 premise that you are putting out here. I'm not sure it's  
6 accurate. You know, when we look at this -- when we talk  
7 about the cost recovery it's the cost recovery of, you  
8 know, of that investment we are making, ensuring that we  
9 are able to do that over the time period. However, that  
10 customer is still part of the LFO class.

11 And when we look at the class of customers, all  
12 customers in that class are charged distribution rates at  
13 the same rate. So it's not like well once we recover the  
14 cost of the investment for getting to that customer that  
15 now their distribution is free or it's only the operating  
16 cost we have to recover. They are still within that  
17 class and they will be billed at the same rate as all  
18 other customers within the class.

19 It's a homogenous -- it's a group of customers that  
20 are all billed at the same rate. There is differing  
21 costs underpinning what it may cost to serve each of  
22 those, but you look and set rates at a class level.

23 Q.321 - But one of the ways you attract customers is through  
24 incentives, correct?

25 MR. CHARLESON: That's correct.

1  
2 Q.322 - You have paid substantial sums in incentives for one  
3 customer of \$5.6 million. That's a very substantial sum  
4 of money.

5 MR. CHARLESON: We have paid the level of incentives that we  
6 believe have been required to help grow the system.

7 Q.323 - Right. So have you entertained some discussions about  
8 incentives for this particular customer that you are  
9 speaking about, this 30 kilometer pipeline?

10 MR. BUTLER: No. In a case like this obviously it doesn't  
11 pay for itself, so we wouldn't be providing -- we are  
12 trying to reduce the capital cost as much as possible.  
13 So there would be no incentives in this case.

14 Q.324 - But isn't it fair to say that this customer, potential  
15 customer, hasn't signed on yet. You haven't been able to  
16 convince them that this is a business model that makes  
17 sense for them, correct?

18 MR. CHARLESON: There is a number of factors that are coming  
19 into play, most of them outside of the distribution  
20 rates.

21 Q.325 - Most of them outside of the?

22 MR. CHARLESON: The distribution rates or --

23 Q.326 - Operational issues.

24 MR. CHARLESON: There is operational issues.

25 Q.327 - Okay. And you can't -- you have been working on this

1  
2 particular customer for how long?

3 MR. BUTLER: First started talking to them in 2003.

4 Q.328 - And in four or five years you have been unable to  
5 convince them that they have got the problem solved,  
6 various problems, including financial ones.

7 MR. BUTLER: No. I think we have convinced them that they  
8 wished they had gas. Last year they would have saved \$2  
9 million had they had gas available. It's their own  
10 internal, you know, decision making -- you know --  
11 between their different branches and so on.

12 Q.329 - So it's fair to say these folks are not going to join  
13 merely because you folks have in place a market-based  
14 rate, isn't that right? There are a whole bunch of  
15 variables and the market-based rate component has nothing  
16 to do with whether or not you are going to attract them  
17 in as a customer, correct?

18 MR. BUTLER: Well I think what -- what appeals to this  
19 particular customer is the fact that they are pretty well  
20 assured they are going to get at least 10 percent savings  
21 by switching off of oil.

22 Q.330 - Well I don't know who the customer is but I'm willing  
23 to bet that if there was a 20 percent savings available  
24 they would find that more appealing, agreed?

25 MR. BUTLER: Agreed.

1  
2 Q.331 - So they have the possibility of a ten percent savings  
3 available to them. So is it not fair to say that the  
4 market-based price is not doing anything to attract that  
5 customer as a potential customer to this situation?

6 MR. CHARLESON: I would disagree.

7 Q.332 - So please explain.

8 MR. CHARLESON: Again the market-based price is what  
9 provides a target level of savings for that customer  
10 comparison to what their fuel costs are today. So they by  
11 looking at the distribution rates and the market-based  
12 rate methodology that is being applied -- that's being  
13 applied for that -- they are able to achieve savings as  
14 Mr. Butler indicated in the past year if they had already  
15 converted to gas in the order of a couple of million  
16 dollars.

17 So it is the rate setting methodology that provides  
18 those target levels of savings and that is part of what  
19 provides the incentive for them to convert. If there was  
20 no savings then there would be no incentive.

21 Q.333 - Right. If there was more savings there would be more  
22 incentive?

23 MR. CHARLESON: True. And if we provided 70 percent savings  
24 there would be even more people converting, but at the  
25 end of the day we have to have a sustainable business,

1  
2 and we have to manage the contributions and the additions  
3 that are going through the deferral account. It's  
4 finding that balance. And we believe the ten percent  
5 savings provides that balance.

6 Q.334 - So right now from your perspective as opposed to the  
7 customer's perspective, this line doesn't make economic  
8 sense for you either, is that a fair statement?

9 MR. BUTLER: No. It makes economic sense.

10 Q.335 - It does.

11 MR. BUTLER: With that customer, yes. Providing that we  
12 recover our costs.

13 Q.336 - That's what I'm talking about. Is the customer  
14 prepared to pay, provide the guarantees necessary to  
15 ensure that you recover your costs.

16 MR. BUTLER: Correct.

17 Q.337 - So you have got over that hurdle with them, have you?  
18 The customer has indicated they are prepared to guarantee  
19 certain income streams to you folks in terms of  
20 distribution service that assures that you will cover  
21 your minimum costs.

22 MR. BUTLER: Actually they are in the process right now of  
23 dealing with that issue with their parent.

24 Q.338 - It hasn't been resolved.

25 MR. BUTLER: No. It's understood the -- I guess the local



1  
2 people have stated that, but I know that they now have to  
3 go offshore to get approval from their parent.

4 Q.339 - So --

5 MR. BUTLER: It's a capital expenditure just not for this  
6 but for the conversion cost as well that they are facing.

7  
8 Q.340 - Okay. Now the other four customers that are in that  
9 five group, which of those customers are not coming on  
10 board? Well -- and I apologize. There were two  
11 customers that were within ten kilometers, is that it?

12 MR. CHARLESON: There were three.

13 Q.341 - Three customers within ten kilometers.

14 MR. CHARLESON: Well actually four within ten. One of them  
15 was three kilometers, the other three were ten.

16 Q.342 - So the three kilometer one --

17 MR. CHARLESON: Yes.

18 Q.343 - -- that's the roadway problem?

19 MR. CHARLESON: Yes. They have actually signed on for  
20 service. Right now it's just a matter of getting the  
21 pipe there.

22 Q.344 - Okay. So they signed on for service, so obviously the  
23 market-based rate is not going to make a big difference  
24 to them.

25 MR. CHARLESON: They signed on with full knowledge of the

1  
2 market-based rates. It wasn't an issue for them.

3 Q.345 - And the -- when they signed on how long had you been  
4 working on this particular customer?

5 MR. CHARLESON: My understanding is it's a couple of years.

6 Q.346 - And is this a three kilometer off of a main lateral?

7 MR. CHARLESON: It would be three kilometers off a portion  
8 of our distribution system.

9 Q.347 - So it's not off --

10 MR. CHARLESON: It's not off the Maritimes, no.

11 Q.348 - And the other three are within ten kilometers?

12 MR. CHARLESON: Correct.

13 Q.349 - And what is the state of the other three in terms of  
14 signing on?

15 MR. CHARLESON: At this stage they haven't signed on, but  
16 they are viewed as being potential LFO customers.

17 Q.350 - Have you done for the three kilometer one -- do you  
18 know what the cost analysis of servicing that customer  
19 would be to put in the extra pipe in the same fashion,  
20 for example, as Atlantic Wallboard's has been done?

