NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF an application by Enbridge Gas New Brunswick

to change its Small General Service Residential Oil, Small General Service Commercial, General Service, Contract General Service, Off Peak Service, Contract Large Volume Off Peak Service and Natural Gas Vehicle Fueling distribution rates

Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on March 27th 2008.

INDEX

INDEX(2)

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Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on March 27th 2008.

BEFORE: Raymond Gorman, Q.C. - Chairman
Cyril Johnston, Esq. - Vice Chairman
Edward McLean - Member
Steve Toner - Member

NB Energy and Utilities Board - Counsel - Ms. Ellen Desmond
Staff - Doug Goss
- John Lawton
- Dave Young
Secretary Ms. Lorraine Légère

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CHAIRMAN: Good morning, everyone. I will take the appearances starting with the Applicant.

MR. HOYT: Len Hoyt and David MacDougall for Enbridge Gas New Brunswick.

CHAIRMAN: Thank you, Mr. Hoyt. Public Intervenor?

MR. THERIAULT: Good morning, Mr. Chair. Daniel Theriault. I'm joined this morning by Robert O'Rourke. And Kurt Strunk is present as well.

CHAIRMAN: Thank you. And appearance for the New Brunswick Energy and Utilities Board?

MS. DESMOND: My apologies, Mr. Chair. Ellen Desmond. And from Board Staff, Doug Goss, John Lawton and Dave Young.

CHAIRMAN: And Informal Intervenors. Department of Energy?

MR. IRVING: Patrick Ervin on behalf of Department of Energy, Mr. Chairman.

CHAIRMAN: Thank you, Mr. Ervin.

I think there are some preliminary matters with respect to the undertakings. And I see that you have the panel back up. So it was the intention I guess to have them explain the responses to the undertakings?

MR. HOYT: Yes, it was. And we were able to respond to all seven undertakings. I do have some hard copies of each of the responses other than the two that were just raw data provided, that were just more voluminous as I understood it. Mr. Young was looking to have that for electronic purposes.

But there are hard copies if anyone else on the Board or anyone in the room would like them.

CHAIRMAN: Is there anybody in the room that needs hard copies of those documents? I know that we did print off early this morning what you sent electronically last night.

MR. HOYT: So the panel is available to explain.

CHAIRMAN: Okay. And do you -- I'm sorry. The Vice

Chairman says that he didn't get it printed off. I thought there was a copy printed off for him. But he will take a copy.

I understand that the -- you have indicated the panel is going to explain these documents. I believe that we probably should mark them as exhibits.

And I will ask Mr. Theriault if he has any objection and --

MR. THERIAULT: No objection.

CHAIRMAN: -- Ms. Desmond.

And perhaps before -- it might be easier for all of us to follow the documents that have been marked before we get going.

MR. HOYT: Sure.

CHAIRMAN: The last exhibit I have for the Applicant is exhibit A-13. So the EGNB response to undertaking number 1, the EGNB Savings Analysis Form, will become exhibit A-14.

The EGNB response to undertaking number 2, the rates assumed in 2008 budget and applied-for rates, that will become exhibit A-15.

EGNB response to undertaking number 3 will become A-16. And that document is entitled "No. 2 Distillate at New York Harbour, U. S. Dollars Per Gallon."

EGNB response to undertaking number 4, weekly forecast forward 12-month EUG, that will become exhibit A-17.

EGNB response to undertaking number 5, annual consumption of typical SGSRO customers, exhibit A-18.

EGNB response to undertaking number 6, part 1, annual consumption per typical SGSC customers, will become exhibit A-19.

There is a summary of EGNB response to undertakings number 5 and 6. And that summary will become exhibit A-20.

And the last document is EGNB response to undertaking number 7. It will become exhibit A-21. And that is a calculation of cumulative deferral account balance if no distribution paid since 2000.

MR. HOYT: Mr. Chair, I think there is actually two others. You referred to EGNB response to undertaking 6, part 1. There are also parts 2 and 3.

CHAIRMAN: Sorry. I guess I have got them all stapled together here. A-19, I have EGNB response to undertaking number 6. And then it is entitled part 1. And I guess what I didn't realize is there is a heading somewhere. See, I had them stapled together as one document. There is a part 2. And you say there is a part 3 as well?

MR. TONER: There is, yes.

CHAIRMAN: All right. Then I will give it separate exhibit numbers then. Part 2 -- EGNB response to undertaking number 6 part 2, will become A-20. I'm just going to move the numbers forward here. And EGNB response to undertaking number 6, part 3 will become A-21. And the EGNB response to undertakings 5 and 6 summary would become A-22. And the EGNB response to undertaking number 7, calculation of cumulative deferral account balance if no distribution paid since 2000 would become A-23.

Have we completely confused everybody? Or are we all on the same page on this?

Okay. So you have the panel here then to explain these?

Okay. Proceed.

MR. CHARLESON: We just briefly wanted to provide a summary in terms of what has been provided here. In the response to undertaking number 1 which has been marked as exhibit A-14, what we have provided is a copy of a sample of a savings analysis form that would be done as part of the sales process and would be provided to a customer.

So it shows -- you know, there is a number of variables that are factored into doing that analysis including identifying the rate that the person was on, the fuel that was being used.

The only thing that we wanted to highlight within there, in the bottom half of that table where it shows the delivery rates that are assumed, it reflects -- as part of our savings analysis we do reflect our expected rates going forward.

With regards to the response to undertaking number 2, exhibit A-15, again here we just provided the data that was requested showing the budgeted rates and what has been applied for in this application.

The response to undertaking number 3 which is A-16 -- and again this information was provided electronically as well, as was requested by Board Staff -- it is showing the No. 2 New York Harbour prices in U. S. dollars per gallon which is the source data that we used for arriving at that. We have identified that the source of this data is barchart.com.

We have also provided, at the bottom of the second page, the steps that are required to convert these numbers into U. S. dollars per MMBTU which is the value or the measure that would go into the calculation of the retail oil price.

And then we have also just provided the weightings that are used within each of the rates classes to determine the weighted average.

And those, we have just pulled those off the response to EUB, the Board interrogatory number 14. So we have just kind of put in there for convenience.

With regard to EUB response to undertaking number 4, which was marked as exhibit A-17, again we have provided the weekly -- again a forward 12-month price forecast for each of the weeks over the three-month period that the data for the New York Harbour prices that were provided.

I'm not going to comment on A-18 through A-21 as that was the raw data. What we did provide -- we thought it would be helpful to provide this summary page which is being marked as A-22. We are really -- we have just taken the average numbers from the bottom of each of the tables in A-18, A-19, A-20 and A-21.

What this shows is, in the case of SGSRO and GS, the average for the typical annual consumption is less than what was used in the derivation of rates for SGSC and CGS. It is greater than what was used in the derivation of rates. But again we still believe that the values used in our derivation are appropriate and reasonable.

Also we have provided the contract demand for CGS customers being 45.13, which again is just slightly less than the 45.9 that is used in the derivation of rates, but again reflective and was part of the reason why that wasn't changed in our derivation.

I'm going to let Mr. LeBlanc talk to A-23 as he is more versed on that one than I am.

MR. LEBLANC: So the way I approached this calculation is to say for every dollar that we wouldn't have paid out in distribution would be a dollar that we wouldn't have to go out and finance.

So the way I approached this was simply to calculate the accumulating cost of financing those dollars over time. And the total cost of capital savings to date, if we had not paid distributions, is 18.3 million which would have reduced the deferral by that amount.

CHAIRMAN: Does that conclude I guess the explanation from the panel?

MR. HOYT: It does -- just on one other point. On exhibit A-16 which is the response to undertaking number 3, which provides a lot of raw data about No. 2 distillate at New York Harbour, we are just not clear in terms of how that is to be used, where it doesn't actually generate any numbers.

And I guess what we are wondering a bit about is what -- if that is then taken and numbers are generated and so on after the close of the proceeding, it may result in numbers that we don't have an opportunity to respond to or understand that they form part of the consideration.

So with respect to it, we were just hoping to get some explanation as to the intended use of that information.

CHAIRMAN: Ms. Desmond, do you have any -- I think that was an undertaking to you.

MS. DESMOND: Yes. If I could just have a moment, Mr. Chair.

CHAIRMAN: Sure.

MS. DESMOND: Mr. Chair, I understand from yesterday's proceeding that undertaking was requested because we were trying to get an understanding of the differential between using the West Texas index versus the New York Harbour data. And I believe on the stand the Panel provided us with what the difference would be with the data that's in the derivation table as it now exists. I also understood from the undertaking that the Panel would provide the number with three months back worth of data. So we needed both that number and the raw data.

Now we have the raw data here but I understood from the undertaking, and maybe my undertaking wasn't very clear, but we had wanted to determine what the number would be with that three month historical data as well, using No. 2 oil in the derivation table.

MR. HOYT: With respect to that, I understood that Mr. Charleson and Mr. Young had a conversation in terms of what was being requested and it was the raw data, and that's what we provided.

CHAIRMAN: I don't recall exactly what was requested. There is a summary of the undertakings which sometimes can be dangerous to go to, and it just says raw data re No. 2 Distillate New York Harbour and source. And I suppose we can always go to the transcript and see precisely what it was. But, Ms. Desmond, perhaps if you can -- what was the additional information you are looking for, and I'm just wondering is that difficult to produce in the next step I guess?

MS. DESMOND: I think during discussions the intent was to communicate to the Applicant that Board staff at least wanted to calculate what that price would be using the three month historical data. Perhaps the undertaking wasn't as clear as it should have been, and maybe to avoid confusion we could ask the Applicant to do that calculation using the raw data they have provided, and then there wouldn't be any dispute over what that number might be.

MR. HOYT: I just want to check with Mr. Charleson. As I understand it it involves doing the calculation 90 -- I think it's 90 times. And that may sound easy with computers, but in terms of what you have got to do to get there I don't think it is that simple.

MR. CHARLESON: It could take a couple of hours.

CHAIRMAN: Is the information that would be generated by that -- let's say we took a couple of hours and generated that information, is that going to cause the parties to need additional examination of this panel on those results? Because it is my intention quite frankly to give the Public Intervenor, Ms. Desmond, an opportunity to ask the panel questions on the new exhibits that were entered this morning, and, you know, if it might be information that is useful to the Board then presumably we should have it.

Now I appreciate that you can't work on that and be here to testify at the same time, you know, nor can you work on that while the Intervenor's evidence is going forward. Clearly you need to be present for that. So if it would take a couple of hours I guess the question I would have is is there somebody else that can produce the information, you know, this morning while you are here at the hearing or does it require at least one of the three of you?

MR. CHARLESON: There is probably somebody that could work on producing it. I would then want to have a bit of time to carefully check it. There is some assumptions and some things that have to be factored in. So yes, there is somebody that could be working on the calculation. I'm not sure whether -- I have in my mind a way that I would go about doing it and that may happen to be faster in terms of getting the end result than handing it off to somebody and having them coming up with it and potentially having to go through a couple of iterations.

I may be able to do it quicker. There is the challenge -- what adds complexity to it is having to factor in the weighted average component. Without that piece it's a relatively quick calculation. The weighted average -- doing the weighted average makes it a little more complicated.

CHAIRMAN: Ms. Desmond, you are looking for this essentially because I'm assuming to give the Board perhaps an option to say there might be another way?

MS. DESMOND: I think some of the questions yesterday related to the appropriate length of time and the number of data points that should be used. Our preference would be to have that information available for consideration. I think Mr. Hoyt raises a good issue in that, you know, I think it would be better if we had agreed on what that number actually results in as opposed to just having the raw data, and it might add clarity if everybody is on the same page with the resulting number.

MR. HOYT: If I could make a suggestion. Perhaps what we could try to do is on the break Mr. Charleson could check with somebody then if we could get information by noon time we could look to see what we have got. Our preference certainly is to keep the hearing going.

CHAIRMAN: Sure. I think that what I am going to do is see if there are any questions from Mr. Theriault or Ms. Desmond of the panel on the documentation that has been filed. And if not we will take a short break before we start the Public Intervenor's case, and they can make some calls and at least get the process started. I think, you know, the sooner it gets started the better we will all be.

Mr. Theriault, do you have any questions for this Panel on the documentation that has been entered as exhibits this morning?

MR. THERIAULT: If I could just have possibly two minutes --

CHAIRMAN: Absolutely.

MR. THERIAULT: Thank you.

(Short pause)

CHAIRMAN: Yes, Mr. Theriault.

MR. THERIAULT: I do have a couple of questions with respect to undertaking number 7.

CHAIRMAN: Okay. Do you want to come forward then?

MR. THERIAULT: Sure.

CROSS EXAMINATION BY MR. THERIAULT:

Q.408 - Thank you, Mr. Chairman. My questions pertain to undertaking number 7, and I hate -- I didn't speak up when the Chairman asked if the exhibits were screwed up because I figured I would get it from Ms. Légère later, so I'm not sure of the exhibit number.

