

1 (9:30 a.m.)

2 MR. NOSEWORTHY, CHAIRMAN: Thank you and good
3 morning. Mr. Kennedy, before we get started, are there any
4 preliminary matters?

5 MR. KENNEDY: Good morning, Chair, Commissioners. I
6 would imagine that counsel for the industrial customers
7 may have some introductions, seeing there's some new
8 faces in the room, so.

9 MR. NOSEWORTHY, CHAIRMAN: Indeed. Ms. Henley
10 Andrews, good morning.

11 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, I'd like to
12 introduce Denis Jean (*phonetic*) who is Vice-President for
13 Manufacturing and Energy with Abitibi; Bill Furey, who is
14 the Woodlands Manager for Newfoundland; Gordon
15 Oldford, the Manager in Grand Falls; M.J. Bachus
16 (*phonetic*), who I think you've met before, the Manager
17 from Stephenville. My clients are in town for a meeting and
18 they decided to come and see what was happening here, so
19 I'm sure that you will excuse them when they slip out after
20 actually a fairly short period of time.

21 MR. NOSEWORTHY, CHAIRMAN: Absolutely.
22 Welcome, gentlemen, and good morning to you. A very
23 imposing group there, I might add. (*laughter*) Good
24 morning, Mr. Brockman. How are you?

25 MR. BROCKMAN: Good morning. Fine, thank you.

26 MR. NOSEWORTHY, CHAIRMAN: Perhaps we can begin
27 this morning, if you would continue your cross-
28 examination, Ms. Henley Andrews, please?

29 MS. HENLEY ANDREWS, Q.C.: Yes, Mr. Chairman. I'd like
30 to go back a little to the generation credit, the
31 Newfoundland Power generation credit which we
32 discussed yesterday, Mr. Brockman, and in particular I'd
33 like you to take a look at **the transcript from yesterday at**
34 **pages 45, 46, and lines ...** we have this usual problem,
35 which is that the page numbering on the transcript is
36 different from the page numbering on the hard copy. Can
37 you just go back a bit? I think the exhibit ... go forward a
38 bit, and down a little bit further. There it is, lines ... **page 45,**
39 **lines 82 to 88.** I had asked you with respect to the
40 generation credit, "Would you agree that it's something
41 that's very difficult to isolate in looking at the cost of
42 service studies?" And you had indicated that you didn't
43 think that it was difficult. Do you recall that discussion
44 yesterday?

45 MR. BROCKMAN: Yes.

46 MS. HENLEY ANDREWS, Q.C.: I'd like you to take a look
47 at **JAB-1**, and that's as originally filed. And can you show
48 me in **JAB-1** where it indicates what the dollar value of the
49 generation credit for Newfoundland Power is?

50 MR. BROCKMAN: No, because you would have to do a
51 calculation to find that. You would have to take several
52 pages of JAB-1 and do some calculations to get at that
53 number.

54 MS. HENLEY ANDREWS, Q.C.: Now, if we could go to
55 **page 94 of 94**, and you can see the Abitibi Interruptible B
56 credit is right there on the page, correct?

57 MR. BROCKMAN: That's correct.

58 MS. HENLEY ANDREWS, Q.C.: Much easier to find?

59 MR. BROCKMAN: That one is easier to do than the other
60 one. When I said it wasn't difficult, I didn't mean that there
61 was a line in the cost of service study that identified it.
62 You would have to do some calculations.

63 MS. HENLEY ANDREWS, Q.C.: I'd like to distribute and
64 have you look at an example that we've worked out.

65 MR. KENNEDY: **IC-9**, Chair.

66 MS. HENLEY ANDREWS, Q.C.: Mr. Brockman, when you
67 look at IC-9, is it correct that JAB-1, which is the cost of
68 service study, has incorporated into it in its assumptions
69 the Newfoundland Power generation credit?

70 MR. BROCKMAN: Yes. They back the generation demand
71 or they back the megawatts of the generation of
72 Newfoundland Power that aren't always running out of the
73 demand of Newfoundland Power, so it's implicitly in the
74 cost of service study.

75 MS. HENLEY ANDREWS, Q.C.: Now, if we go to page 3 of
76 94, you can see in column one and column four the
77 information that is shown in the table at the top of IC-9.
78 Okay, you can see in column three the information that's
79 shown in column one in IC-9, correct, the 191.06, the 50.16
80 million?

81 MR. BROCKMAN: I just have this one page. Where did
82 you say that ... I'm not sure where that came from. I'll
83 accept it subject to check but ...

84 MS. HENLEY ANDREWS, Q.C.: Okay. You can see in the
85 table on IC-9, which is the table under "A," "Revenue
86 Requirement Impacts," that under the column, before
87 "Deficit as filed," in millions there's a reference to 191.06?

88 MR. BROCKMAN: Right.

89 MS. HENLEY ANDREWS, Q.C.: And if you look at column
90 three on JAB-1, page 3 of 94, you see the same number for
91 Newfoundland Power, correct, 191 million?