21 MR. CHARLESON: We don't know that. Obviously the work is  
22 being done. We understand what the cost of that  
23 expansion is. You know, associated with that expansion  
24 it also gets us to some other potential customers. At  
25 this point they were the ones that have signed on. The

1  
2 expectation is that once we get gas to that area there  
3 are a number of other customers that we also expect to be  
4 able to capture.

5 Q.351 - I don't know anything about the customer, but would it  
6 be fair to say that the customer would probably be  
7 economically better off in terms of the rates they would  
8 have to pay if their three kilometer pipeline was on a  
9 cost recovery basis rather than a market price basis?

10 MR. CHARLESON: That's difficult to say because that three  
11 kilometer pipeline would essentially be useless without  
12 the rest of the distribution system.

13 Q.352 - But I'm not asking you that. The cost of that three  
14 kilometer pipeline --

15 MR. CHARLESON: I guess I'm struggling with what the cost of  
16 the three kilometer pipeline would be if it's not tied to  
17 a whole pile of other physical plant.

18 Q.353 - We all struggle with that. That's part of the problem  
19 with not having costs, isn't it, on a class basis?

20 That's one of the problems with it, isn't it?

21 MR. CHARLESON: Again, we are not under a cost of service  
22 model right now. That analysis is something that the  
23 Board has given some direction in terms of how that is to  
24 be addressed going forward.

25 Q.354 - I would like to refer you to A-3, your written

1  
2 evidence, Mr. Charleson. I would like to start on page  
3 1. I guess first of all in your A-3 you say market-based  
4 rates are -- as I said, I knew we would hear these words  
5 again, I knew I was going to say them for you --  
6 predicated on local market conditions with the objective  
7 of providing potential end use customers with an economic  
8 incentive to convert and to continue to use natural gas,  
9 correct?

10 MR. CHARLESON: That's correct.

11 Q.355 - And you would agree that a rate structure that in fact  
12 would provide for a lower distribution rate than what you  
13 are contemplating would achieve that same thing, wouldn't  
14 it?

15 MR. CHARLESON: Within the short term. However, that rate  
16 structure then also leads to increased contributions to a  
17 deferral account that will have to be recovered in the  
18 longer term. It may have negative consequences in the  
19 long term for that customer.

20 Q.356 - Or it may not, correct? In the short-term for certain  
21 they would save money, correct?

22 MR. CHARLESON: A lower rate structure in the short-term of  
23 course would lead to less -- to savings. However, if  
24 that leads to a greater under recovery of costs, those  
25 costs have to be recovered at some point in the future.

1  
2 So that would have to lead to higher costs in the long  
3 run.

4 Q.357 - Like the incentives, paying them incentives leads --  
5 has to lead to higher rates in the future, doesn't it?

6 MR. CHARLESON: It does contribute to the higher rates over  
7 the longer term. However, it also leads to a larger  
8 customer base which you are able to spread the overall  
9 cost and gets you to the point where you are able to be  
10 sustainable and profitable and move outside the  
11 development period.

12 Q.358 - But you would agree the lower rate would meet the  
13 conditions you set here that market-based rates are  
14 predicated on?

15 MR. CHARLESON: Just the same as lower charges for your  
16 client's product would lead to increased sales.

17 Q.359 - And that was the next point I was going to get to. So  
18 if you in fact had lower rates you could probably have  
19 increased sales, couldn't you?

20 MR. CHARLESON: Not necessarily, because in the case of our  
21 product it's a matter of the consumption that is used to  
22 service a facility. It's more the number of customers.  
23 You still have to deal with the conversion and the  
24 capital cost. It's not the same as say a product that is  
25 in a store.

1  
2 Q.360 - So why wouldn't lower rates give you more customers?

3 MR. CHARLESON: Again, lower rates ultimately may give you  
4 more customers. However, you still have to overcome the  
5 issues of the capital cost of conversion and attaching  
6 the customers. If you are not setting your rates in a  
7 way that again maximize the revenues that you are able to  
8 achieve, you are going to have increased shortfalls in  
9 terms of your revenue stream that will have to be  
10 recovered in the future, which may make it more difficult  
11 in the future to continue to attract customers as you  
12 start to recover those shortfalls.

13 Q.361 - Well higher rates makes it more difficult to get  
14 customers.

15 MR. CHARLESON: And that's one of the key reasons why we  
16 want to ensure that we are managing that deferral account  
17 so we have the lowest possible rates for the long term.

18 Q.362 - Higher rates makes it more difficult to get  
19 customers --

20 MR. CHARLESON: Yes.

21 Q.363 - -- fair statement?

22 MR. CHARLESON: Yes.

23 Q.364 - With the lower rates you have had up until now you  
24 haven't been able to attract those five customers that  
25 you talk about as potential customers. You were tapped

1  
2 out, couldn't get at those customers, couldn't convince  
3 them at 79 cents, couldn't convince them at 97 cents, and  
4 you couldn't convince them at \$2.39, correct?

5 MR. CHARLESON: I would disagree with your characterization  
6 of that. For customers of this size and nature there are  
7 a number of factors, many of them operating factors that  
8 are outside of our control, that come into play. And,  
9 you know, the extent to which our rates plays a factor is  
10 difficult to say. All we can indicate is, as we  
11 indicated in the IR response that was referenced earlier  
12 this morning, that from discussions we have had with the  
13 perspective customer, the increase in the rates are not  
14 the issue in terms of getting them to convert.

15 Q.365 - Right. The rates aren't the issue in getting them  
16 converted. It's other factors?

17 MR. CHARLESON: Correct.

18 Q.366 - Okay. So the market-based pricing isn't a factor,  
19 correct?

20 MR. CHARLESON: The market-based rates provide the incentive  
21 that will give them savings.

22 Q.367 - No, no. Didn't you just say it's not our rates that's  
23 not convincing them.

24 MR. CHARLESON: The increase in the rates or the level of  
25 rates is not preventing them from converting to gas.

1  
2 There is other operating factors that come into play.  
3 The fact that our market rates provide a savings in  
4 comparison to the alternate fuel is what helps to  
5 stimulate and drive their interest in converting to gas.

6 Q.368 - Now I know, Mr. Charleson, you weren't involved in  
7 this, so, Mr. Butler, I know you were around, I'm not  
8 sure, Mr. LeBlanc, if you were around or not back in 2000  
9 when the initial system was in place. I believe, Mr.  
10 Butler, you were involved initially?

11 MR. BUTLER: I was here in 2000, yes.

12 Q.369 - Yes. Now would it be fair to say from what your  
13 recollection and understanding was, that when market-  
14 based pricing was contemplated by EGNB and accepted by  
15 the Board, that it was contemplated that this would be a  
16 way of attracting new customers, correct?

17 MR. BUTLER: Yes. It was a way of financing the capital  
18 cost of building a distribution system.

19 Q.370 - But the objective is to try to attract new customers,  
20 right?

21 MR. BUTLER: Provide an incentive, right.

22 Q.371 - And the incentive contemplated was -- is it fair to  
23 say the reason for having it structured that way is it  
24 was contemplated that this would make a pricing structure  
25 lower than what would be the normal regulatory process,



1  
2 which is cost-based, correct?

3 MR. BUTLER: No. I know the initial targetted savings that  
4 were set were based on our company's history in Ontario.  
5 Customers wanted to see those kinds of savings in order  
6 to make the switch to gas. So for example, at the time  
7 we had set the targeted savings in the residential market  
8 at 30 percent.