CHAIRMAN: It's A-23.

Q.409 - Panel, with respect to EGNB's response to undertaking number 7, exhibit A-23, it was my understanding in questioning from yesterday that 100 percent of the regulated return on equity was being distributed to unit holders, but as I read the undertaking response it doesn't appear to be that way. So I'm wondering if you could explain?

MR. LEBLANC: It is at or near 100 percent of the regulatory return on equity. Timing may be off but actually I did the math on the financial statements this morning and it added very close. There is timing year over year, but the distributions here are very close to the return on equity.

Q.410 - Okay. Now I just ask you to look at the year 2000 on the exhibit, and the distribution page 735, where did that come from?

MR. LEBLANC: That is the -- because I had time I actually went back and got the actual dollars of distributions that were paid by the company rather than the proxy that we had discussed yesterday. So that is the actual amount of dividends that were paid -- distributions that were paid in 2000.

MR. THERIAULT: Thank you. That's all I have.

CHAIRMAN: Thank you, Mr. Theriault. Ms. Desmond, do you have some questions on the responses to these undertakings.

MS. DESMOND: Yes, I do.

CROSS EXAMINATION BY MS. DESMOND:

Q.411 - The first question relates to undertaking number 5, and perhaps you could turn up as well the Flakeboard interrogatory number 1 you made reference to yesterday. I think number 5 has been marked as A-18. With respect to the SGSRO class, in the undertaking that you provided to Flakeboard, you had at the end of 2007 approximately 4,400 customers, is that correct?

? MR. CHARLESON: That's correct.

Q.412 - But in the undertaking number 5 that you provided to the Board for that particular class the annual usage and the numbers -- or the customers you included in the typical annual consumption was only 1,910. So what happened to the other approximate 2,500 customers?

MR. CHARLESON: The -- in looking at that -- in providing the annual usage, what we excluded were customers that were attached during 2007, so didn't have full year consumption. I think we indicated yesterday that was something we would have to exclude. In 2007 there were 1,600 SGSRO customer attachments, a lot of those because of the PMQ project at Base Gagetown.

In addition to the 1,600 there there is also about 900 customers that were excluded because they weren't seen as being typical customers. The loads were very low on these. In the early days there was a lot of customers that were attached that -- for potentially just a fireplace or -- you know, not for heating and water heating load. And again the typical customer profile is something where it's heating and water heating load.

So customers with consumption that was very low, say below 45 GJs a year, you couldn't do heating and water heating load for less than 45 GJs a year, so those were excluded as not being typical in terms of what the target savings are working to achieving.

Q.413 - That was one of the questions we had, what is the actual sort of cut-off, because you do have customers in this list that have usage in around 45 GJs?

MR. CHARLESON: Yes. And again there is no great science in there. We picked a number we thought, you know, when you get below that threshold it's virtually impossible to have a heating and water heating load at that level. However, we wanted to be careful not to exclude what may be some smaller homes, town homes or things like that. So we tried to be as inclusive as possible in terms of what was in the average consumption but also trying to ensure that it was at least something that was typical.

Q.414 - So of the 4,500 customers, what percentage then would fall below your typical or I guess your 45 GJ sort of determination point?

MR. CHARLESON: It would be 900 out of the 4,400.

Q.415 - I think from the undertaking though we had asked for consumption for all the customers in that class. I don't know where the -- I understand we don't necessarily require that given your undertaking on the material here. The next then would be undertaking number 6 which is now A-19. And a similar kind of question that we have asked with the previous class. For the SGSC class you had 820 customers but you had in the evidence over 1,100 customers at the end of 2007. So how do you account for that differential of 284 customers not now in this undertaking?

MR. CHARLESON: The differential there would be attributable to attachments during 2007. We did have a lot of SGSC attachments in 2007.

Q.416 - And the same question then with the GS class?

MR. CHARLESON: Again in GS it would be again attributable to attachments within the year.

Q.417 - It seems like the differential is getting smaller though. We started with over, you know, 900 customers that aren't included, then down to 280, now down to 50.

MR. CHARLESON: Again we are talking about class of customers, where there are fewer customers, where we have had greater number of -- so the capture rate is lower. The larger classes there is fewer customers that we end up capturing. So that's why it becomes a smaller number.

Q.418 - Were there any customers in the GS class that were eliminated because of usage patterns, or low usage?

MR. CHARLESON: No.

Q.419 - What about with the CGS class, were any customers eliminated in your data points here because of low usage?

MR. CHARLESON: No. Anybody that qualifies for CGS was included.

Q.420 - So we talked about 42 customers in the CGS class. Are they all new customers then?

MR. CHARLESON: They would have been -- should have been --

MS. DESMOND: Those are all my questions. Thank you.
CHAIRMAN: Thank you, Ms. Desmond. I just want to see if there is any questions from the Board. Mr. Toner?
MR. TONER: Back to your deferral account, and your distributions paid out.
MR. CHARLESON: Sure.
MR. TONER: Roughly there is $60,000,000 in distributions that you have paid out, right? And your deferral account is roughly 117,000,000?
MR. LEBLANC: Correct.
MR. TONER: So 50 percent of that has to come from equity?
MR. LEBLANC: Sorry?
MR. TONER: 50 percent of that has to come from equity, right?
MR. LEBLANC: 50 percent, yes.
MR. TONER: So of the money that you have to get from your investors, you can't self-finance that because you are paying on distributions, correct? So all the equity that you are going to get is not necessarily only for growing your business? Some of it is because the deferral account is getting bigger.
MR. LEBLANC: The money that we raise is for capital and for operating and as well to pay --
MR. TONER: To finance that 117?

MR. LEBLANC: Yes. Absolutely.

MR. TONER: Okay. I just wanted to clear that up. Thank you.

CHAIRMAN: Thank you, Mr. Toner. Mr. Johnston?

VICE CHAIRMAN: I have been pondering this, now I think I understand it, but I just have one question, Mr. LeBlanc. With respect to the weighted cost of capital for regulatory purposes, that is -- is that assuming the 50/50 debt equity split in the regulated amounts for debt and equity?

MR. LEBLANC: These are the actual weighted average of the years -- actually part of the financial statements that are filed. So it is essentially. But if the debt equity ratio was 45/55 this number would reflect that. So it's not -- not in all years is it a 50/50 structure. We did fall away from a 50 percent equity structure in I believe 03/04 for a time. We financed more with debt for a while.

VICE CHAIRMAN: But for regulatory purposes there is always a deemed capital structure of 50/50, is that right?

MR. LEBLANC: No. It's actually -- the decision actually says it's the actual capital structure with a cap on equity of 50 percent.

VICE CHAIRMAN: Okay. Yes, I guess I did know that now that you remind me of it. Thank you. That answers my question. Thank you.

CHAIRMAN: Thank you, Mr. Johnston. Mr. Hoyt, anything that you want to follow-up by way of questions?

MR. HOYT: No, Mr. Chair.

CHAIRMAN: Thank you. I think that maybe the thing we should do here is take a short break, allow the panel to make whatever calls are necessary to try to get the additional information on I believe it was undertaking number 5, is it?

MR. HOYT: Number 3.

CHAIRMAN: Number 3. Sorry. Undertaking number 3. And then when we come back we will start the Public Intervenor's case.

MR. HOYT: Mr. Charleson I think suggested that half an hour would be useful.

MR. CHARLESON: I have given a little more thought to number 3 and I believe I may be able to have a way of calculating it where I can get it done if we have a half hour break. That may be the most efficient way of dealing with it.

CHAIRMAN: Well let's -- yes, I wouldn't want to take any more than that because I certainly want to get to the Public Intervenor's --

MR. HOYT: Could we just have just a moment. We would ask for the half hour but we will try to do it more quickly and if we are able to we will let the Board know.

CHAIRMAN: So am I getting the sense though, Mr. Charleson, that you are going to do it yourself here?

MR. CHARLESON: Yes. As I say, I have had a chance to think of a way that I can do it and if that works out we will get it done more quickly.

CHAIRMAN: I am just wondering if we -- if it's going to be able to be done in that period of time because I was concerned when you talked about two or three hours and whatnot, but if you feel you can do it in that period of time we may be just as well off to start the Public Intervenor's case and then when we sort of get an actual break in those proceedings have you do it at that point in time. I think it may be a more efficient use of time. I was concerned when you had indicated that there might be several hours required, but if you think you can do it in that period of time, you know, then when we do have a break you can start on it and finish over the lunch or something.

MR. CHARLESON: Well I may start while the cross examination is going on, so I'm not --

MR. THERIAULT: Mr. Chairman, the only concern -- and I hate to be the spoiler in all of this, but the only concern I have is I'm not sure what is going to come out of it and

I'm not sure if it will be relevant to the questioning of Mr. Strunk.

CHAIRMAN: Well with that point let's take a break and see how quickly Mr. Charleson can do it. So we will adjourn for up to half an hour and let me know if it's going to be longer than that.

(Recess)

(Recess - 10:15 a.m. - 11:10 a.m.)

CHAIRMAN: All right. Mr. Charleson has had an opportunity I guess to give a fuller response to undertaking number 3. And I believe that has been distributed to everybody?

MR. HOYT: Yes, I believe so.

CHAIRMAN: I guess it has now been distributed to everybody. I just need a moment to have a look at that.

MS. DESMOND: Could we have the opportunity to ask a few questions on this material?

MR. HOYT: And I think perhaps before we go there, Mr. Charleson may want to provide a bit of explanation to the materials was provided.

CHAIRMAN: Fair enough. And it will be my intention to mark it as an exhibit if everybody is in agreement with that. So it will become exhibit A-24.

And Mr. Hoyt, you can now proceed.

MR. CHARLESON: I just wanted to clarify. There was some discovery that occurred while I was doing the calculation as well. What you see here in terms of the column that we have added to the original response is actually the simple average of the price.

In doing the calculation and validating it against some of the other numbers that we have provided in this proceeding, and looking at the response to Board interrogatory number 13, the numbers that are there for WTI are showing a simple average of that. So that is why a simple average should also be used for the No. 2 distillate.

However what does occur, when you get -- as you work through that table, by the time you get down to the bottom on the retail price, it is a weighted average at the retail level.

And I apologize that in our effort to provide a simple description of how you go from the wholesale to retail, the weighting factor is in essence being buried into the average market spread.

And the best way to look at that is if you look at the response to Public Intervenor interrogatory number 12 on page 6 of that response.

And this was a table that Ms. Desmond had asked a question on yesterday regarding the difference between some of the retail prices at the bottom and what we were using in our derivation of rates table.

What this table shows is the much more detailed calculation that we had tried to simplify in the response to the Board's interrogatory. Because we do look at it on a month-by-month basis, and the 21-day average is on a month-by-month basis, and do the calculation through.

As I indicated in the response yesterday, the retail oil prices that you see at the bottom there -- and if we were to look across on home heating oil where it arrives at a .8324 as the 2008 average, indicated in the final column on the right.

I had indicated yesterday in response that the reason that differed from what was in the derivation was because that is just showing a simple average. And that is what it is showing. So when you take the weighted average you arrive at the .8384.

So in showing our simplified calculation, that weighting factor has in essence been rolled into the market spread. But to determine how much of the market spread is being affected by that, it is really looking at the difference between the numbers in the response to Public Intervenor interrogatory number 12 and Board interrogatory number 13.

So it is a very minor amount there. But I just wanted for clarity to make sure that people understood what is there and to explain the rationale into why -- so I apologize for any confusion it may cause you.

MS. DESMOND: Can I just have a moment, Mr. Chair?

CHAIRMAN: Certainly.

MS. DESMOND: Mr. Charleson, I know we have talked about how --

CHAIRMAN: Ms. Desmond, perhaps before we have your questions, I guess in the order of the proceeding --

MS. DESMOND: I'm sorry. That is right.

CHAIRMAN: That is okay. Mr. Theriault, do you have any questions?

MR. THERIAULT: No, I don't.

CHAIRMAN: Okay. Thank you. Okay, Ms. Desmond, proceed.

<u>CROSS EXAMINATION BY MS. DESMOND</u>:

Q.421 - One of the things I think would be really helpful, at least to the staff, would be if you could take us through how you use this data, both using 21 days and now using the three-month historical data, and using this raw data, walk us through step by step how you get to the retail oil price and what that retail oil price would be.

So I think -- I know one of the questions we had talked about yesterday was how you came to the 21 days and --

MR. CHARLESON: Yes.

Q.422 - -- what that represents.

But when we talk about the averaging over 21 days, if you could break that down in a fashion that is quite simple, that would be helpful.

MR. CHARLESON: I will do my best. And perhaps the best exhibit to have in front of you while I do that is the response to Public Intervenor interrogatory number 12 and page 6 of that response.

