

**NORTH ATLANTIC REFINING LIMITED  
EVIDENCE OF GLENN MIFFLIN**

Q. Would you please state your name, address and occupation?

A. My name is Glenn Mifflin. I reside at St. John's, Newfoundland. I am a chartered accountant and I am employed by North Atlantic Refining Limited ("North Atlantic") as Vice-President and Chief Financial Officer. I have been involved in electrical rate issues since 1992 and have been in my current position since about 1988.

Q. Is there a power supply agreement in place between North Atlantic and Newfoundland and Labrador Hydro?

A. Yes. There is a power supply agreement dated December 16, 1987, in place between Newfoundland Processing Limited (now North Atlantic) and Newfoundland and Labrador Hydro ("Hydro") for the supply of power to the refinery at Come by Chance.

Q. What is the purpose of your testimony?

A. With one exception, North Atlantic's position is exactly the same as that of the other Island Industrial Customers.

In its proposed Industrial contracts filed in mid-December, 2001, Hydro included a revised Article 9 dealing with liability. Clause 9.04 of the proposed Article 9 proposes a floor of

\$100,000 and a ceiling of \$1 million on damage claims against Hydro arising from Hydro's own negligence, and, in addition, proposes restrictions on the kinds of damages which can be recovered.

In December, 2001, North Atlantic was contacted by counsel for the Island Industrial Customers with respect to the proposed floor of \$100,000. Although, apparently, a draft of the clause with the proposed ceiling of \$1 million was circulated to North Atlantic earlier, as part of a document outlining other proposed changes to the contract, North Atlantic did not focus on the adequacy of the proposed ceiling until the issue of a floor on damage claims was raised by Hydro in mid-December.

North Atlantic believes that the ceiling of \$1 million on damage claims is inadequate to address North Atlantic's anticipated losses in the event that its energy supply is interrupted as a result of Hydro's negligence.

Q. Why does North Atlantic consider that the ceiling of \$1 million on damage claims contemplated by Article 9 is inadequate?

A. North Atlantic purchases all of its electrical energy from Hydro. That energy supply is critical to the efficient operation of the refinery and its equipment. When the energy supply to the plant is disrupted or discontinued, it generally requires an emergency shutdown of all process units and causes loss of product through emergency flaring. Once production is down as a result

of a power failure, it takes 5-7 days to bring the refinery back up to full production. Certainly, any time there is an emergency shutdown there is greater risk to process equipment and catalysts.

Q. Can you give any examples of the extent of the damages which North Atlantic might suffer if it lost production as a result of Hydro's negligence?

A. Yes. In 1995, there were three occasions in July and August when the refinery experienced a complete power outage resulting in the shutdown of all refinery operating units. A similar outage occurred in August, 1996. North Atlantic estimates that it suffered direct damages in excess \$19 million dollars as a result of those power outages.

As a result of those outages , product in the refinery units at the time of the power failure was damaged, a large quantity of product was destroyed as a result of excess flaring caused by the outage, various equipment located in the refinery was damaged, catalyst used in the refining process was damaged and, while the operational units were shut down or not operating at normal conditions, the refinery was unable to process feedstock located in storage at the refinery. North Atlantic's estimate of its damages from these incidents is as follows:

Overtime wages	\$ 80,000.00
----------------	--------------

Wages and production loss removing large coke mass	\$ 1,027,500.00
Product flared	\$ 548,000.00
Damages to Catalyst	\$ 7,000,700.00
Loss of profit	\$ 68,500.00
Production losses including yield loss and lower feed rates	<u>\$ 11,124,400.00</u>
Total	\$ 19,849,100.00

On December 8, 1997 the refinery again experienced a complete power outage resulting in an almost complete shutdown of all refinery operations. As a result of that power failure, all of the operating units were shut down and could not be operated collectively at normal operating conditions until on or about December 15, 1997.

As a result of that outage, some product in the refinery units at the time of the power failure was damaged, a large quantity of product was destroyed as a result of excess flaring caused by the outage, various equipment located in the refinery was damaged and, while the operational units were shut down or not operating at normal conditions, the refinery was unable to process feedstock located in storage at the refinery. North Atlantic's estimate of its damages from that December, 1997 incident is as follows:

Overtime wages	\$ 19,200.00 US
Fuel lost	\$ 50,000.00 US

Product flared	\$ 6,000.00 US
Damage to overhead finfan coolers and throughput losses due to lack of cooling capacity	\$ 270,000.00 US
Propane yield losses from damage to depropanizer unit	\$ 130,000.00 US
Damages to Visbreaker Unit	\$ 150,000.00 US
Loss of chemicals and nitrogen usage	\$ 15,000.00 US
Loss of profit	\$ 130,000.00 US
Production losses including yield loss and lower feed rates	<u>\$1,291,000.00 US</u>
Total	\$2,061,200.00 US

At current exchange rates, the damages from that single incident were in excess of \$3,000,000 in Canadian funds.

Q. What is North Atlantic's position in relation to the ceiling on damages recoverable from Hydro when Hydro has been negligent?

A. North Atlantic recognizes that there may be occasions when a power outage causing significant damages to North Atlantic will occur due to circumstances beyond Hydro's reasonable control. In such circumstances North Atlantic accepts that it will be unable to recover its losses from Hydro. However, North Atlantic believes that Hydro should not be able to limit its exposure for direct losses incurred as a result of a power outage due to Hydro's own

negligence. If there is to be a ceiling on damages claimable for such an occurrence, which North Atlantic does not believe there should be, then that ceiling should be set so that all Industrial Customers have the opportunity to recover their legitimate losses.

Q. What does North Atlantic propose?

A. North Atlantic proposes that there be no ceiling on the amount recoverable from Hydro if Hydro is negligent. In the alternative, if the Board determines that a ceiling is required, then North Atlantic proposes that the ceiling be set at \$ 10 million per occurrence.