9 Q.372 - But isn't it fair to say that the contemplation was  
10 that this formula would provide a rate structure that  
11 would be lower than a cost-based rate structure? Mr.  
12 Charleson, if I might, I don't think you were here and  
13 I'm trying to address --

14 MR. CHARLESON: Mr. Lawson, I think I can address the  
15 concept that you are getting to. I have spent time since  
16 getting here getting familiar with the previous  
17 proceedings, reviewing the evidence, reviewing the  
18 transcripts, so I do have a reasonable understanding.  
19 Obviously I was not party to them --

20 Q.373 - You weren't involved.

21 MR. CHARLESON: -- but I do understand the principles that  
22 have underpinned this business. And I would agree, yes,  
23 the market-based cost structure or the market-based rate  
24 structure was intended to provide rates that would be a  
25 lower cost than a cost-based structure for Enbridge Gas

1  
2 New Brunswick's costs. Otherwise -- and that's what  
3 contributes to the additions to the deferral, because if  
4 you had a cost-based structure the rates would have had -  
5 - would have been much higher to recover all of the costs  
6 and we would not have been competitive.

7 Q.374 - So you needed to lure customers in with a discounted  
8 below cost rate?

9 MR. CHARLESON: We needed to ensure that we provided a  
10 sufficient incentive for people to convert. Otherwise  
11 the first customer that we would have had, you know,  
12 where you have a hundred million dollars worth of pipe in  
13 the ground, I don't think they are going to want to pay,  
14 you know, \$10,000 a month in distribution rates.

15 Q.375 - No. I agree. We are on all fours and I thank you for  
16 forcing yourself into answering the question because  
17 that's what I was looking for. Thank you.

18 Just in that regard, and if I could perhaps refer  
19 you to IR number 12 in -- I think it's A-4, I don't think  
20 it was a revised one.

21 MR. CHARLESON: Would that be Flakeboard IR?

22 Q.376 - Flakeboard, I'm sorry, yes. I will refer you to page  
23 1 of 6 first. Now my understanding is that back when the  
24 June 2000 decision was made by the Board to adopt market-  
25 based pricing, and I am just going to look at the LFO

1  
2 class for the moment, that from your answer number one,  
3 that there was a 16.3 percent spread between the bulk  
4 price of light fuel oil and natural gas at the time, is  
5 that right?

6 MR. CHARLESON: That's what the response says, yes.

7 Q.377 - And am I correct that the targeted savings for  
8 customers at that time in the LFO class is 15 percent?

9 MR. CHARLESON: Yes.

10 Q.378 - And so when you initially applied the expectation was  
11 is that there be essentially around the 1 point spread, 1  
12 percentage point spread that you folks would be getting  
13 between from the customers as you are rate, is that  
14 right? MR. CHARLESON: I guess we are struggling a little  
15 bit just -- yes, there is a 16 percent spread there  
16 between the prices. The target savings is 15 percent.  
17 But whether that translates through in the whole  
18 derivation of rates, we haven't not that analysis.

19 Ultimately, what we - at that time, the target  
20 savings to be provided was 15 percent. And there was a  
21 16 percent different in the wholesale prices of the  
22 commodity. But how that translates through at the retail  
23 and all the other components to go into deriving the  
24 rate, I couldn't say whether I can agree or not with that  
25 1 percent proposition.

1  
2 Q.379 - I guess -- and I will plead stupidity, I don't know,  
3 but it seems to me fairly obvious that there was a 16  
4 point spread and you were giving 15 points savings, that  
5 there was 1 percent quote unquote theoretically left on  
6 the table. I know customers actual reality were  
7 different, because you didn't know exactly who was going  
8 to have what, but the theory.

9 MR. CHARLESON: I understand how you have arrived at that.

10 I am just not sure it is as simplistic as that. And  
11 again you may be correct, but we haven't -- I haven't  
12 looked to see whether there is this 1 percent sitting  
13 there. I don't know if it is as simplistic as that.

14 Q.380 - Well let me I guess follow the simplistic approach  
15 that at the time you made this application, as evidenced  
16 in response number 3 to that IR, there was a 37.28  
17 percent spread between the two products, is that right?

18 MR. CHARLESON: That's correct.

19 Q.381 - And now there is a 10 percent savings target?

20 MR. CHARLESON: That was approved by the Board in 2005.

21 Q.382 - So the difference between those two figures is 27  
22 percent, correct?

23 MR. CHARLESON: Yes, that's what the math would indicate.

24 Q.383 - So that spread I would say what was available to you  
25 is 27 times higher than it was when you originally made

1  
2 the application for these rates, isn't that a correct  
3 mathematical calculation?

4 MR. CHARLESON: If your simplistic assumption around the  
5 spreads and the translating through are correct, yes,  
6 that's the way the math would work.

7 Q.384 - Could I get an undertaking to have you do an analysis  
8 to tell me where my simplistic analysis may be wrong?

9 MR. CHARLESON: Certainly.

10 CHAIRMAN; Just to clarify that undertaking could you  
11 indicate what it is that you are asking the panel? I  
12 just want to make sure everybody understands what it is  
13 they are to do?

14 MR. LAWSON: I have indicated -- I have done the calculation  
15 of the spread between the light fuel oil and the natural  
16 gas prices at those two different time frames we have  
17 talked about, the June decision and the application on  
18 this date. Subtracted the targeted savings to customers  
19 at 15 percent initially and 10 percent now, and come up  
20 with a 1 percent spread initially and a 27 percent spread  
21 now. And I guess perhaps the best way to just describe  
22 it is as I have described it as being the percentage  
23 spread available for EGNB and its rates and it is  
24 multiplied by 27 times it is originally anticipated. And  
25 I would like to know from the panel what it is if their

1  
2 view is different about that interpretation of that  
3 spread, what their interpretation is why.\* Because I  
4 think it has been described as being -- simplistic  
5 approach seems to be right. I don't want to put their  
6 words in their mouth .1 It's a simplistic approach. But  
7 if it is not right, then I would like to know what the  
8 difference is between my approach and what they think it  
9 is.

10 CHAIRMAN: Mr. Hoyt?

11 MR. HOYT: I have got it. And we will be happy to respond  
12 to that undertaking.

13 CHAIRMAN: I am just concerned about undertakings in a  
14 hearing such as this which may not be as long as some of  
15 the other hearings that we have done. Is the time  
16 frame -- is this something that would be available  
17 tomorrow? I guess that's what I am really getting at.

18 MR. HOYT: Yes.

19 MR. CHARLESON: Yes, we will make sure it is.

20 CHAIRMAN: Thank you.

21 Q.385 - Now, I would just like to look -- flip the page in  
22 that same interrogatory number 12 and look at that chart  
23 we looked at this morning as well by Mr. Stewart, page 2  
24 of 6, interrogatory Flakeboard 12. And again on the  
25 basis that a picture is worth a thousand words, the

1  
2 spread is -- in the terms of a dollar amount, an  
3 extraordinary spread from the historical pattern,  
4 correct?

5 MR. CHARLESON: The spread is if larger than what is had  
6 been historically.

7 Q.386 - It's out of the ordinary?

8 MR. CHARLESON: I couldn't say whether it is out of the  
9 ordinary or not. As I indicated this morning on a  
10 percentage basis, we have seen spreads nearly equivalent  
11 to that back in the early 1990s. So again from on a  
12 scale perspective, I would say it is not extraordinary.  
13 It's not something -- it is something that has happened  
14 in the past. If you want to look on an absolute dollar  
15 basis, is it more significant than what we have seen in  
16 the past, yes.