So again we do look at on a monthly basis. So starting right at the top line, for each month for 2008 -- and I believe this was around December 12th we were taking a 21-day average. So we would look at the prior 21 days of trading and average that for January, which gave us $92.5014. The same for February, March. For each of the 12 months we take the WTI trading data. So it is that pricing data.

Q.423 - So for each day over 21 days you would look at a data point from January through December?

MR. CHARLESON: That is right.

Q.424 - So for 21 days it would almost be 21 days times 12 data points?

MR. CHARLESON: Correct. So we look at it on a month by month. So there is 21 data points for January, 21 data points for February, all the way through for December.

Q.425 - Right. And you take a 21-day --

MR. CHARLESON: 21 days.

Q.426 - -- spread or window I guess?

MR. CHARLESON: Yes. It is a 21-day window that we look at.

Q.427 - Okay.

MR. CHARLESON: Then as we step through our calculation, we would do the same for the exchange rate. You look at a 21-day window for the exchange rates that are available and apply it down into each of the months where they are relevant.

And exchange rates tend to be traded more on a quarter basis, or the pricing or exchange rate information is on a quarterly basis, not on a monthly basis. So that is why you see it being consistent for a number of months.

From there -- so that is the data inputs in terms of arriving or getting to the retail oil price. From there it becomes all of the various calculations that go on.

Q.428 - Could you maybe break down what those calculations are?

MR. CHARLESON: Yes.

Q.429 - Okay.

MR. CHARLESON: But I just wanted to highlight that at this point I'm not introducing any new data until we get into the weightings at the end.

Q.430 - Yes.

MR. CHARLESON: And you will have to bear with me on some of this. Because I'm not the person that manages this sheet. But I am familiar with it.

So we would look to -- so we would look to convert it to U. S. dollar -- into MMBTU's. So converting from barrels, MMBTU's. And a conversion factor of 5.8 is there. So we would take the number above, say the 92.5 and divide that by the 5.8. And that should get you the 15.9485.

Q.431 - So on your document here at page 6 of 6, that 92.5 --

MR. CHARLESON: Yes.

Q.432 - -- does that represent one day?

MR. CHARLESON: No. That is the 21-day average.

Q.433 - That is an average? Okay.

MR. CHARLESON: That is the 21-day average for January 2008.

Q.434 - Okay.

MR. CHARLESON: Okay. So the next, we need to take it into Canadian dollars per litre. Or we look at the conversion into Canadian dollars per litre and the factor for doing that, which should be based as well on taking the exchange rate into consideration to arrive at the .5781.

Factor MMBTU's to litres and then applying the exchange rate. The RAC as a percentage of WTI are kind of the standard ratios that we have been applying as a conversion factor. So that is just applied to the WTI price and the dollars per barrel. So it is 91.3 percent of the $92.
Some of this information, you know, is calculated and not necessarily used in the next line. So that is what gives us the 84.46. And then we convert that. So then we take that, convert it into U. S. dollars per MMBTU to get the 14.56.
There is then the refining ratio before you apply the RAC rate. And again that is what we had found as being historic or what the study had identified as being the refining ratio.
When you combine that with the RAC you get the average refining ratio, the 1.245 which you multiply the refiner's acquisition cost by -- to get to -- which gets us to the No. 2 New York price in U. S. dollars per barrel.
Q.435 - And if you substituted --
MR. CHARLESON: If you substituted say the 21-day, that is the line where you would say stick that in.
Q.436 - Okay. And if you were to use the No. 2 versus the

West Texas, some of those previous calculations could be --

MR. CHARLESON: That is correct. However, as I have indicated in my evidence as well, some of the other calculations that happened later -- you know, the reason that it is not matching up is because things have changed. And over time some of the other calculations later and ratios that are being assumed may also have to be updated to get to the appropriate retail price. But for the purpose of the discussion, yes, that is where you would substitute that line in.

So then there is a refining ratio at New York Harbour, .82 to arrive at the number 6 or price in U. S. dollars per MMBTU. So 82.72 percent of the No. 2 price gets you to a No. 6 price.

We then get into the section where we apply all of the various margins for the different types of refined products, where the initial -- where we look, and as we described elsewhere, where we first look at the Massachusetts margins that were determined for those markets.

So we apply that for home heating oil with a margin, which gives you then the retail price that comes from that. And again that is applied to the No. 2

distillate on the home heating oil, actually on all these it is applied.

So then there is also commercial distillate, the margin, and then what is the resulting price, industrial distillate with the margin, what is the resulting price.

We then look at the -- and then we look to apply the New Brunswick premium. And again these were based on studies done at that point in time.

And again given that we arrive at a price that we believe is a reflective market, if we were to change -- say change to New York No. 2 distillate, which was again something much lower than what we are seeing in the market, it may be indicating that some of these margins would also need to be updated to ensure that we are getting to an appropriate price.

So again the same thing. We will be looking at New Brunswick margins. And we apply all of those. So all of these continue to be in U. S. dollars for MMBTU.

So when we get into the bottom, we start talking about retail prices in New Brunswick, is now what do we apply the exchange rate to the New Brunswick retail prices that were arrived at in that section. So that gives us those.

And so it is just taking the U. S. dollars for MMBTU and multiplying it by the exchange rate to get Canadian dollars per MMBTU.

We then look to convert that into Canadian dollars per litre, so taking it from -- so taking that value and doing the appropriate conversion to get it to dollars per litre, which gives us the retail oil prices that are seen here. So we come up with the monthly retail oil prices which are shown there.

Now in terms of taking those values and then moving them into the derivation of rates table is where we apply the weighting factors that were found in I believe it was Board interrogatory number 14 to recognize the seasonal use of oil and natural gas, so that you apply -- so when you are looking at pricing on a monthly basis you are recognizing that if you have a higher January price and consumption is higher then the costs are going to be higher, so that again you are matching up and providing -- so you can achieve the target savings on a calendar basis.

Q.437 - You indicated that if there was a change from West Texas to New York Harbour, on a reference point, you would also have to review the margins.

Why would you need to review the margins?

MR. CHARLESON: If we are changing any element of the methodology of arriving at a retail oil price, I think the whole methodology would need to be reviewed. Because again we continue to look at the resulting prices and check those against what information is available.

And as I have indicated in my testimony, what we find as the resulting oil price is comparable, and again looking at that chart, in response to Public Intervenor interrogatory number 12, when we compare it to the NRCan data, the price that we are arriving at is comparable although below what NRCan is finding to be in the retail marketplace.

If we were to substitute in, you know, the No. 2 price and what we have seen, is that the No. 2 at least, not all the time, but for probably the majority of the time, results in a price that is lower than what the WTI conversion arrives at, which would ultimately result in a much lower -- would result in a lower retail oil price, which means that would be even more conservative in the price that we are arriving at, and in our view would be understating the retail oil prices that customers are finding.

So they would be getting provided with much higher savings than what the targets are trying to do.

Q.438 - Now I understood you to say that you take your averages here and weight them for the purpose of a derivation table?

MR. CHARLESON: Correct.

Q.439 - Are you able to take the A-24 I guess, the averages there, and provide us with the figure that would go in the derivation table?

MR. CHARLESON: With some more work.

Q.440 - Is it fair then to suggest you would simply use the averages that you have provided under A-24 and replace that with -- what line is it here on page 6 -- the No. 2 distillate New York Harbour, which I think is probably seven or eight lines down?

MR. CHARLESON: Yes.

Q.441 - That would be where you would --

MR. CHARLESON: We would -- if we looked at those -- again because we have averaged the full 12 months, what we would do if we were substituting it in is we would take the 21-day average within the month.

Say in the January column we would take the 21-day average of those, convert it to U. S. dollars per MMBTU, and then substitute that into the calculation spreadsheet.

Q.442 - And that is where that substitution would be made?

MR. CHARLESON: Pardon?

Q.443 - It is in that line --

MR. CHARLESON: It is in that line.

Q.444 - -- that the substitution would be made?

MR. CHARLESON: But I think to give a sense of what the impact of the weighting would be, you know, if we go back to the Board interrogatory number 13, if you substituted then -- you know, again looking at December 12th at the bottom of exhibit A-24, where it shows the $17.71 -- 17.714 -- if you were to just substitute that into the 19.21, you know, given that the weighting -- the impact of the weightings has been rolled into the average market spread, that would give you, you know, a reasonable -- a reasonable calculation of what just substituting, replacing the use of No. 2 distillate with WTI would arrive at in terms of the retail oil price. I think it would be -- it would be quite close. However recognizing my concerns and caveat that to look at one variable in terms of its somewhat complex calculation could provide misleading results.

MS. DESMOND: I think those are all of my questions. Thank you.

CHAIRMAN: Thank you, Ms. Desmond. Anything from the Board? Thank you, panel.

I should ask Mr. Hoyt if he had any questions arising out of those questions.

MR. HOYT: No.

CHAIRMAN: I guess that now concludes the case for the

Applicant.

MR. HOYT: It does.

CHAIRMAN: Mr. Theriault?

MR. THERIAULT: Mr. Chairman and Board members, I would like to introduce Kurt Strunk of NERA. He I guess is a sole member of the panel this morning.

Mr. Strunk, is your c.v. attached as an exhibit to your prefiled evidence?

CHAIRMAN: Mr. Theriault, before we proceed perhaps we should have him sworn.

KURT STRUNK, sworn:

CHAIRMAN: The witness has been duly sworn. You may proceed.

DIRECT EXAMINATION BY MR. THERIAULT:

Q.1 - Mr. Strunk, I will repeat the question. Is your c.v. attached as an exhibit to your prefiled evidence?

A. Yes, it is.

Q.2 - And that is -- your prefiled evidence is exhibit PI-1 as introduced here in this hearing?

A. That's my understanding.

Q.3 - Could you please briefly give us an overview of your professional qualifications?

A. Yes. I joined NERA on a consulting energy practice in 1994. And I have worked on numerous projects in both the natural gas and electricity sectors. These include the work on the development of the natural gas market in Mexico.

I have also worked on several litigations related to natural gas matters and have presented papers at natural gas conferences.

MR. THERIAULT: At this point, Mr. Chairman, I would ask that Mr. Strunk be declared an expert to give opinion evidence in utility regulations and utility pricing.

CHAIRMAN: Mr. Hoyt?

MR. HOYT: No concerns, Mr. Chairman.

CHAIRMAN: Ms. Desmond?

MS. DESMOND: No.

CHAIRMAN: Then he will be declared to be a witness qualified to give opinion evidence in utility regulation and utility pricing.

MR. THERIAULT: Thank you very much.

Q.4 - Mr. Strunk, your prefiled evidence, was that prepared by you or under your direction?

A. It was.

Q.5 - Now I would ask you to briefly summarize your evidence and perhaps give a few comments on some of the issues that were raised by the panel in yesterday's proceedings?

A. Yes. My report addresses certain issues relating to the EGNB rate application and examines the consequences of adhering to the market-based rate methodology in the context of an extended development period and an increase spread between gas and oil prices.

In my report I raise the questions of whether EGNB may have a disincentive to end the development period and whether the market-based rate methodology is still yielding just and reasonable rates.

The evidence put forth by EGNB demonstrates that it actually has higher costs than foreseen in its original proposal to the Province. And it has fewer customers from whom to recover those costs.

To put this in perspective, in the original proposal to the Province the company forecast having assets of 300,000,000 after 20 years. Its rate base at the end of 2007 is already 303,000,000 after only eight years.

This means that the revenue requirement it must recover from customers is greater than originally anticipated.

With respect to customer acquisition, EGNB anticipated that by the end of 2007, if it had 23,000 customers and by 2020, the period when it would recover its 300,000,000 in assets, it would have over 70,000 customers from whom to recover those costs. In 2007 the actual number of customers is just over 8,000.

Nevertheless if the market-based rate application is approved, EGNB forecasts that it will be to recover its high revenue requirement from this smaller than anticipated customer base as early as next year.

To me this raises the question of whether the market-based rate methodology is yielding just and reasonable rates. Is it reasonable to place the full burden of the 303,000,000 rate base on customers who number just over 8,000?

Effectively an approval of the rate application would provide a maximum rate for EGNB that does this.

Further my report questions whether some of the regulatory parameters approved by the Board in the context of the original five-year development period are still reasonable today.

For example is the 13 percent rate of return, the rate in today's market would be just that rate that is sufficient to attract equity capital?

While the EGNB witnesses have stated that it is, they have not put forth any evidence to substantiate these statements.

These questions cannot be answered with the limited evidence that has been put forth in this proceeding. They require more analysis and more investigation into whether the proposed rates are just and reasonable and whether EGNB has the proper incentives vis-a-vis its costs and vis-a-vis new customer additions.

Further discussion by the panel yesterday raised additional questions that must be answered to understand whether the size of the deferral account is reasonable and whether the growth of that account in the future will be reasonable.

There is certainly an issue of whether it is prudent for an LDC that in 2006 had 12,000,000 in distribution revenues to pay out distributions of 14,000,000 in cash to its limited partners.