17 Q.387 - But your formula for market-based pricing has nothing  
18 to do with the percentage spread between them, correct?  
19 It has everything to do with the raw dollar spread,  
20 correct?

21 MR. CHARLESON: Correct.

22 Q.388 - And would you be willing to accept the idea that the  
23 market-based formula would be changed to a percentage  
24 spread using the historical information at the time?

25 MR. CHARLESON: We believe the formula that we have today is

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the appropriate formula and should continue to be used.

Q.389 - So the answer is no. It wouldn't accept that, correct?

MR. CHARLESON: Correct.

Q.390 - So no point in talking about percentage spread. It's raw dollar spread that is relevant, wouldn't you agree?

MR. CHARLESON: I was just trying to deal with your statement in terms of extraordinary.

Q.391 - And EGNB presumably did some forecasts back in 2000 when they did -- they obviously had to do forecast to know when they were going to get the development period finished and so on, is that correct?

MR. CHARLESON: That's correct.

Q.392 - And when they did that, what did they use -- what did you folks use back then as the anticipated spread between these two rates for the purposes of getting to the end of the development period?

MR. BUTLER: I can't answer that.

Q.393 - Order of magnitude?

MR. BUTLER: No. Most of that work actually was done in 1998 and '99.

Q.394 - Were you involved in the rate hearings in 2000?

MR. BUTLER: No, I wasn't.

Q.395 - Mr. Charleson, you have familiarized yourself with



1  
2 this. Are you familiar with this?

3 MR. CHARLESON: I don't recall having seen something around  
4 this. Doesn't mean it wasn't dealt with there. I am  
5 just not familiar with it.

6 Q.396 - Would you agree that it would be fair to say looking  
7 at the chart at that point in June of 2000 looking back,  
8 that the projection the go forward basis would have  
9 contemplated a much smaller difference in price between  
10 light fuel oil and natural gas than what we have today?

11 MR. CHARLESON: Yes, I would expect there was a completely  
12 different pricing environment at that time and expected  
13 on a number of fronts.

14 Q.397 - And had been a completely different pricing  
15 environment for at least 10 years prior to that time,  
16 correct? In terms of raw dollars?

17 MR. CHARLESON: 10 years prior to 2000 there was a  
18 completely different pricing environment from what there  
19 was after 2000?

20 Q.398 - No, no. Presumably the projection is done in 2000 by  
21 EGNB -- in '98, whenever it was in fact done -- would  
22 have been by looking back to the historical tracking that  
23 took place between the two prices?

24 MR. CHARLESON: Yes, I think that's fair.

25 Q.399 - They would never had dreamed, and I would submit it is

1  
2 fair to say, that there would be the kind of price  
3 differential that exists today?

4 MR. CHARLESON: Similar to how I don't think they would of  
5 dreamed about the price differential that would have  
6 occurred in 2005 when natural gas spiked, you know, above  
7 oil.

8 Q.400 - They would just --

9 MR. CHARLESON: There is volatility that's occurred since  
10 that time. And that's the one thing you can always count  
11 on with forecasts is they will be wrong.

12 Q.401 - And they never dreamed -- they didn't to your  
13 knowledge, there was not a single forecast done by EGNB  
14 that would have come close to contemplating the spread  
15 that exists today or existed at the time this application  
16 was done between the two fuels, correct?

17 MR. CHARLESON: None that I am aware of.

18 Q.402 - Again you don't know of anything before the Public  
19 Utilities Board -- this kind of anomaly occurring,  
20 correct?

21 MR. CHARLESON: Again that's assuming that this is an  
22 anomaly.

23 Q.403 - Is that correct?

24 MR. CHARLESON: Yes.

25 Q.404 - I would like to look at the formula that you have used

1  
2 in your evidence, again using A-3 -- turning to page 3 of  
3 A-3 and related subjects. So the price that you have  
4 used for oil, which is obviously a very important  
5 component in this market-based pricing formula, correct?

6 MR. CHARLESON: Yes, it is.

7 Q.405 - You have identified it as being retail oil price,  
8 correct?

9 MR. CHARLESON: Correct.

10 Q.406 - And you have talked about sort of the -- in general  
11 terms in your later evidence -- about the variables that  
12 enter into what is used to come up with it, the NYMEX  
13 price and some components for the market adjustment for  
14 New Brunswick, et cetera, correct?

15 MR. CHARLESON: That's correct. In our response to the  
16 Board's interrogatory number 4 we outlined the basis for  
17 arriving at that retail price.

18 Q.407 - Now in your application for your other classes there  
19 is also -- because it's tied too to the retail oil  
20 price -- there is also a retail oil price used in that  
21 application, correct?

22 MR. CHARLESON: Correct.

23 Q.408 - Now it was at a different point in time, so  
24 naturally -- that the application was made, so naturally  
25 the price wouldn't be the same if you used all --

1  
2 everything was otherwise equal. But is there a  
3 difference in the price you used, the formula or method  
4 of calculating your retail price for this application  
5 compared to the other applications?

6 MR. CHARLESON: Yes, there is.

7 Q.409 - And what is that difference?

8 MR. CHARLESON: The difference gets into the kind of -- bear  
9 with me one second. The difference gets into some of the  
10 -- some of the market spreads or the crack spreads that  
11 come into play, because there is different types of fuel  
12 that are being compared to.

13 For the residential level -- for the residential  
14 classes you are looking at comparing to a home fuel oil  
15 which has a different refining ratio to what you would  
16 have for a light fuel oil, and again I'm not an expert in  
17 terms of oil refining and how all that goes. But in  
18 terms of the way that the calculation goes, there are  
19 different factors that come into play depending on the  
20 type of product that is being produced.

21 Also there is different margins that are looked to  
22 be added on within the market. You know, for a higher --  
23 for something like a light fuel oil, where it's a higher  
24 volume, the assumption is that there is less margin in  
25 that business say than there is in the home fuel oil

1  
2 business.

3 So all those different factors are factored into the  
4 calculation of the retail prices and that's why you do  
5 have different retail prices depending on the class of  
6 oil and the use for that oil.

7 Q.410 - So retail price is a name that suggests that this is a  
8 price that sort of nobody pays retail kind of approach to  
9 things. This is the retail price for the LFO classes you  
10 are contemplating here, correct?

11 MR. CHARLESON: It's the proxy for the retail price that we  
12 use, that's correct.

13 Q.411 - And do you know in fact what the average customer of  
14 yours pays or paid for oil prior to their conversion, or  
15 pays now for their oil?

16 MR. CHARLESON: I think if you look at our response to AWL  
17 interrogatory number 13, it may be worthwhile turning  
18 that up.

19 In that response we have tried to address the  
20 question in terms of access to retail price information.  
21 Throughout the sales process our sales staff will try to  
22 get some history in terms of the oil prices that people  
23 have been paying, because that helps in terms of doing  
24 some of the economics and the calculations for the  
25 savings level and presenting the business case to the

1  
2 customer in terms of doing the conversion.

3 When it comes to the LFO class we don't really have  
4 any historic data on that. I think the timing of when  
5 some of those conversions happened and just kind of  
6 access to information, the LFO class seems to be a  
7 little more difficult to obtain. There seems to be more  
8 concerns around confidentiality.

9 But what we did find from looking at some of the  
10 classes that we have got that where we did have the  
11 information -- and in this table here we just pulled out  
12 a sample of five customers that we had information on,  
13 where we tried to look at varying levels of quantities of  
14 fuel and the different prices that are being paid, and  
15 what we found was there was a huge degree of variability.  
16 But the price that we intended to get to in terms of our  
17 proxy is within the range or kind of in between the  
18 different range of prices that we see from the  
19 information that we do get on the marketplace, and that's  
20 what gives us confidence that the retail price is at  
21 least a reasonable proxy.

22 Q.412 - Now this response is pricing with respect to GS rate  
23 class customers, correct?

24 MR. CHARLESON: That's correct.

25 Q.413 - Does the litres purchased number, the numbers that are

1  
2 on those, are they reflective of your typical LFO  
3 customers oil price rate before conversion?

4 MR. CHARLESON: No, they are not.

5 Q.414 - They would be smaller, wouldn't they?

6 MR. CHARLESON: Yes, they would. But again what we were  
7 trying --

8 Q.415 - That's the definition of larger, what the light fuel  
9 oil customers are, the larger customers?

10 MR. CHARLESON: That's correct. But again what we are  
11 trying to demonstrate here is that the range of prices  
12 that we see from the market place in that class compares  
13 well with the proxy price that we have used for the  
14 retail oil, and so by extension it's what gives us  
15 confidence that the retail price that we are using as a  
16 proxy for the LFO class is also appropriate and within  
17 the range of what would reasonably be expected.

18 Q.416 - Am I correct in assuming that this retail oil price  
19 that you used has not been measured against any of your  
20 LFO customers' rates that they have been paying, average  
21 customers, more than one or two?

22 MR. BUTLER: No. It has been compared to some, but just  
23 like the table that Mr. Charleson is showing here, the  
24 variance, I have seen the same kind of variance in LFO.  
25 So I know of a couple of large customers that are paying

1  
2 exactly the same amount, but one customer is using five  
3 times more than the other.

4 Q.417 - How does that rate compare to what you have actually  
5 used here?

6 MR. BUTLER: It would be lower, I believe.

7 Q.418 - And this is the rate you used for November of 2007.  
8 Did you look at the November 2007 rates for those  
9 customers?

10 MR. BUTLER: I didn't.

11 Q.419 - No.

12 MR. BUTLER: I didn't compare this at the time. I'm just  
13 saying that I would suspect that this price is based on  
14 an average LFO customer and I was just referring to a  
15 couple of large customers that I'm familiar with.

16 Q.420 - But the rates that you knew of customers before were  
17 prior to November of 2007, the rates that you knew they  
18 paid?

19 MR. BUTLER: I know the cost above the benchmark, New York  
20 Harbour price. So I know what that differential is, so  
21 that's what --

22 Q.421 - Have you done the calculation to see if the 63 cents  
23 makes --

24 MR. BUTLER: No, I didn't.

25 Q.422 - No. You would agree that to the extent that the



1  
2 retail oil price that you used here is overstated  
3 relative to a client -- or customer or collective  
4 customer group of LFO -- that that would over -- provide  
5 for a higher tariff rate for you fellows, correct?

6 MR. BUTLER: Reduce their savings, correct.

7 Q.423 - Right. But the rate you folks would have would be  
8 higher.

9 MR. CHARLESON: You are correct.

10 Q.424 - And the gas rate that you have used, the EVP versus  
11 EUG, and I'm not going to try to remember what they stand  
12 for, but you obviously don't know what it is that all  
13 members of the LFO class pay for gas in actuality?

14 MR. CHARLESON: That's correct.

15 Q.425 - You did indicate that less than one-third used EUG,  
16 correct?

17 MR. CHARLESON: That's correct.

18 Q.426 - What percentage is it roughly?

19 MR. CHARLESON: 20 percent roughly.

20 Q.427 - 20 percent of your customers. What percentage of the  
21 customers buy EVP?

22 MR. CHARLESON: At this point in time we don't have any  
23 customers on EVP, although there is one that will likely  
24 be moving on to EVP. We also are aware of a couple of  
25 LFO customers that are on a rate that is very comparable

1  
2 to EVP but is actually lower than the EVP price that we  
3 have here.

4 Q.428 - So really the only customer knowledge of rates that  
5 you know of, that you have, of their gas prices are those  
6 who are on EUG, correct?

7 MR. CHARLESON: No. I indicated that we were aware of the  
8 pricing of at least two other customers where the price  
9 is lower than what we have got here for EVP.

10 Q.429 - Okay. So other than those two customers?

11 MR. CHARLESON: That's correct. There tends to be some  
12 concerns about the relevance and the public information  
13 of natural gas commodity cost from LFO customers.

14 Q.430 - Sure. But historically up until this rate application  
15 you used the EUG for this calculation, correct?

16 MR. CHARLESON: That's correct, because until -- it wasn't  
17 until April 2007 that the EVP product was available. So  
18 we didn't have another market price that had the  
19 transparency that was necessary to use as the basis for  
20 establishing the market-based rates.

21 And the EVP product, again it's only been out there  
22 for less than a year, has that degree of transparency and  
23 it was really designed with larger customers in mind, and  
24 when we look at the 17 customers that currently use the  
25 EVP product it tends to be the larger customer classes,

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just none in the LFO class as yet.

Q.431 - Up until this application you always used EUG,  
correct?

MR. CHARLESON: That was the only place we had available to  
us that was transparent. So yes.

Q.432 - Yes. Thank you. When there is a simple yes or no,  
could I ask you just to answer yes or no.

MR. CHARLESON: I just want to ensure we are providing as  
much clarity for the Board as possible.

Q.433 - Well I think you already have. So -- and that would  
have been an application initially in 2000 I presume you  
used EUG?

MR. BUTLER: No. We weren't allowed to sell gas until some  
time in 2003.

Q.434 - So what application did you use the EUG rate?

MR. CHARLESON: We don't have the specific hearings or times  
with us. Again we could --

Q.435 - Roughly 2005.

MR. CHARLESON: Well we know there was a rate that was  
approved on April 30th, 2004, and that would have used  
the EUG.

Q.436 - And the one again in 2005?

MR. CHARLESON: 2005 and then the 2006 rates.

Q.437 - Okay. Now this time I think your evidence indicates

1  
2 that if you in fact used the EUG rather than the EVP,  
3 that it would result in approximately a 32 cent per  
4 gigajewel drop in the rate that you would be able to  
5 charge for your delivery rate, correct?

6 MR. CHARLESON: Yes, if we used the EUG at this point in  
7 time. However, what we also identified is there are some  
8 other anomalies or factors that are impacting the EUG  
9 price negatively right now, and if those were excluded  
10 then the price -- the rate would actually -- would lead  
11 to a higher distribution rate than what we filed for.

12 Q.438 - Those anomalies presumably are part of sort of the ebb  
13 and flow of the EUG?

14 MR. CHARLESON: To an extent these are a bit out of the  
15 ordinary. In 2006 we had taken on a hedge for a lot of  
16 our EUG portfolio and it ended up being significantly out  
17 of the money. So the recovery of that hedge class is say  
18 adding -- putting some increased pressure on the EUG  
19 price until we are able to kind of clear that recovery.  
20 So I view that as more of an anomaly as opposed to the  
21 normal ebb and flow in terms of what happens with the  
22 EUG.