These distribution policies, as is shown in undertaking number 7, have raised the size of the deferral account substantially. That undertaking shows that in the year 2000, when the company had no distribution revenues, there was a distribution to its partners.

I note that the prior Board has also questioned the effectiveness of the market-based rate methodology in meetings its stated objective of fostering market growth.

In its December 15th 2005 decision the Board stated, and I quote, that "The Board is concerned with the slow development of the natural gas market in New Brunswick and is concerned that EGNB's rate-making methodology may be a factor that impacts on customer growth."

The Board in that order emphasized the need for monitoring and the need for a wholesale review of the rate-making methodology. The langue of the decision states that the Board may hold a generic hearing to review the methodology and the use of rate riders.

If approved, EGNB's proposed delivery rates would be among the highest in Canada. On its face this seems at odds with the stated objective of offering rates designed to incent customer attachments and increase throughput.

EGNB's delivery service rates are also volatile. They change frequently in accordance with commodity prices that neither EGNB nor the Board can control.

I note in my report that stability and predictability is traditionally an important rate-making objective and that volatile rates can deter customers.

Implementing stable, predictable delivery service rates, in my opinion, is a necessary step to foster the development of the natural gas market and over time increase throughput and customer attachments. These factors suggest to me that a review of the rate-making methodology is appropriate.

Finally my report addresses the need for a cost of service study. I cannot overstate the importance of a cost of service study to understanding whether the rate for each class, or above or below costs, and thereby gauging whether or not they are just and reasonable in this respect.

Rates that are above the cost of service can lead to inefficient outcomes that are undesirable for the future of the natural gas industry in New Brunswick.

For example if large users are being charged more than the cost of serving them, they may inefficiently go out of business or inefficiently move to another jurisdiction. It is not an efficient outcome if they make that decision based on a rate that is above the cost of service. Similarly a rate above the cost of service may inefficiently deter customers from switching to natural gas.

EGNB have argued that it is the aggregate level of revenue that matters and that they should be able to set prices as they wish so long as the aggregate level of revenue does not overcompensate.

This strategy I do not believe is in the public interest. Over time it will lead to inefficiencies in the development of the gas markets in New Brunswick.

Q.6 - Mr. Strunk, I have one last question. And that is with respect to exhibit A-13 which I think was introduced at the end of the proceedings yesterday.

Do you have any comments to make as to that?

A. Yes. This was put forth by EGNB as an analysis that shows that my proposition that actually not increasing rates could increase throughput and customer additions.

What this analysis lacks is any dynamic understanding of what customers would do in response to a price increase or in response to the continued application of the current rate. For example it assumes that at both rates, the current rate and the proposed rate consumption would be the same. However we know that customers respond to price. And at higher prices customers will consume less. And at lower prices customers will consume more.

To understand how big or small this effect is would require a different analysis. It would require an analysis of customer behavior. That is not the analysis that EGNB has put forth. And this is not an analysis which would test whether or not the proposition that I have put in my evidence is correct.

MR. THERIAULT: Thank you very much. Mr. Chairman, the witness is available for cross examination.

CHAIRMAN: Thank you, Mr. Theriault. Mr. MacDougall, it's 20 to 12:00. Do you want to start your cross examination or do you want to have an early break for lunch and keep it contained in one session. I will leave that up to you.

MR. MACDOUGALL: No, I'm happy, Mr. Chair, to continue and maybe you can give me the high sign when it is appropriate to stop.

CHAIRMAN: All right.

CROSS EXAMINATION BY MR. MACDOUGALL:

Q.7 - Mr. Strunk, if we could start by turning to your evidence, exhibit PI-1, and if you could go to page 4 of that evidence.

A. Right.

Q.8 - And at line 17 to 18 you state that the use of the term market base rate by EGNB is not consistent with how the term is typically used in North American energy markets, correct?

A. That's correct.

Q.9 - Now in reference to that portion of your testimony, EGNB asked you in its interrogatory number 2, which is in exhibit PI-2, if you would indicate what prior decisions the New Brunswick Board of Commissioners of Public Utilities, or its successor, this Board, the Energy and Utilities Board, you reviewed prior to developing your testimony. And your response was that prior to developing your evidence you reviewed the Board decision on EGNB rates dated June 23rd 2000, correct?

A. That's correct.

Q.10 - So at the time you prepared your evidence the only Board decision you had reviewed was the initial EGNB rates decision dated June 23rd 2000, correct?

A. That's right.

Q.11 - And could you advise the Board what additional Board decisions you have reviewed since you have prepared your evidence?

A. I reviewed the decision that I just cited which was the December 15th 2005 decision. I reviewed the decision that related to the addition of new customer classes, I don't recall the date of that decision. And those are the two that I recall. I may have reviewed additional rate decisions.

Q.12 - You are not sure?

A. Well I did -- I did review additional rate decisions, but I --

Q.13 - You can't recollect which ones they are?

A. There were seven rate cases and I don't -- I reviewed them, yes.

Q.14 - You reviewed the decisions in all of the rate cases after you filed your evidence?

A. Yes.

Q.15 - Now if we could turn to the written direct testimony of Mr. Charleson in this proceeding, that is exhibit A-2 --
A. Would you mind providing me a copy?
Q.16 - Maybe your counsel can provide you a copy.
A. Thank you.
Q.17 - Mr. Strunk, if you can go to page 4. And here you will see there is a derivation of distribution rates, correct?
A. That's correct.
Q.18 - And would you acknowledge that the derivation of distribution rates set out here is generally done in the same methodology that has been used consistently since the Board's June 23rd 2003 rate decision?
A. To the best of my knowledge that's true, yes.
Q.19 - And the derivation of distribution rates is based on providing a discount on alternative fuel, correct?
A. That's correct.
Q.20 - And since EGNB's inception this approach has been referred to as a market-based rates approach, correct?
A. That's correct.
Q.21 - Now, Mr. Strunk, just to confirm, in response to EGNB IR number 1(a) you have indicated that you have never prepared a cost of service study, correct?
A. That's correct.

Q.22 - And in response to EGNB IR-1(e) you have indicated that you have never testified as a cost of capital witness in either an electricity or natural gas rate setting proceeding, correct?

A. That's correct.

Q.23 - And in response to EGNB IR-1(d) you listed the type of rates that you have designed or advised on, correct?

A. Yes, I did.

Q.24 - And the vast majority of those references were to the design of wholesale rates, correct?

A. There are both references to wholesale rates and to retail rates. Slightly more than half are wholesale rates.

Q.25 - Now if we could return to your response to EGNB IR number 8. And here you were asked to provide copies of all studies or analyses conducted by you with respect to the New Brunswick market to support your statement that approval of the proposed EGNB rate may deter customers from switching because the delivery service rate may be seen by customers as volatile and unpredictable, and your response was that you did not rely on any studies to reach this conclusion, correct?

A. That's right. I didn't need to rely on any studies to reach that conclusion. I also note that EGNB has not

provided any studies with respect to customer behaviour, as I stated in --
Q.26 - No, but EGNB isn't making this point. You are making this point.
A. Right. And I didn't need to rely on any studies to make that point.
Q.27 - You didn't, however, rely on any studies or do any analysis whatsoever related to the New Brunswick market, correct?
A. That's correct.
Q.28 - And in fact the statement is it may deter customers and it may be seen by customers as volatile and unpredictable, correct?
A. That's correct.
Q.29 - And are you aware that EGNB has changed its rate cap upwards from time to time since June of 2000?
A. Yes, I am aware of that.
Q.30 - Okay. If we could turn now to EGNB's IR responses, exhibit A-3, and in particular Board IR number 5-1.
MR. THERIAULT: What was that number again?
MR. MACDOUGALL: 5, subsection 1.
Q.31 - And, Mr. Strunk, you can see here --
A. I'm not sure I have the right -- this is from --
Q.32 - What we are looking for is EGNB's response to EUB Board

IR number 5.

A. I believe I have that in front of me.

Q.33 - And you will see response 1 on the first page, it says actual annualized throughput for each class in terajoules, correct?

A. That's correct.

Q.34 - Okay. And just before I start my questions, you said you read the decision that dealt with the reclassification, correct?

A. That's correct.

Q.35 - And you understand it would be that in the 2007 column here the reason that there is a hatchmark in the first line and similarly the reasons that there is hatchmarks against the other three rates below that in the other years is because between 2006 and 2007 the SGS class was reclassified into three classes?

A. That's right.

Q.36 - So for the classes under consideration in this proceeding would you acknowledge that throughput has increased in every year for each of these classes?

A. Yes, that's what the chart says.

Q.37 - Thank you.

A. I would just -- you know -- that throughput -- I would comment on customer acquisitions. In my opinion the rate of customer acquisitions has been relatively slow in New Brunswick. If you compare it to Northern Ireland, for example, which I cited in my report, in Northern Ireland nine years after -- nine years after the license was awarded to Phoenix Gas they added 10,000 customers in one year. So if you compare that rate of customer acquisition to EGNB's rate of customer acquisition they are on a different order of magnitude.

Q.38 - Can you confirm from the evidence I just put to you that annualized throughput has increased in every year?

A. It has.

Q.39 - And it has increased even though there have been rate increases throughout those years?

A. Yes, that's correct.

Q.40 - Thank you very much. And in fact customer attachment is increasing each year as well, correct?

A. Right. The issue though is whether or not it would have increased more had there not been rate increases.

Q.41 - And you don't have any evidence -- you haven't filed any evidence that would support that it would?

A. That would require a study of customer behaviour which EGNB is in a better position to do than I am.

Q.42 - Sure. But EGNB isn't putting forward your propositions. For your propositions you haven't done any studies or analysis, correct?

A. That's correct.

Q.43 - And until EGNB saw your propositions they wouldn't logically be expected to have provided studies on your propositions, correct?

A. Right.

Q.44 - Thank you. Now in response to EGNB IR-5(b), you confirmed that you understood that the primary intention of EGNB's so-called market-based rate methodology is to incent customers to switch to natural gas and hence to grow the business, correct?

A. That's right.

Q.45 - And in response to EGNB IR-6(e) you acknowledge that the stated objective of EGNB's market-based rates is to incent customers to convert to and continue to use natural gas, correct?

A. That's what the answer says, yes.

Q.46 - And in response to EGNB IR-7(c) you stated that the stated purpose of EGNB's market based rates was for the purpose of developing the natural gas distribution system in New Brunswick, correct?

A. Which number is that?

Q.47 - 7(c).

A. Yes. That was their stated purpose is the answer.

Q.48 - And now all of the market-based rate caps filed for by EGNB in prior hearings and in this proceeding continue to provide in accordance with the market-based rates methodology a savings from the alternate fuel, correct?

A. An estimated savings from alternate fuel, that's correct.

Q.49 - Now if we could turn to your response to EGNB IR-5. And here EGNB referred to your statement at page 8 of your evidence that committing to breaking the link between prices and costs for a well defined period of time gives the firm incentives to improve its performance, correct?

A. That's right. That was in the context of a discussion of performance based rates which is a type of alternate regulation?

Q.50 - Correct. And that's exactly what my question is coming to. So when EGNB asked you in the IR if it was your view that the market-based rates approach in New Brunswick was set up to incent EGNB to improve its performance you stated that you understood that the primary intention of EGNB's market-based rate methodology is to incent customers to switch to natural gas and hence to grow the business. Correct?

A. Right. There may be an additional intention but the primary intention is to grow the business.

Q.51 - And in fact the market-based rates methodology in New Brunswick was never put in place, never put forward by EGNB, nor is there any Board order referring to it as a performance incentive type rate structure or a performance based rate making structure, correct?
A. As far as I know there is not.
Q.52 - Rather its intention as stated by EGNB has always been to incent customers to switch to natural gas and grow the business, correct?
A. That's correct.
Q.53 - Now, Mr. Strunk, EGNB has consistently maintained that it must balance growth of the business and growth in the size of the deferral account, correct?
A. That's what EGNB has maintained, yes.
Q.54 - Now, Mr. Strunk, you have said that you read all of the rate case decisions. Did you read the Board's decision of January 18, 2008, in the motion on EGNB's LFO proceeding?
A. Yes, I did review it. I don't have a very clear recollection of everything it said, but I --
Q.55 - That one I think I will hand out because I might make some references to it. Mr. Strunk, did you get a copy?
A. Thank you very much.
Q.56 - Now, Mr. Strunk, if we could turn to the Board's decision of January 18th 2008, which I just handed out,

and if we could go to the last paragraph on page 3. Here I would just like to read the statement there.

"The deferral account is necessary because of the use of market-based rates. Market-based rates are necessary to develop the natural gas system in New Brunswick and the Board believes that they are an essential element of the development period. All customers have and continue to benefit from the existence of the natural gas system. It is important to remember that the market-based method of setting rates is designed to provide customers with savings when compared to an alternate source of energy."