23 Q.439 - But the EUG is a rate that is posted and available for  
24 the customers on your website to be purchased from you at  
25 that rate, correct?

1  
2 MR. CHARLESON: Yes. The same as the EVP.

3 Q.440 - Thank you. The average monthly contract demand, which  
4 is also -- I think it's on -- it's identified as line 16  
5 on that table on page 3 of exhibit A-3, your evidence.  
6 The number that you have used is 350 gigajewels, correct?

7 MR. BUTLER: Correct.

8 Q.441 - And that's for the LFO class?

9 MR. BUTLER: Yes.

10 Q.442 - And to the extent that number is higher, it's fair to  
11 say that your rates would be lower, correct?

12 MR. BUTLER: That's correct.

13 Q.443 - And is it also fair to say that in the last  
14 application at least the number used was 487 gigajewels  
15 rather than 350? If you would like I can give you a copy  
16 of your evidence at that time.

17 MR. BUTLER: I have it here. Yes, that's correct.

18 Q.444 - That's correct. Now you didn't mention in the  
19 evidence that there was a change in that benchmark, is  
20 that right?

21 MR. CHARLESON: Correct. There is no mention in the  
22 evidence in terms of the change. However, there is a  
23 response to the Board interrogatory number 3 which  
24 describes how we arrived at the 357, the basis for it.

25 Q.445 - But you didn't point it out until it was asked --

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2 MR. CHARLESON: It was in the table.

3 Q.446 - -- until it was asked of you, that there was a  
4 difference? And if the 350 was used -- sorry -- the 487  
5 was used, the same number that was used in the previous  
6 one -- have you had occasion to look at the -- rather  
7 than introduce it -- have you had occasion to look at the  
8 calculation that was done using 487 as a benchmark for  
9 average monthly contract demand rather than the 350?

10 MR. BUTLER: Yes, I did.

11 Q.447 - And would you agree that the rate would go down to  
12 \$4.27 rather than be up to \$4.54 as proposed?

13 MR. BUTLER: Yes, your calculation is correct.

14 Q.448 - Now I think it was in your opening remarks that  
15 commented that the light fuel oil since the last  
16 application increased in price by 33 percent, is that  
17 right?

18 MR. CHARLESON: That's correct.

19 Q.449 - And because of that 33 percent increase you are  
20 looking for a 90 percent increase in rates now?

21 MR. CHARLESON: We are looking for an increase to the first  
22 block of the rate. What is driving the increase is again  
23 we are using the market based rate methodology and that  
24 methodology ends up, you know, with a 33 percent increase  
25 in those prices. It leads to the rate that is being

1  
2 proposed for the first block where we will still deliver  
3 the target level of savings.

4 Q.450 - So because of the 33 percent rate increase in light  
5 fuel oil you are seeking a 90 percent increase in tier  
6 one rates, correct?

7 MR. CHARLESON: We are looking at that increase in the tier  
8 one rate which results in either an 18 percent or for  
9 larger customers 11 percent burner tip impact, which is  
10 the comparator to light fuel oil increase.

11 Q.451 - You are not in the business of supplying gas, are you?

12 MR. CHARLESON: We are in the business of providing target  
13 savings against the total burner tip cost of using an  
14 alternate fuel. So all factors have to be considered  
15 when looking at the savings that are being provided.

16 MR. LEBLANC: The comparison that you suggest is not an  
17 apples to apples comparison.

18 Q.452 - No, of course it's not.

19 MR. LEBLANC: Sorry. The comparison that you are making is  
20 not an apples to apples comparison --

21 Q.453 - No.

22 MR. LEBLANC: -- so you can't --

23 Q.454 - One is light fuel oil, 33 percent going up, correct?

24 MR. CHARLESON: Yes. The total cost of using light fuel oil  
25 is going up by 33 percent.

1  
2 Q.455 - Right.

3 MR. CHARLESON: The total cost of using natural gas is going  
4 up 18 percent or 11 percent if you are a larger customer.

5 Q.456 - What is driving your application today is an  
6 escalation in the cost of fuel oil, correct?

7 MR. CHARLESON: Correct.

8 Q.457 - That cost of fuel oil went up 33 percent since your  
9 last application, correct?

10 MR. CHARLESON: Correct.

11 Q.458 - That has driven your rate increase, correct?

12 MR. CHARLESON: Correct.

13 Q.459 - And as a result of that, you are looking for a 90  
14 percent increase in your tariff, correct?

15 MR. CHARLESON: Correct.

16 Q.460 - Thank you. Now would you agree that costs need to be  
17 a very important factor in determining the rates that you  
18 charge?

19 MR. CHARLESON: At this point in time with the market-based  
20 methodology the costs that need to be considered are the  
21 costs of the alternate fuel. So that cost, yes, is  
22 important to consider.

23 Q.461 - Okay. Then if that is the case -- I think in one of  
24 the IRs you indicated that the spread should cause the  
25 formula to drive your distribution rate from \$4.54 to \$20



1  
2 a gigajewel, that's what you would have to charge, is  
3 that right?

4 MR. CHARLESON: Under the current methodology that we would  
5 continue to apply that and that we would believe would be  
6 just and reasonable, because it would continue to deliver  
7 the value proposition.

8 Q.462 - So what would happen if on a prolonged basis this  
9 historical tracking -- that seems to be an anomaly at the  
10 moment in my view -- but historical tracking should  
11 change completely and the price of oil should drop below  
12 the price of natural gas, are you going to pay customers  
13 to use your pipeline?

14 MR. CHARLESON: No.

15 Q.463 - Of course not. Nobody would expect that, would they?

16 MR. CHARLESON: No.

17 Q.464 - You would look for a cost recovery basis, wouldn't  
18 you, for your rates?

19 MR. CHARLESON: Yes. And we would be very challenged in  
20 terms of staying in business.

21 Q.465 - Absolutely. Costs would be relevant when it is to  
22 your disadvantage -- costs are relevant when it is to  
23 your advantage and are not relevant when it is to your  
24 disadvantage.

25 MR. CHARLESON: Sorry. I'm having difficulty following your

1  
2 statement there.

3 Q.466 - I will withdraw the question as they say on  
4 television. I would just like to get again back to your  
5 exhibit A-3, page 4, answer 7 on page 4 and it continues  
6 on page 5. I guess I just -- these are the types of  
7 questions the guys who trained in law school know to ask  
8 because I don't know what the answer is and I can't help  
9 but think it is not going to help me, but I am just  
10 perplexed and I need to understand. What in the second  
11 paragraph of A-7, bottom paragraph of page 4, the current  
12 increase -- the current increased competitive advantage  
13 of natural gas not only allows, but requires EGNB to  
14 adjust its rates at the earliest possible opportunity to  
15 ensure that EGNB is recovering the maximum amount of its  
16 costs of providing distribution service. What do you  
17 mean? Why does it require you to do that?

18 MR. CHARLESON: I think the best way of responding to that  
19 is to turn to one of our interrogatory responses.

20 Q.467 - Well maybe if you could just give me your answer?

21 MR. CHARLESON: Well, I would like to point to the  
22 interrogatory response --

23 Q.468 - Look at it, sure.

24 MR. CHARLESON: -- because I believe that lays out this best  
25 and that would be our response to AWL interrogatory

1  
2 number 9, part (c). And in the question here posed by  
3 AWL was directly targeted at that same excerpt from our  
4 evidence where, you know, looking for us to cite the  
5 reasons where we -- why we believed it required us to do  
6 this. And in within this response, we can see that there  
7 are prior decision from the Board, which indicate that,  
8 you know, the Board believes that it is very important  
9 for EGNB to maximize its revenues and minimize losses  
10 while continuing to grow the customer base.

11           Setting the appropriate maximum amount of rates will  
12 allow EGNB to balance growing its revenues against  
13 continuing to provide customers with an economic  
14 incentive. And it goes on. There are a number of  
15 statements that we have seen from the Board basically  
16 demonstrating the importance of minimizing additions to  
17 the deferral account. And therefore when there is that  
18 sustained change in terms of the relationship between oil  
19 and gas that it was important that we bring forward  
20 application that we adjust our rates so that we are  
21 minimizing the additions to that deferral account while  
22 still providing that incentive and the economic incentive  
23 for people to convert to and to continue using natural  
24 gas.

25           I won't go through all of the rationale that is laid

1  
2 out there, but I think that response there is quite  
3 instructive in terms of explaining that statement.

4 Q.469 - So what you say in your evidence is that to ensure  
5 EGNB is recovering the maximum amount of its costs  
6 providing distribution service. So costs are an  
7 important factor. That's why you have to increase this  
8 rate to maximizing recovering of your costs, correct?

9 MR. CHARLESON: That's correct. Because any under-recovery  
10 of our costs will flow to the deferral account.

11 Q.470 - Okay. Do you have any indication of whether or not  
12 the LFO class is at its current rate recovery its costs  
13 of service?

14 MR. CHARLESON: No, we don't.

15 Q.471 - No. No idea?

16 MR. CHARLESON: No.

17 Q.472 - So you say you are required to apply to recover a  
18 maximum amount of its costs and you don't even know what  
19 its costs are?

20 MR. CHARLESON: That statement refers to all of the costs  
21 for the utility, not for a specific class. Again the  
22 market-based methodology is applied to all rate classes.  
23 And we don't look at one rate class in isolation in terms  
24 of the use of that methodology and the principles of  
25 again maximizing recovery while providing that economic

incentive.

Q.473 - This application is for the LFO class, correct?

MR. CHARLESON: That's correct.

Q.474 - And then on page 5, the last -- or paragraph A-7, the last sentence, to ensure that its rates are just and reasonable, EGNB should not provide any more economic incentive to customers to convert to and continue consuming natural gas than is absolutely necessary.

Could that be translated as I would translate it as, we got to take the most we can from the customers and give the customers the minimum?

MR. CHARLESON: I wouldn't paraphrase it that way. But again it is saying, yes, charge -- get the maximum rate that you can while delivering on the value proposition. And that's what this application proposes to do provide the target level of savings and live up to the value proposition.

Q.475 - I wrote beside that sentence for what it is worth, gouging. My interpretation. I presume you wouldn't share my view of that terminology?

MR. CHARLESON: No, I would not. I would call it prudent management of our business.

Q.476 - You don't have any reason to believe that Flakeboard could provide its own distribution service from the MN&P,

1  
2 Maritimes and Northeast Pipeline to its own plant at a  
3 cost of less -- or at a cost of perhaps 300 to \$350,000  
4 per year do you? No reason to believe that wouldn't be  
5 about right?

6 MR. CHARLESON: No reason to believe it would or wouldn't.

7 Q.477 - No. And in fact, Mr. Charleson, maybe you did learn  
8 of this in the course of your becoming familiar with the  
9 activities of the business. But, Mr. Butler, I think  
10 perhaps he was there. It is not true that at one point  
11 Flakeboard in its application for single end use  
12 franchise in fact offered to construct the pipeline to  
13 its plant in St. Stephen with sufficient capacity to  
14 allow you, EGNB, to use that pipeline to service the rest  
15 of St. Stephen and to do so at no charge?

16 MR. BUTLER: I don't recall the details, but I -- whether  
17 it was a charge or not, I do remember -- I didn't do this  
18 myself, but somebody else in the company looked at the  
19 feasibility of serving the rest of the community of St.  
20 Stephen off of that pipe if there -- had there been a  
21 lateral brought off of Maritimes and Northeast, and it  
22 was determined that it would not be feasible for us to  
23 serve the rest of the town.

24 Q.478 - I recall some specific discussions that was prepared  
25 to make the capacity of the pipeline permitting to do

1  
2 that. Do you remember any of those discussions?

3 MR. BUTLER: No, I am saying if we -- if the capacity was  
4 there, that to extend that pipe then throughout the town  
5 wasn't feasible. When we looked at the feasibility for  
6 St. Stephen, we looked at the whole town not just pieces  
7 of it.

8 Q.479 - Economically feasible?

9 MR. BUTLER: Economic feasibility.

10 Q.480 - You wouldn't make enough money off it, is that it?

11 MR. BUTLER: It wouldn't drag down our portfolio of  
12 communities that we were posing -- as I said to you  
13 earlier, our proposal to the government was to service as  
14 many communities and make gas as widely available as  
15 possible.

16 So we took -- after looking at all of the  
17 communities essentially in the province, we took the ones  
18 that were -- had the highest, I guess you could say  
19 profitability, so that -- in order to get as much  
20 coverage as possible. And St. Stephen was included in  
21 that list of communities. I believe there was around 25  
22 communities identified. But that included having  
23 Flakeboard taking service, as well as, other customers in  
24 the town. So we didn't look at -- break it up into  
25 looking at, you know, if we could just get the

1  
2 residential customers. It was looking at the whole  
3 community as a whole.

4 Q.481 - Even if you had a free pipeline to the plant in St.  
5 Stephen, which is in the community boundaries, it  
6 wouldn't make economic sense to you?

7 MR. BUTLER: As I said, I didn't do this work myself. But  
8 it was my recollection that that was the outcome of our  
9 analysis.

10 Q.482 - In other words you needed Flakeboard's plant to  
11 subsidize the rest of the operation, is that a fair  
12 assessment?

13 MR. BUTLER: That's a fair assessment.

14 Q.483 - Thank you. And Flakeboard Company Limited pays  
15 approximately \$1.2 million a year at its current -- at  
16 the current rates to EGNB for distribution service?

17 MR. CHARLESON: That's correct.

18 Q.484 - And under the proposed rate structure, it would be  
19 more than \$2 million the would pay you each year?

20 MR. CHARLESON: That's correct.

21 Q.485 - Versus your -- you don't take issue with the fact that  
22 EGNB -- sorry, Flakeboard could be doing this on a stand  
23 alone basis at 300 to \$350,000 a year?

24 MR. CHARLESON: I indicated I couldn't dispute or confirm  
25 that.



1  
2 Q.486 - That's right. You can't deny that. That is the  
3 evidence, correct? You are familiar with the evidence  
4 that's been put in by Flakeboard in that regard?

5 MR. CHARLESON: Yes.

6 Q.487 - And you would agree that the rate that you are looking  
7 for at \$4.54 would, if my memory serves me correctly, and  
8 my math serves me correctly, over the last four or five  
9 years -- four years I believe it is, result in a five-  
10 fold increase in the rate -- approximately a five-fold  
11 increase in the rate that is being charged for the same  
12 distribution service?

13 MR. CHARLESON: Within the first block of the distribution  
14 rate?

15 Q.488 - Right.

16 MR. CHARLESON: Correct. But with the demand charge and the  
17 other two blocks not having increased at all.

18 Q.489 - Yes. But for Tier 1 customers, five-fold increase?

19 MR. CHARLESON: Excluding the demand charge component that  
20 all Tier 1 customers pay as well. So consumption in Tier  
21 1, yes.