A. Correct.

Q.57 - And if we can just go to page 5, the first full paragraph, here the Board stated, "It is essential for the long-term future of the natural gas system in New Brunswick that the deferral account not continue to grow. During the development period it is important that whenever circumstances permit prices should be set so as to address this issue. EGNB has demonstrated that if market conditions change it will apply to lower its rates and the Board expects that EGNB will continue to do so". Correct?

A. Yes. And I think that paragraph is very important. It highlights the need not to grow the deferral account.

And one of the issues that we have seen in the context of yesterday's hearing was that one of the factors that's growing the deferral account is the distribution of 13 percent return on equity to the limited partners, and another -- so there are issues that are growing the deferral account. It's not just the -- whether it's market-based rates or cost-based rates there are more issues there than just that.

Q.58 - We will get to some of those points, Mr. Strunk. But EGNB has always maintained that this is its position, correct?

A. That's my understanding.

Q.59 - And the Board's statement here is that it's important that whenever circumstances permit prices should be set so as to address this issue, correct?

A. Yes.

Q.60 - And you hadn't read this decision before you prepared your evidence, correct?

A. No

Q.61 - And EGNB previously has used the rate riders and rate reinstatements?

A. Yes.

Q.62 - And, Mr. Strunk, if we could turn to your response to EGNB IR-4. And here you stated, while Mr. Strunk understands that while EGNB did not intend to use market-based rates on a permanent basis, the factual circumstances are such that the current regime of market-based rates has been in place for over seven years, is expected to be in place through December 31, 2010, and has not received a thorough review. This is in contrast to other alternative rate making schemes that typically have more frequent reviews. That was your response, correct?

A. That's right. I can explain that a little further if it would help.

Q.63 - No, I think I understand the statement. Mr. Strunk, if we could go to page 4 of the Board's January 18, 2008, decision, in the last paragraph you will see that the Board found as follows, and then I want to follow up on this in relation to your statement.

"The Board does not consider it appropriate to make a change to the rate setting method that may turn out to have been premature. The consequences of such action could be very significant. The Board believes that any such change should be linked to the initial development period. The Board, based on the evidence in that proceeding, is convinced that the development period has not yet ended nor will it in the near future. The Board will therefore proceed to set rates in this application using the market-based method. Should circumstances change where it appears that the development period will end before 2010, it is the obligation of EGNB to apply to the Board to end the development period sooner. If other parties consider that circumstances have changed and EGNB has not applied to end the development period, they may apply to the Board for a review of this matter". Correct?

A. Right.

Q.64 - Now in relation --

A. And there may be evidence that comes up in the course of this hearing that may change the --

Q.65 - Now in relation to your reference in EGNB IR-4 that we were just talking about to other alternative rate making schemes and that you state typically have more frequent reviews, are you aware that EGNB has made -- well you are from your earlier statement, I guess -- that EGNB has made various applications since its initial rates filings for increases in its rate cap, correct?

A. That's correct. What I was referring to in that statement was that if you were to let's say do an alternative rate making arrangement where you have let's say performance based rates, those would typically go for three to five years, and then you would come back in and you would look at costs. So there has never been a cost of service study and there has never been a review of the prudence of the costs.

Q.66 - Okay. Let's get to that, Mr. Strunk. But we are not dealing with performance based rates here, we are dealing with a specific regime that was set in place and approved by this Board and consistently approved by this Board to develop the greenfield natural gas market in New Brunswick, correct?

A. Yes. It was set eight years ago.

Q.67 - But during that time period there has been numerous applications, I believe yesterday there was a reference to seven separate rate applications that have come before this Board, correct?

A. That's correct.

Q.68 - And all of those applications require approval by the Board, correct?

A. Right. And in none of those applications was there a prudence study or a review -- or a cost of service study.

Q.69 - I'm not disagreeing with that. EGNB has been before this Board for several rate applications since 2000, correct?

A. That's correct.

Q.70 - And it cannot raise its market cap without Board approval, correct?

A. It cannot raise the cap on its rates, that's right.

Q.71 - And EGNB has also effectuated the rate rider up and down a number of times, correct?

A. Yes. I think you can see that in one of my exhibits, yes.

Q.72 - And every time that is done that requires Board approval, correct?

A. That's my understanding.

Q.73 - Okay. And EGNB files its financial statements with the Board for its review and approval on an annual basis, correct?

A. Yes.

Q.74 - Thank you.

A. That's different than having a prudence review in an open hearing.

Q.75 - Correct. And in response to EGNB IR-5(a) you stated that you understood that following the end of the development period EGNB would no longer use market-based rates for delivery service, correct?

A. 5(a)?

Q.76 - 5(a).

A. That's right.

Q.77 - And are you aware that the Board has put in place a process to establish the criteria that will allow it to make a determination as to when the development period will end?

A. I don't -- I'm aware that that's been announced by the Board. I'm not aware there are any specific dates set on when that process --

Q.78 - Well maybe we can go to -- you have the January 18th decision there, correct?

A. Yes, I have it in front of me.

Q.79 - Maybe we can go to page 5. And if we start with the paragraph, the Board, however -- "The Board, however, believes that work needs to be done to establish the criteria that will allow it to make a determination as to just when the development period will end -- or therefore direct staff to convene a meeting with EGNB and other interested parties to discuss this matter and develop a proposal that would be brought forward to the Board for its consideration. This process is to commence in the fall of 2008." Do you see that?

A. Right. What my point was was that there is not a lot of detail in that and one thing that would be really helpful for that conference would be to have the cost of service study ready so that parties to that conference could review it.

Q.80 - Well let's go on to the next paragraph here.

A. Okay.

Q.81 - Subsequent to the conclusion of that process, the Board intends to conduct a generic hearing for the purpose of determining the appropriate method that will be used when it is appropriate to change from the current market based method. Do you see that?

A. Right.

CHAIRMAN: Gentlemen, would this be a convenient time perhaps to --

MR. MACDOUGALL: You read my mind, Mr. Chair.

CHAIRMAN: I just read the pause. We will adjourn then until quarter after 1:00.

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

CHAIRMAN: Mr. MacDougall, anytime you are ready to resume.

MR. MACDOUGALL: Thank you, Mr. Chair.

Q.82 - Good afternoon, Mr. Strunk.

A. Good afternoon.

Q.83 - If we could turn to your response to EGNB IR-6. And here EGNB referred to your evidence at page 9 where you stated the proposition that from the standpoint of an end use customer, once an end use customer switched to gas, there is no longer any need for the price to incentivize switching?

A. Yes.

Q.84 - So is it your position that once the switch has occurred you believe the incentive should be immediately removed?

A. Not necessarily.

Q.85 - So if we can turn to the last sentence on page 5, Mr. Charleson's testimony. That is exhibit A-2.

A. Page 12?

Q.86 - No. I'm sorry. Page 5.

A. Okay.

Q.87 - And in the last sentence there, Mr. Charleson's statement on behalf of EGNB is "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 absolutely necessary." Correct?

A. That's what that page says, yes.

Q.88 - And EGNB's market-based rates are being used by EGNB to have customers convert to and to continue consuming natural gas, correct?

A. That is right.

Q.89 - Okay. And I think you acknowledge that in your response to EGNB IR-6 (e)?

A. Yes. I acknowledge that that is stated in 6, yes.

Q.90 - And in EGNB IR-6 (b) you were asked if you believed whether there was a limit what a customer will pay to use a service before choosing a different service or to return to a previous service.
And you said that yes, for most customers there would obviously be a limit, correct?
A. That is correct.
Q.91 - But then you went on to say that EGNB has not provided any analyses or studies on the size of these limits, correct?
A. That is correct.
Q.92 - But again and similar to one of my questions this morning, EGNB is not proposing to move away from its target savings approach during the development period or to remove that incentive in this proceeding are they?
A. No. But the increase in rates is well, to some degree removing an incentive.
Q.93 - No. But in the context of -- this is a point that you raise. This isn't something that EGNB raised. They didn't raise anything about removing the incentive, correct?
A. That is correct.
Q.94 - And with respect to the point you raised, you did not provide any studies or analyses on the size of these

limits, correct?

A. That is correct.

Q.95 - And in fact, if I'm correct, in all of the places where EGNB asked if you had conducted any studies or analyses in the New Brunswick market, your response was that you had not done any studies or analyses on the New Brunswick natural gas market, correct?

A. I don't think that is a correct characterization in the sense that I have reviewed quite a bit of evidence in the preparation of my report.

And I have analyzed quite a -- I have made a number of analyses in order to develop my report. And I have presented those analyses in my report. So I don't think that is a correct characterization.

Q.96 - Wherever you were asked to provide a study or empirical evidence or analyses of things happening in New Brunswick, you said that you hadn't provided any studies or empirical evidence or analyses?

A. Just to clarify, the type of analyses and studies that I hadn't performed are analyses that are really specific to customer information and customer behavior.

And I don't have access to the type of data that would be required to do that. That is data that EGNB would have.

Q.97 - And you didn't provide any information on what specific temporary inducements would be required to have customers in New Brunswick switch from oil to natural gas did you?

A. No, I didn't. I did make a reference in my report to Gaz Metro. They have a 12-month discount to their general rate.

Q.98 - So you made a reference to it?

A. And I provided in response to interrogatories examples of other utilities that do do discounts and the times -- the terms of those discounts.

Q.99 - Okay. Let's look at a few of those. And I think those were provided in your response to EGNB IR-3.

Those are the documents you are referring to?

A. Yes.

Q.100 - So do you have in front of you the document you provided that came from the Keyspan utility?

CHAIRMAN: Mr. MacDougall, I'm just wondering. Perhaps you could give us that reference again. Was that EGNB IR number 3?

MR. MACDOUGALL: Correct. Mr. Strunk referred to various documents. And he filed those documents in response to that, Mr. Chair. There should be I think four attachments to IR-3.

CHAIRMAN: I'm just not sure that we have them.

MR. MACDOUGALL: It may be useful, Mr. Chair -- I don't have extra copies because they were part of the record.

MR. TONER: Can you hold it up?

MR. MACDOUGALL: Sure. There will be four documents. Each one of them are about three pages.

CHAIRMAN: Sorry. We do have them. They are just not attached to IR-3.

MR. MACDOUGALL: Right. And they weren't in any specific order because they were filed electronically, Mr. Chair. I'm just going to refer to a couple of them.

So the first one I'm dealing with it would say "financing and incentives, energy savings" and the word "Keyspan". And a big black square box.

MR. TONER: Yes. Okay. Thank you.

Q.101 - So this is one of the documents you were referring to, Mr. Strunk?

A. Yes.

Q.102 - And Keyspan, approximately how many customers would Keyspan have?

A. Many more than EGNB.

Q.103 - Well, order of magnitude is more, correct?

A. Yes.

Q.104 - It is a major United States, eastern seaboard utility, correct?

A. Yes. And it has about 60 percent penetration. And it intends to keep growing.

Q.105 - Okay. Now this program here that you provided a copy of, the program description talks about a business incentive and an area development right, correct?

A. That is correct.

Q.106 - And it says that it is available to commercial or industrial customers?

A. Yes.

Q.107 - So this is only referable to commercial or industrial customers. This isn't for Keyspan's residential customers and its -- customers, is that correct?

A. That is correct.

Q.108 - Okay. If we could go to the business incentive rate on page 2 of 3. And just for some comparisons to EGNB here, under the business incentive rate that they do provide to business customers, second paragraph, it says "The discount will consist of a rate reduction of up to 50 percent for a period of 12 years." Correct?

A. Right.

Q.109 - So it is a discount as much as 50 percent and it is for a period of 12 years?

A. That is right, for that rate.

Q.110 - And then it is phasing out by 25 percent each year

from years 13 through 15 until the rate is returned to the standard tariff in the year 16, correct?
A. That is right.
Q.111 - So this is an example of an incentive rate that is approved for a 16-year period and as much as a 50 percent discount, correct?
A. Right.
Q.112 - Thank you. Now you mentioned the Gaz Metro. Maybe we could go to that.
And that one is a document "Environment Canada, Incentives and Rebates" and then it says "Gaz Metro Green Discount"?
A. Yes.
Q.113 - And how many customers would Gaz Metro have?
A. More than EGNB.
Q.114 - Significantly more than EGNB?
A. Significantly more.
Q.115 - And this was a green discount for the purposes of converting oil heating to natural gas as a green program, correct?
A. Yes. That is one of their programs. So this was an example. I referred in my report to the discounts to the rate as well as rebates. And so this was an example of a rebate.

Gaz Metro also has a discount to the rate for customers switching from fuel oil that lasts for 12 months. And that is structured as a percent of the rate.

Q.116 - And now maybe we can look at RG&E. And again is this Rochester Gas and Electric?

A. That is correct.

Q.117 - Okay. And how many customers would Rochester Gas and Electric have?

A. Again they are an established utility. And they would have more than EGNB.

Q.118 - And for example if we look at the programs here under the "Economic development programs, capital investment", here if we go to the last sentence, "To be eligible total project costs must also involve capital investment of at least $1 million." Correct?

A. For that program, yes.

Q.119 - So that program is capped that you need to be spending at least a million dollars, correct?

A. Right.

Q.120 - And under "Utility infrastructure investment", if we go to the last sentence there, to be eligible for that program the project cost must also involve capital of at least $1 million, correct?

A. Right.

Q.121 - And the next one is specific to the redevelopment of ground, fields or vacant buildings, correct?
A. Yes.
Q.122 - And the next one is Energy Efficiency Assistance Program, correct?
A. Yes.
Q.123 - Sure. We can go to the different types of programs on the net page, pricing and incentive programs.
This talks about an Empire Zone Incentive. Is that defined to a certain area?
A. Yes.
Q.124 - Presumably to the Empire Zone?
A. Yes.
Q.125 - And then we have an Incremental Load Rate Incentive. This rate is limited to businesses in defined industries, correct?
A. That is correct.
Q.126 - And the next one, Power For Jobs, this is limited to businesses that are at risk of closing or downsizing their operations or moving out of the state, correct?
A. Right. They offer discounted rates if there is threat of leaving.
Q.127 - And then if we could turn to the last one here. It is Southern California Edison, Economic Development Rate?

A. Right.

Q.128 - And again I'm assuming Southern California Edison, a significantly established utility with many more customers than EGNB. Would that be fair to say?

A. Very well established, many more customers.

Q.129 - And about three-quarters of the way through the applicability paragraph, "This schedule is not applicable to state and local government customers or residential customers." Correct?

A. That is right.

Q.130 - And I believe those were all of the rate sheets that you provided in your evidence, correct?

A. Those were the examples of temporary inducements or rebates. There are hundreds if not thousands of such examples.

Q.131 - And those are the ones you have provided?

A. Right. That is correct.

Q.132 - Now in EGNB IR-13 you were asked whether Heritage Gas, the Nova Scotia utility, whether the current residential rates recover all of the costs to providing service. And you stated that you understood that Heritage Gas defers a portion of its costs?

A. That's right. They are in a development period you expect them to defer costs.

Q.133 - And they have a deferral account, correct?

A. That is correct.

Q.134 - Do you know the size of Heritage's deferral account at present?
A. I do not have that information.
Q.135 - But the fact that they have a deferral account suggests they are not recovering all of their costs, correct?
A. Yes, it definitely does.
Q.136 - Now if we could turn to your evidence at page 14, line 6. You stated that EGNB's return on equity differs substantially from the return on equity of other LDC's, correct?
A. That is correct.
Q.137 - Okay. So EGNB asked in its interrogatory number 14 what other Canadian LDC's you used for your comparison. And you listed them in IR-14, correct?
A. That is correct.
Q.138 - Now for your comparison we note that you did not use Heritage Gas, correct?
A. That is correct.
Q.139 - But you were aware of Heritage Gas because you referenced it elsewhere in your testimony, correct?
A. I did not know the rate of return that was allowed on the Heritage Gas at the time I filed this report.
Q.140 - Okay. And we will get to that in a minute. But

Heritage Gas was a utility with which you were aware. And you were aware it was a greenfield natural gas utility in Nova Scotia?

A. That is correct.

Q.141 - Okay. So let's look at the utilities that you did include, Enbridge Distribution and Union Gas for example. Large, well-established utilities, is that fair to say?

A. Yes. These are -- these are established utilities.

Q.142 - And Enbridge Distribution, I guess we have a bit of information on that one more than the others. And I understand, and surprised as I was with this, has been in business for 160 years distributing gas.

Do you have any reason to doubt that subject to check?

A. No. I think it might have had a different name earlier.

Q.143 - Yes. That is correct. So it and its predecessors?

A. Yes.

Q.144 - And none of the utilities you have referenced here would be properly characterized as greenfield natural gas distribution entities at present would they?

A. We are still on 14?

Q.145 - Correct.

A. No.

Q.146 - But Heritage Gas is, correct?

A. Yes.

Q.147 - Okay. And since your evidence and since these questions were posed, did you check to see what Heritage rate of return on equity is?

A. I haven't -- I have seen it in a presentation that its parent company made and published on the Internet. But I haven't seen it in any documents from the Utility Board.

Q.148 - Okay. Subject to check would you be surprised to know that their current approved ROE is 13 percent?

A. That would not surprise me.

Q.149 - And that their current approved rates run until 2011?

A. That is correct. To the best of my understanding that is --

Q.150 - But subject to check you don't --

A. No.

Q.151 - -- take issue with those points?

A. Their current rates are fixed. And they are only -- they are fixed until 2011 with a scheduled increase of 2 1/2 percent per year. That is a different order of magnitude than EGNB.

Q.152 - And those rates aren't fully recovered in their cost, is that correct?

A. That is correct.

Q.153 - And Heritage is earning 13 percent, correct?

A. Well, 13 percent is taken into account which affects their deferral account, yes.

Q.154 - Correct. And that is the ROE that it is entitled to on all its assets including the deferral account, correct?

A. That is right.

Q.155 - Now at page 4 of your evidence you state that the market-based rate as proposed by EGNB does not -- well, I don't think I have to go there, Mr. Chair. I got the answers I needed.

Mr. Strunk, could we go to page 14 of your evidence. And if we could go to lines 17 to 20 on page 14. And here you state "If customers were allowed to retain the savings associated with the increase, the spread between natural gas and oil prices, this would likely attract more users to the gas distribution network. Over time having these additional customers may actually reduce the amount of deferred costs." That was your statement, correct?

A. That is right.

Q.156 - And again here you said that it may reduce the amount of deferred costs, correct?

A. That is correct. Because it depends on a standard presumption that customers respond to price. And the extent to which customers respond to price is subject to empirical analysis.

Q.157 - Correct. And that is why, when we asked you in EGNB 15 what analysis you did to determine how many customers would be required in each of the rate classes in reducing the amount of deferred costs.

But you said you didn't conduct of that analysis, correct?

A. We have been through this. And I didn't conduct analysis. Because the type of data that you would need is the type of data that EGNB would have. And I don't have access to that type of data.

Q.158 - Correct. But as you referred to this morning, and as EGNB put on the record, they filed their document A-13. Because you had raised this point. And they filed a document to address that?

A. That is correct. But it doesn't address it.

Q.159 - Well, in your view it doesn't address it. But they filed it. And that is their evidence in this proceeding, correct?

A. Right. But it doesn't in any way factor in how consumers respond to price.

Q.160 - Yes. But it is not -- this isn't EGNB's proposal. They are not proposing to do what you are saying to do here.

A. Right.

Q.161 - They filed evidence that supports their case, not your case, correct?

A. That is correct. I don't believe it supports their statements with respect to my evidence, no.

Q.162 - But you didn't file anything that makes any suggestion that gives the Board any sense of how many customers would or would not convert or what the price elasticity of natural gas is in New Brunswick, correct?

A. That is right. As I said, I don't have that type of data.

Q.163 - Now on page 14 at the top you were referring to EGNB's cost of equity of 13 percent, correct?

A. Right.

Q.164 - Okay. And then you went on at the end of that paragraph to quote a report that you relied on, called "The Allowed Return on Equity in Canada and the United States", correct?

A. That is where the 8.71 percent came from. That is right.

Q.165 - Yes. And the 8.71 was this comparator you were making to the EGNB return of 13, correct?

A. Right, in the context of the end of the development period, yes.

Q.166 - Correct. And we -- or EGNB asked you to provide that document in response to EGNB IR-16, correct?
A. Yes.
Q.167 - And you did provide that, right?
A. Yes.
MR. MACDOUGALL: Maybe if we could pull this up. And Mr. Chair, that was the document in response to EGNB IR-16. I'm not sure if you have it at that tab or elsewhere.
Q.168 - It is called Allowed Return on Equity in Canada and the United States. Mr. Strunk, this is the organization you work for? They have also prepared this report?
A. Two of my colleagues prepared it.
Q.169 - Yes, but at NERA, correct?
A. Yes.
Q.170 - Okay. When I reviewed this what I found was that it was generally a report comparing the generic formula ROEs with the United States ROEs, correct? That is what this report is about?
A. It looks at different methodologies where you use a -- where in the U.S. they use a case by case approach and in Canada they use Index.
Q.171 - In certain places in Canada they use Index. But that's what that report is about. It's comparing those jurisdictions in Canada who use generic ROEs with the U.S.

where they don't, correct?
A. Right. The only reason it came into my evidence was because I relied on the 8.71 percent as the average allowed return for LDCs in Canada that was cited in their report.
Q.172 - Correct. But I'm going to probe that because you are relying on that number, so -- but in New Brunswick the ROE is not based on a formula, correct, subject to check?
A. That's correct. I think it was established eight years ago.
Q.173 - Yes. By a Board order based on evidence filed at the time. But we don't have one of the generic -- not like the National Energy Board or Alberta, New Brunswick doesn't rely on a generic ROE formula, correct?
A. That's correct.
Q.174 - Okay. Now if we go to page 8 of the report and the paragraph that starts, "With this analysis", and we see there that the authors say, "With this analysis our conclusion is inescapable." Correct?
A. That's correct.
Q.175 - And their conclusion if you read on is that the Canadian ROEs produced by the generic Canadian ROE formula are biased downward, correct?
A. That's what it says.

Q.176 - So in fact the general tenor of this report is saying that the ROEs that these formulas are producing are in the author's view too low, correct?

A. That's what it says on that page. I think at the very end of the report they are less conclusive, but yes.

Q.177 - Maybe. Well let's go to the bottom of this page where -- first off this is their conclusion and they say our conclusion is inescapable. So I don't know how you can get less conclusive than that, but we will see. But let's go to the bottom of page 8, the last sentence.

"Without a new calibration it is likely that as long as the interest rates in Canada and the United States remain low the generic ROE formula will continue to fly off course, essentially treating Canadian utility investors unfairly and slowly taxing their financial health in this era of low interest rates."

That is your colleagues' conclusion of the 8.71 percent, correct?

A. Absolutely.

Q.178 - And as you stated earlier you have never filed testimony nor are you here as a cost of capital witness, correct?

A. Only in so far as I make the statements in my evidence on the return of equity.

Q.179 - Sure. But you weren't qualified as a cost of capital. You are not suggesting that your qualification this morning was to put your forward as a cost of capital witness, are you?

A. No. But in the extent that -- to the extent that it comes up in the context of the regulation of an LDC --

Q.180 - Yes. You mentioned the number and you compare it to some other numbers?

A. Yes.

Q.181 - Now in response to EGNB IR-17(b) you were asked to indicate the number of customers that Heritage Gas is currently serving, correct?

A. That's right.

Q.182 - And you weren't able to provide that response, correct?

A. I did not have that information.

Q.183 - And have you spoken with Heritage Gas about how successful they believe their role out in Nova Scotia to be?

A. No. As my answer to 18 relies more on their press releases that were on their website.

Q.184 - Right. So let's look at those for a second. Let's turn actually first to EGNB IR-18 where you also make some references to their press releases. Here in the first quote you refer to them talking about 400 business and residential customers committed to burning natural gas, correct?

A. Right.

Q.185 - So the number they refer to is 400.

A. I think it's important to realize here that they started much later than EGNB did.

Q.186 - But they have been in place for three or four since at least 2004, correct?

A. Right. And so that's on January 31st '05, they are announcing that, yes.

Q.187 - So that's the only thing you filed. And it said they had 400 business and residential customers committed to burning gas. That doesn't say they had been signed up for it. Their statement is committed to burning natural gas?

A. Yes. That requires - I don't know how --

Q.188 - What that means. And then the next quote we see August 14th 2007. It talks about 80 percent of downtown office buildings in the capital district health authority have been committed to convert their equipment to natural gas, correct?

A. That's right.

Q.189 - Now if we could go back to EGNB IR-17. And you quote from Heritage's website that it currently has gas available in Dartmouth, Halifax, the Aerotech Park at the airport and the community of Amherst, correct?

A. That's right.

Q.190 - And could you take it subject to check that Dartmouth, Halifax and the airport are all within the single Halifax Regional Municipality?

A. Subject to check, yes.

Q.191 - So Heritage is only providing service in two counties, Halifax and Cumberland County where Amherst is located, correct?

A. Right.

Q.192 - Now turning to another point in your evidence on page 17, line 13, you stated that an alternative means of obtaining the same objective which is more consistent with regulatory practice elsewhere is the use of a special load retention rate for these customers, the customers you were referencing in that statement.

And when we asked in EGNB IR-19(a) how a load retention rate could be used to incent the use of natural gas or conversion from electricity, you then referred in your answer to a load retention or load attraction rate, correct?

A. That's correct.

Q.193 - And you stated in that response that a discounted rate that can incent additional customers to use the system or existing customers not to leave the system is appropriate, correct?