22 Q.490 - The costs to provide service to Flakeboard in that  
23 time frame has increased -- well, the only numbers we  
24 have I guess that I have looked at are the costs of the  
25 overall system from 2005 to 2006 actually dropped,

1  
2 correct? Would it be fair to say that the costs have  
3 increased relatively modestly in that same time frame  
4 that you are looking for rates to increase by five-fold?

5 MR. CHARLESON: Again the relationship between our costs and  
6 our rates doesn't exist at this point in time. We are on  
7 a market-based rates because we are unable to recover all  
8 of our costs through a cost of service rates. So the  
9 relationship between the two doesn't factor into our rate  
10 setting methodology.

11 Q.491 - But just let me ask you the question again and the  
12 Board can decide if it doesn't enter into the equation.  
13 Your costs would have only increased modestly during that  
14 time frame that your rates would increase five-fold,  
15 correct?

16 MR. CHARLESON: Are you talking about all distribution  
17 costs? All -- the entire costs of operating Enbridge Gas  
18 New Brunswick?

19 Q.492 - Yes. Leave aside all things being equal. Obviously,  
20 have increased costs because you have more customers.

21 MR. CHARLESON: Yes.

22 Q.493 - Now you are wearing the hat of EGNB. I just want you  
23 to put on the hat of Atlantic Wallboard or Flakeboard  
24 Company Limited for the moment. And I would like you to  
25 tell me if under oath you would agree that this

1  
2 request -- and you are wearing their hat, not yours, is  
3 unfair, unjust and unreasonable? If you were wearing  
4 their hat, and I don't want to hear the same answer  
5 about, you know, we need to balance, et cetera. If you  
6 were wearing their hat, would you view it as being  
7 unfair, unjust and unreasonable under the circumstances?

8 MR. CHARLESON: I don't know if I would use those words. I  
9 would be very concerned about it. I would be bothered by  
10 the impact that it may have on my business. However, I  
11 would also have to try to reflect in terms of what my  
12 expectation was around rates when I signed up for  
13 service.

14 Q.494 - Well do you think if you were Flakeboard in 2004, you  
15 would have expected your rates would increase five-fold  
16 in the four years?

17 MR. CHARLESON: I am also not sure whether -

18 Q.495 - No, no. I am sorry. Do you think that there would  
19 have been an expectation -- you are Flakeboard when you  
20 signed up four years ago that your rates would go up  
21 five-fold in four years?

22 MR. CHARLESON: No. And I wouldn't have expected oil to do  
23 the same.

24 Q.496 - Why didn't you proceed with a restructuring of the  
25 rates in the other classes that you contemplated in this

1  
2 application, but when you actually filed for the other  
3 classes, you didn't restructure?

4 MR. CHARLESON: At the time we were conducting some analysis  
5 looking at some potential changes to the structure of the  
6 general service rates. And at the time we thought there  
7 was some potential to take some steps that might simply  
8 the overall rate structure there. But when we completed  
9 that analysis, we determined that it was going to be very  
10 difficult to implement any of those structural changes  
11 without having -- creating some significant -- or it  
12 created some significant challenges in terms of  
13 implementing those structure changes. And so we  
14 determined that it wasn't appropriate to proceed with  
15 those at this point in time.

16 Q.497 - Did you at any time in the review contemplate the idea  
17 that the formula that is used for this rate and their  
18 rates currently, the market-based formula would be  
19 proposed to be changed?

20 MR. CHARLESON: No.

21 Q.498 - It was to be exactly the same?

22 MR. CHARLESON: Yes.

23 Q.499 - What rate increase are you looking for in the other  
24 classes, percentage-wise?

25 MR. CHARLESON: Again they vary by the different rate

1  
2 classes. And I am going from memory here, because I  
3 don't have that evidence in front of me, but I believe in  
4 the residential classes, we are looking at about 11 to 12  
5 percent in the -- or in the general service class it's  
6 more in the -- around the 15, 16 percent range. And then  
7 for the larger commercial or contract general service  
8 rate, it's about a 26 percent increase.

9 Q.500 - Versus --

10 MR. CHARLESON: But again, I am going off memory -- order of  
11 magnitude, that's --

12 Q.501 - That's versus of 90 percent increase for this class?

13 MR. CHARLESON: That's right. Again all of these increases  
14 are driven by what the market rate methodology would  
15 support.

16 Q.502 - Would you agree that for a significant cost for  
17 business a 90 percent increase would come as a shock?

18 MR. CHARLESON: Again I still struggle with this  
19 characterization of a 90 percent increase. If I am  
20 looking at my business, I am looking at the total cost of  
21 using the commodity. And it's, you know, 11 or an 18  
22 percent increase, if I ever seen that, that would still  
23 surprise me. That would still be something I would be  
24 concerned about in my business.

25 However, if you look at the factors that are going

1  
2 on in the marketplace, it is still better than say the  
3 types of increases that a lot of customers are having to  
4 use oil are experiencing.

5 Q.503 - So if you were building a transfer station and one of  
6 your customers, one of your suppliers came along and said  
7 we have to increase our rates by 90 percent compared to  
8 what we originally told you, you would stand back and say  
9 that's okay, because relative to the total cost of  
10 transfer station, it's not much. You would stand back  
11 and say that's okay, because relative to the total cost  
12 of transfer station it's not much. You would look at it  
13 in isolation, wouldn't you? And you would be shocked  
14 that somebody would propose a 90 percent increase?

15 MR. CHARLESON: I would be -- yes.

16 Q.504 - Yes. And you would agree that to the extent that the  
17 material cost to the business that can have a serious  
18 adverse affect on their business?

19 MR. CHARLESON: Yes. The same as increases in exchange  
20 rates, increase in transportation costs. They are all  
21 shocks to the business.

22 MR. LAWSON: Absolutely. Subject to any questions that  
23 arise with respect to the undertakings, those are all the  
24 questions I have.

25 CHAIRMAN: Thank you, Mr. Lawson. My understanding is tat

1 there are two undertakings to be fulfilled. It is now  
2 ten after 3:00. Ms. Desmond would you want to proceed  
3 this afternoon or wait until Mr. Lawson concludes  
4 tomorrow morning? I would caution you that 3:30 is  
5 pretty much as far as we can go this afternoon.

6 MS. DESMOND: I think our preference, Mr. Chair, would be to  
7 wait till Mr. Lawson has concluded his cross examination.

8 CHAIRMAN: So we can anticipate, Mr. Hoyt, that both of  
9 those undertakings would be available at the beginning of  
10 the hearing tomorrow morning at 9:30?

11 MR. HOYT: Yes.

12 MR. LAWSON: Mr. Chairman, if they are available this  
13 evening, I would appreciate receiving this evening?

14 MR. HOYT: Sure.

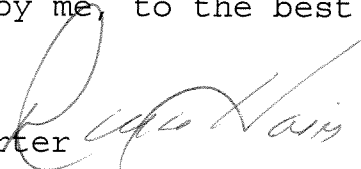
15 CHAIRMAN: So you will sent them to the parties this evening  
16 if they are available?

17 MR. HOYT: If they are available, yes.

18 CHAIRMAN: All right. Then we will adjourn until 9:30  
19 tomorrow morning.

20 (Adjourned)

21 Certified to be a true transcript of the proceedings of this  
22 hearing, as recorded by me, to the best of my ability.

23 Reporter 

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