A. Can you -- I'm flipping pages here. If you could remind me of the IR number?

Q.194 - Sure. IR-19. IR-19(a). I would just like to confirm for the record that your statement is there. A discounted rate of this type can incent customers to conversion from natural gas and electricity and the use of natural gas in new homes.

A. Right. I don't see the word appropriate, but yes, I believe any type of rate -- the key in the development period is really to look and try to maximize customer acquisitions and maximize throughput on the system, because as it is we only have 8,000 customers that are covering the whole -- the full 300,000,000 in rate base.

So the idea would be whatever rates, be it load retention to make sure that the large customers that are currently on don't leave, or load attraction to encourage new large customers to come to the province or to increase their -- or to add additional smaller customers -- any type of rate that would do that would be helpful in terms of minimizing the deferral account.

Q.195 - In the context of your statements here in IR-19 and in

your evidence on page 17 was the difference between the SGSRE and SGSRO customers, correct?
A. Right.
Q.196 - Okay. Now are you aware that in New Brunswick there is a declining block rate structure for residential electric customers?
A. I will take that, subject --
Q.197 - Subject to check.
A. Yes.
Q.198 - And you participated in the last two New Brunswick power rate cases, correct?
A. Right.
Q.199 - So you are generally familiar with the rate structures?
A. Yes. Generally on the retail side. The focus of my evidence in those proceedings was really related to the wholesale, yes.
Q.200 - But you don't have any quarrel with the fact that there is a declining block rate?
A. I'm sure there is.
Q.201 - Now with respect to the small general service residential electric rate, I believe this morning you said that you had reviewed the Board's decision dated -- and the date you hadn't mentioned -- dated November 24th 2006,

with respect to the creation of that rate?
A. Yes, I reviewed that.
Q.202 - And the Board approved the creation of that rate, correct?
A. That's my understanding, yes.
Q.203 - And when you had read your evidence you had not read that decision, correct? That was one of the decisions you read subsequent --
A. Yes.
Q.204 - -- to the preparation of your evidence? Mr. Strunk, have you ever seen the New Brunswick Gas Distribution Uniform Accounting Regulation?
A. I'm aware that it exists. I don't believe I have seen the document.
Q.205 - Would it surprise you to know that it's a fairly extensive document?
A. I would expect it to be.
Q.206 - And are you aware that EGNB prepares its financial information in accordance with those regulations?
A. That's my understanding.
Q.207 - And that every year EGNB is required to file regulatory financial statements which require Board approval?
A. Yes.

Q.208 - Now at page 5 of your evidence, line 16. You state that you see no need for the development period necessarily to end at the same time for all customer classes, correct?
A. That's right.
Q.209 - And again when you filed that testimony you had not read the Board's decision of January 18, 2008, in the motion on the LFO case?
A. That's right.
Q.210 - And I think I gave you a copy of that this morning, and maybe if we could look at page 4, the first paragraph. Starting at the third sentence, it states that the Board continues to believe that it is appropriate to use the same method for setting rates for all classes. Further, the Board does not believe that it would be appropriate for the development period to end for one customer class but not for the other customer classes, correct?
A. I'm sorry. I must be on the wrong page.
Q.211 - I'm sorry. Page 4 --
A. Page 4.
Q.212 - -- first full paragraph.
A. Okay.
Q.213 - And there it says "The Board continues to believe that it is appropriate to use the same method for setting rates

for all classes. Further, the Board does not believe that it would be appropriate for the development period to end for one customer class but not for the other customer classes." Is that correct?

A. Yes. My understanding is that this was made prior to having reviewed any evidence in either the LFO case or in this case.

Q.214 - That's correct. But that was the Board's statement at that time, right?

A. That's right.

Q.215 - Okay. If we could now go to the quote at the bottom of page 10 of your evidence. In here it says -- you were quoting -- you were stating that the Board expressed some concern about the stability of rates, correct?

A. That's right.

Q.216 - And then you referenced this quote from the June 2000 decision, "The Board does not consider that it would be appropriate to approve rates with the very real possibility that they could be changed in a matter of a few months. It would do little good to the introduction of natural gas in New Brunswick if the rates were to change so quickly, particularly if the change were to result in an increase to the rates that had been previously communicated to customers." Correct?

A. That's right.

Q.217 - And then you go on to make the statement that in fact EGNB's delivery service rates have changed frequently and unpredictably as they track the volatile and unpredictable price of oil, right?

A. Yes.

Q.218 - Okay. I would just like to give you an extract that has some of the other language before the Board's quote that you referred to, and if you would like to hand that out --

A. I think I have that.

Q.219 - I think it would be useful to hand it out to the Board and to other folks as well.

CHAIRMAN: This is an excerpt from the June 2000 decision?

MR. MACDOUGALL: Correct. June 23rd 2000 decision. And this is the same decision from which Mr. Strunk takes his extract.

CHAIRMAN: Thank you.

Q.220 - So just to provide a little bit of background maybe to the Board's finding in this case, Mr. Strunk, what you quoted from was on page 12, the third full paragraph, the Board does not consider, correct?

A. Right.

Q.221 - Okay. Well let's go back to page 11 and starting on the bottom, I just want to read through that. "There was considerable discussion in the cross examination of EGNB witnesses by Mr. Stewart, counsel for Irving Oil Limited, on the actual values used by EGNB for the various items referred to by the company in calculating the target rates. It is clear that given the time elapsed since EGNB prepared its proposed target rates the values for certain of the items may have changed significantly. This view is supported by EGNB's desire to be able to change the target rates before October 1, 2000. EGNB stated that the change may decrease or increase the target rates. The Board considers that the initial target rates should be set on the basis of information that is as accurate and current as possible. It is also important to have rates available as soon as possible so that the marketing of natural gas customers can begin in a timely fashion. The expected timing for the release of this decision is such that if the Board were to approve the target rates as filed EGNB would need to file any proposed changes to the rates almost immediately after receiving the decision." Do you see that?

A. Yes.

Q.222 - So the context of the Board's quote here was that because EGNB had filed for rates and none had been approved and they had already advised the Board and parties were aware that the numbers had to be changed, that rather than approve rates and then have them changed immediately, the Board would wait for the first initial filing and approve them the first time around.

A. Correct.

Q.223 - So that's the history? That's the context in which the quote you stated in any event?

A. Right. I think this text -- that certainly doesn't change my opinion. The Board was clearly concerned that they didn't want customers to not know what was going to happen to rates. And --

Q.224 - In the context of the very first initial rates, that's the context in which this statement was made.

A. I'm sorry. I hadn't finished my answer. The key factor here is that it highlights the volatility of the underlying rate methodology which even in 2000 was a problem. You know, we had the -- they had a situation where the numbers had to be updated between the time they were initially set and the time that they were to be approved. And we have the same situation here where EGNB has come in and now -- and with a rate application based on a 21 day period that is right before the end of 2000, and if a more current period were used it would result in a higher rate. So --

Q.225 - But EGNB isn't applying for a higher rate in this proceeding.

MR. THERIAULT: Mr. Chairman, perhaps if he could finish his question -- or his answer.

CHAIRMAN: Were you finished giving your response? If not, go ahead and finish your response.

A. Right. I was going to respond to the second question which was -- no, they haven't, which, you know, if you follow the logic of their application would be leaving money on the table that could be used to reduce the deferral account. So it's surprising to me that they haven't applied for that additional increase, because it should be leaving money on the table that could be used to apply to the deferral account.

Q.226 - And do you understand from Mr. Charleson's testimony that what EGNB does is they look for a sustained spread in prices, and then when they see a sustained spread they come in and apply for an increase in their rate cap, correct?

A. That's absolutely right. But they also have the right to do a rate rider and they only have one opportunity per year to come in, and given one opportunity per year and the option to do a rate rider subsequently I wouldn't see why you wouldn't go for the higher rate at this point.

Q.227 - But they have made their application?

A. Which can be amended.

Q.228 - But EGNB isn't seeking an amendment, correct?

A. That's correct.

Q.229 - And, Mr. Strunk, in your response here on page 11 you go on to say the implementation of the rate has added to the unpredictability and volatility of the EGNB delivery service rate, okay. And before that you say this is because they track the volatile and unpredictable price of oil, correct?

A. That's correct.

Q.230 - So you agree that oil prices are currently volatile and unpredictable?

A. Absolutely.

Q.231 - And with respect to -- I think we might have mentioned this earlier -- all applications to increase the rate cap and all rate rider applications either to go down or for reinstatement require Board approval, correct?

A. That's correct.

MR. MACDOUGALL: Mr. Chair, just bear with me for a moment. I might just have one or two questions from some of the comments Mr. Strunk made this morning. I just want to review my notes.

CHAIRMAN: Certainly.

Q.232 - Mr. Strunk, you made a comment I believe this morning about the fact that the current existing customers shouldn't bear the full costs of the $300,000,000 that have been spent to date, correct?

A. Rather than making a firm conclusion on that subject, I asked the question, is it just and reasonable for them to bear it? I don't have a conclusion on that but I think it's worth investigating. It seems as if given the original proposal which anticipated that 70,000 customers would bear the costs of the 300,000,000 asset base, and there are only 8,000 customers now, it begs the question of whether it's just and reasonable to allow them to do that.

Q.233 - Yes, but I want to probe whether that's what they are doing, okay. So if you can bear with me for a moment here.

A. Sure.

Q.234 - EGNB has significantly deferred a lot of its costs, correct?

A. That's correct.

Q.235 - So in excess of $100,000,000 are being deferred for recovery later.

A. That's right.

Q.236 - So the $300,000,000 isn't being asked to be recovered from 8,700 customers or from any amount of customers. A significant amount of the costs -- the whole set up here is to defer a lot of costs for potential future recovery, correct?
A. Right. But my understanding of their financial statements is that there is an amortization of the deferred costs which goes into the income statement.
Q.237 - But for the deferral -- for the deferred costs those will get cleared or amortized after the development period, correct?
A. Subject to check, yes.
Q.238 - Okay. And in fact the rates even with the increase, EGNB's evidence suggests they are not covering the cost of the system, correct? That's in fact why money is being added to the deferral account.
A. Right. But the testimony yesterday was that starting in -- well that absent the rate increase starting in 2010 the revenues would be sufficient to start paying down the deferral account.
Q.239 - But we are not in 2010.
A. Right. But we are -- that analysis also didn't take into account the rates -- the rate increase. So the testimony I heard yesterday was that with the rate

increase it was more likely to be next year that the revenues would be sufficient to start paying down the deferral account.
Q.240 - But we are not there yet either, are we?
A. It's next year.
Q.241 - Well it may be next year. I think the testimony was, was it not, that there were all sorts of factors involved as to whether the take up actually occurred, et cetera, et cetera?
A. But that was the company's best forecast.
Q.242 - No. Their best forecast is 2010, correct?
A. That was based on a different rate.
Q.243 - Yes, but the questions raised yesterday they said that there were a whole bunch of factors that go into 2009 whether or not it would occur or not, correct?
A. Sure, but that it was their forecast.
Q.244 - Yes, but, Mr. Strunk, even if that occurred these customers aren't being asked to bear the full amount of the deferral account, correct?
A. Not all at once, but they are paying a rate that allows for the recovery of the revenue requirement plus an additional amount to pay down the deferral account.
Q.245 - No, but for 2008 for these rates there is no paying down of the deferral account? For 2008 the evidence is

that the deferral account will continue to grow, correct?

A. Right. I was referring to 2009.

MR. MACDOUGALL: Okay. Thank you, Mr. Chairman. Those are all my questions.

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

MS. DESMOND: I think probably just have a five minute break?

CHAIRMAN: Have a 10 minute break.

(Recess - 2:15 p.m. to 2:30 p.m.)

CHAIRMAN: All right. Ms. Desmond, any time you are ready.

CROSS EXAMINATION BY MS. DESMOND:

Q.246 - Thank you. We have just a few questions, Mr. Strunk.

A. Thank you.

Q.247 - And the first question is refers to page 4 of your report

A. Okay.

Q.248 - At line 24. And in your report you comment that the market-based rate as proposed does not fulfil the objective of promoting switching. And I am just wondering on what basis you have determined that that objective has not been there?

A. Well one of the -- one of the bases for that is just looking at EGNB's original forecast where they forecast by 2007 that they would have 23,000 customers and they only have 8,000 customers. So it certainly doesn't seem like it's keeping up with their expectations in meeting their objectives in that sense. ..

Q.249 - Page 9 of your report at line 23, you talk about a number of objectives that in your view EGNB has failed to meet. And our question is whether in your view the objective for ratemaking is the same both for a mature utility and for a utility in a greenfield situation?

A. Right. I think a greenfield situation would, you know, allow for some different ratemaking policies, but if we go through each of the objectives that I discussed subsequent to that statement, rate, stability and predictability, I certainly believe that would be equally applicable to a greenfield or a mature utility. Cost-base and verifiable, well it may be appropriate either -- in either situation to depart from cost-based rates for a given period. I wouldn't expect that period to last much more than five years. And so, you know, at some point we have to come back to looking at costs to determine reasonability in either situation. And nondiscriminatory, certainly again you might be able to depart slightly from that or for a given period from that principle, particularly in a greenfield situation, but in the long-term I think that's an important aspect that applies to both.

Q.250 - There has been some discussion about the return on equity for LDC's in Canada and a reference was made to your report that's been filed I think in response to an interrogatory.

In your view is the allowed ROE different for a mature utility than utilities normally in a greenfield situation? Is that a justifiable difference?

A. I believe that there may be a premium required for equity investors in the very initial phases of a new industry. So, however, you know, there is -- I question whether that premium would also apply to deferred costs, which appear to have a bit more revenue certainty than the ongoing costs. So I would question the applicability of the same rate of return to both the general costs and the deferred costs. But, yes, I could -- it's certainly logical that there would be a premium in the early years. How long that premium would be required is another question.

Q.251 - Would you have a recommendation for the Board in terms of when you would be reviewing or considering a different return?

A. Well I think in light of what's happened in these factual circumstances, I think it would be appropriate to consider a different return with respect to the deferral account as soon as possible. And then in the context of cost-based ratemaking, there would be an inquiry into the company's overall cost of capital given that they are -- the company is already eight years into the development of the business. And as the Panel testified yesterday, that there have been -- there actually has been a reduction in their view of some of the risks associated with operations.

Q.252 - There has been some reference to customer classes and I am wondering if you could comment on the distinction between the oil and electricity customers, especially in light of the greenfield situation that exists here in New Brunswick?

A. In my report I state that in the long term I don't believe that there needs to be that separation between an electric rate and a fuel oil rate. It seems to be a rate that would eventually look to me like a price discrimination that wouldn't meet the standards of just and reasonable as they have typically been applied. However, you know, in a short -- if it is only -- if that distinction is only applied for a very short time frame, I don't think that would be problematic, but over the long term if the development period is extended substantially beyond 2020, and that distinction is maintained, I believe it could be problematic.

Q.253 - You reference in your report an Order from the State of Maine and I believe it is exhibit 4?

A. Right.

Q.254 - And in your materials as well in the actual report that you have produced, you talk about deferral accounting and how that's been treated in Maine, in the State of Maine. Can you speak to what is the siltation in the State of Maine and how they have dealt with that deferral account and what it represents?

A. Sure. That was really a very specific extraordinary cost that was associated with the 1998 ice storm. And deferral accounting is generally applied in a very limited -- for a very limited situation where there is an amount of spending that cannot be reasonably estimated or where there is an incentive or disincentive that would support deferral. And in this case the Maine PUC allowed for recovery of the ice storm costs, but did not -- because it was a very extraordinary event, but did not allow the company to earn interest on interest on the deferral balance.

Q.255 - And you are familiar with how EGNB has established its deferral account and I am just wondering in light of the comments that you have offered in your report if you are making a recommendation to the Board with respect to the deferral account?

A. Well my recommendation would really be that, you know, generally broad categories of costs are not included in the deferral account. The deferral account would be for specific types of costs like investments in the pipes, not necessarily sales and marketing costs or other types of costs. And so I think in the context of any future review it would be -- my recommendation would be to look at precisely what costs are going into the deferral account and whether all those costs should go into the deferral account.

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

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

MR. TONER: Yes, I have a few questions. The NBEUB exhibit number 1, do you have a copy of it?

A. Which is that?

MR. TONER: NBEUB-1. Maybe Dan (Mr. Theriault) would -- the Flakeboard Company interrogatory --

A. Yes, I believe I do have that. It's interrogatory number 1.

MR. TONER: Yes.

A. Yes.

MR. TONER: So you are familiar with it?

A. Yes.

MR. TONER: So on response number 1, it has a listing of all of the customers in each year --

A. Right.

Q.256 - -- that it has, totalling eight thousand -- well the total in 2007 is 8,100? And point number 4 is the forecasts that they have made for every year.

So you are looking at it. Okay. So in your opinion, 2007, they came within 10 percent of what they estimated their newer customers to be?

A. Yes, I am not familiar with when that forecast was made. The reference is to forecasts that I made in my earlier --

MR. TONER: Right. In 2000?

A. Right. Those were the original forecasts what was expected at the time the bid was made to the Province.

MR. TONER: But in your opinion, you believe in 2008, because these numbers are generated with -- I don't know if a mistake in the additional costs that they requested in this rate application, do you believe that they will achieve their 11,000 based on the trends of the years forthcoming?

A. Right, so they would have to add 3,000 customers.

MR. TONER: Right. In your opinion, do you believe that they will given their track record of forecasting versus what the actual --

A. I mean the information I have looking at the actual increase from '06 to '07, you know, I think it's conceivable.

MR. TONER: Right. So at least within 10,000. So earlier though in your testimony you thought that the rates should actually be higher. Is that what your opinion is though that the rate that they are requesting is not high enough or that the rates should be lower, that their request actually be about the same?

A. Well, no, the testimony just a little while ago was that if we adhere the methodology that is the market-based ratemaking methodology, that would logically lead to a higher rate right now than the rate that's been applied for, because of an increase in oil prices since the application. And my point is generally that that's one of the flaws of the market-based methodology for making delivery service rates. Delivery service rates are much different than the commodity rate and the delivery service rate. If you applied the methodology, it would be higher today than it was at the time of the application.

MR. TONER: Right. But given that the methodology isn't going to change, for example, today, like this is the methodology we are using, in your expert opinion -- you compare it to Northern Ireland and different -- do you believe that they will achieve these number of clients or not?

A. And based on the -- based on this --

MR. TONER: Based on other -- based on other jurisdictions in the pricing structure that they are proposing?

A. They conceivably certainly very well may achieve this 2008 number. The question is with a lower rate would they achieve a higher number?

MR. TONER: And what percentage lower -- or do you believe would achieve a higher number of --

A. Well that's the --

MR. TONER: -- given this methodology?

A. That's where you would actually need to do empirical analyses of their -- of the customers and understand how customers respond to different levels of prices.

MR. TONER: Are you familiar with the percentage of EGNB potential customers that have pipe flowing in front of their -- versus what they have got in penetration? Are you familiar with the penetration they have got with the pipe they have in the ground?

A. I have seen some numbers on that but I don't recall their precise values.

MR. TONER: Okay. That's all. Thank you very much.

CHAIRMAN: Mr. McLean, any questions?

MR. MCLEAN: No.

CHAIRMAN: Mr. Johnston?

VICE CHAIRMAN: Mr. Strunk, you made one specific recommendation to the Board which is that a cost of service study be ordered, and I would just like your comments with respect to that recommendation and the comments earlier in your report relating to customer class composition, and whether the creation of the customer classes to be used once you have got a cost base system in place. Is the creation of those classes -- do you see that going in tandem with the cost of service study or does one come before the other, or do you have any -- do you have any comments on that subject?

A. Right. I think the cost of service study can be done independently of that. What you will have is the cost of service -- the cost to serve, for example, a residential customer, right, and then that -- obviously there are still two customer classes -- two types of -- there are two customer classes for residentials, the oil and the electricity, but they would have the same cost of service because they are the same type of customer. So you could do -- you could -- there is a cost of service study can be advanced even in -- even without a -- the reconnection of those customer classes following the development period. Is that clear?

VICE CHAIRMAN: I think so. There would have to be some determination of who fell within what category in terms of --

A. Right.

VICE CHAIRMAN: -- putting the existing classes into broad categories at least?

A. That's correct.

VICE CHAIRMAN: And would that determination of those classes be done at the same time as the cost of service study?

A. For the purposes of doing a cost of service study it would need to be done, yes. The rate structure doesn't need to change but the cost of service study would need to look at groups of customers with similar characteristics.

VICE CHAIRMAN: And obviously it would be somewhat different from the existing customer classes which are based on the alternate fuels.

A. Right. Yes. So they would -- it could be just a grouping of those classes.

CHAIRMAN: Maybe, Mr. Strunk, this is a similar question to that asked of you by the Vice Chair, but on page 11 of your testimony under the heading -- the question, sorry, was what are the rate making implications of the development period. And in the last line, starting at line 20, you said the Board needs to take a fresh and comprehensive look at the regulatory structure for delivery service rates.

And then I sort of flip back to pages 4 and 5 of your evidence where you make a number of recommendations. And my question really is to take those recommendations that you have made and where -- in what context would you see some of those recommendations perhaps being pertinent to the CARD hearing and which of those recommendations might really apply more to a generic hearing or future hearings?

It strikes me that not all of the recommendations that appear there were intended for the Board to implement at this time.

A. That's absolutely right. I would -- certainly with respect to a cost of service study that could be implemented in the context of the -- or prior to the technical conference that is expected to be held this fall, and then that could be an opportunity for industry participants to comment on that cost of service study and look at where things would eventually go in the context of a rate hearing that would look for post 2010 rates and cost of service rates after the development period.

CHAIRMAN: In addition to the cost of service study I believe in response to the Vice Chair's questions you talked about the rate classes, that that would be an appropriate time to deal with whether or not the rate classes that are currently in place are the appropriate ones. So that wouldn't be something you are suggesting that would be done as part of this hearing?

A. Right. I don't think that could be done as part of this hearing, but it's something to be addressed in the technical conference and I think it would be a concern if there were an extension of the development period beyond the end of 2010. That issue would need to be looked at prior to an extension of the development period.

CHAIRMAN: All right. And you also make recommendations with respect to accounting practices. And again I presume you are intending that to be on a go forward basis?

A. Yes.

CHAIRMAN: With respect to the rate of return -- and you may have addressed this, but is that something that you would -- you believe that this Panel of the Board should address in the decision coming out of this case, or that the rate of return issue is something that should done again going forward as part of perhaps a generic hearing?

A. I certainly don't think there was enough evidence put forth in this hearing to make a determination on rate of return. I think it's an issue that the order could flag for future review in the context of the generic hearing.

CHAIRMAN: So this would be part of this comprehensive review that you are suggesting in your report that should occur at some time in the future?

A. Yes. But it may be helpful to identify, you know, in the context of a development period that is scheduled to end December 31st 2010, when what the time frame would be for the review in addition to the technical conference.

CHAIRMAN: And in the transition period from a market-based to a cost-based system do you see some kind of a hybrid system, or would you go from one to the other? Do you have any sense as to whether or not there is some different type of system that might -- that you might envisage being put in place, you know, during that transition?

A. Well if you look at the other jurisdictions that during development periods have put -- have used cost-based rate making principals during their development periods, specifically Nova Scotia and Northern Ireland, they have relaxed some of the typical cost-based rates.

You would usually look at one year for a test period, for example. They have allowed for multiple years to look at to determine their test period. So there could be a version of cost-based rate making that takes into account that there is a special situation.

CHAIRMAN: Essentially a modified cost-based system --

A. Yes.

CHAIRMAN: -- is really what you are talking about?

A. Yes.

CHAIRMAN: Thank you, Mr. Strunk. Mr. Theriault, do you have any redirect?

MR. THERIAULT: Two. I can ask from back here.

CHAIRMAN: There is a microphone back there now, is there?

MR. THERIAULT: Yes, there is.

CHAIRMAN: Good.

<u>REDIRECT EXAMINATION BY MR. THERIAULT</u>:

Q.257 - Mr. Strunk, in questioning from Mr. MacDougall, I just want to ask you has your subsequent review of Board decisions changed your opinion as contained in your pre-filed evidence?

A. No.

Q.258 - And in questioning to my friend, Ms. Desmond, you had referenced in discussing the development period and the distinction between the oil and electricity classes, I think you referenced the development period as being 2020, did you mean 2010?

A. I did. I meant December 31st 2010.

MR. THERIAULT: That's all I have. Thank you.

CHAIRMAN: Thank you, Mr. Theriault. Thank you, Mr. Strunk.

WITNESS: Thank you.

CHAIRMAN: Anything further? Is that the case for the Public Intervenor?

MR. THERIAULT: That is, Mr. Chairman.

CHAIRMAN: Ms. Desmond, is there anything further that we need to do to complete the record today that you can think of?

MS. DESMOND: No. Nothing further, Mr. Chair.

CHAIRMAN: Mr. Hoyt, anything further? Or MacDougall?

MR. MACDOUGALL: No, Mr. Chair. I think all the undertakings and everything have been dealt with.

CHAIRMAN: I am not aware of anything. I am just sort of giving this last opportunity. And Mr. Theriault, you can't think of anything that we need to do to complete the record at this point in time?

MR. THERIAULT: Nothing that -- no -- no, I can't.

CHAIRMAN: All right. Then we will adjourn until 9:30 tomorrow for argument.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing, as recorded by me, to the best of my ability.

Reporter