92 MR. BROCKMAN: Yes.

93 MS. HENLEY ANDREWS, Q.C.: And underneath that you
94 see the 50.16 million for industrial customers, the 36.75 ...

95 MR. BROCKMAN: Right.

1 MS. HENLEY ANDREWS, Q.C.: ... etc. Okay. And
2 similarly when you go in JAB-1 on this page to the column
3 six, which is the revenue requirement after the deficit and
4 the revenue credit allocation, you can see the same
5 numbers in that column for Newfoundland Power, the
6 industrial customers, the rural island interconnected and
7 the Labrador interconnected as you would find in, on the
8 table, on IC-9.

9 MR. BROCKMAN: Okay.

10 MS. HENLEY ANDREWS, Q.C.: And, Mr. O'Rielly, if we
11 could go to **IC-251-E** without losing this one. Okay, can
12 we go back to the question for IC-251-E? "C" says that to
13 provide a revised cost of service, assuming that
14 Newfoundland Power's peak is not reduced for the
15 generation credit.

16 MR. BROCKMAN: Okay.

17 MS. HENLEY ANDREWS, Q.C.: So again if we go to "E,"
18 which is probably "C," page 3 of 94, we have the same, the
19 equivalent page of the cost of service methodology that we
20 were just looking for, looking at on JAB-1, you would
21 agree?

22 MR. BROCKMAN: It looks like it is the same page, yes, or
23 the same table.

24 MS. HENLEY ANDREWS, Q.C.: And if you look at column
25 three under "Cost of Service," before "Deficit and Revenue
26 Credit Allocation," the numbers are the same as the
27 numbers in column two in the table at the top of IC-9.

28 MR. BROCKMAN: Okay. I can't see the other one
29 anymore but I'll take your word for that.

30 MS. HENLEY ANDREWS, Q.C.: Well, IC-9 you have in
31 front of you.

32 MR. BROCKMAN: Oh, is this what you just handed out?

33 MS. HENLEY ANDREWS, Q.C.: Yes.

34 MR. BROCKMAN: Okay. Mine doesn't have a label on it,
35 I'm sorry.

36 MS. HENLEY ANDREWS, Q.C.: Okay. So that column
37 two, called "Adjusted" ...

38 MR. BROCKMAN: Yes.

39 MS. HENLEY ANDREWS, Q.C.: ... is 192.72 million for
40 Newfoundland Power.

41 MR. BROCKMAN: Yes.

42 MS. HENLEY ANDREWS, Q.C.: 48.94 for the industrial
43 customers.

44 MR. BROCKMAN: Yes, that's correct.

45 MS. HENLEY ANDREWS, Q.C.: Okay. And similarly when
46 you go to column six in, on the screen, for "Revenue
47 Requirement after Deficit," you have the adjusted numbers
48 of 215.19 million, etc.

49 MR. BROCKMAN: Yes, and you're saying that those, if we
50 go back to the, what the demand asked for, this is after
51 removing Newfoundland Power's generation credit.

52 MS. HENLEY ANDREWS, Q.C.: Generation credit, that's
53 correct.

54 MR. BROCKMAN: Now, was anything ... I'm sorry, I don't
55 remember exactly what was in that demand, but was any
56 other thing done to it or was it just that they ...

57 MS. HENLEY ANDREWS, Q.C.: Just the generation credit.

58 MR. BROCKMAN: So they weren't giving any sort of ...

59 MS. BUTLER, Q.C.: Mr. Chairman ...

60 MR. BROCKMAN: ... payment or anything. It wasn't ...

61 MS. BUTLER, Q.C.: Mr. Chairman, if I might interrupt one
62 second. I wonder if the witness could be referred to the
63 actual answer that was given because he's asking the
64 counsel whether in fact there was any other factors built
65 into this table, and I think it will become clear when he
66 reads the answer to "C," IC-251-C.

67 MR. BROCKMAN: Yes. It's a little difficult to look at all
68 these different tables on the screen.

69 MS. HENLEY ANDREWS, Q.C.: Well, let's go back to "C."
70 It might be easier, Mr. Brockman, if you used the hard
71 copy, quite frankly.

72 MR. BROCKMAN: Okay. I just want to make sure I know
73 what's in the hard copy that you handed me, that's all.
74 Okay.

75 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, the
76 reference on the exhibit to "E" should be "C." There's a
77 number of references to 251-E, but it should be 251-C. You
78 can see that they were based upon Hydro's existing load
79 forecast.

80 MR. BROCKMAN: I'm just reading the response. Okay.
81 I think I'm with you so far.

82 MS. HENLEY ANDREWS, Q.C.: So that when you go back
83 to IC-9, which is the sheet that I handed out, from a rough
84 perspective you could take JAB-1, which is Hydro's 2002
85 forecast, which has the generation credit built in, and
86 subtract from it the various numbers that are used in IC-
87 251-C in order to determine what the dollar value of the
88 generation credit is or what the effect of the removal of the
89 generation credit is, correct? Now, it's, you know, it's
90 subject to some of the qualifications in the answer.

91 MR. BROCKMAN: Yeah. I'm only hesitating because I'm

1 not ... in IC-251 they talk about changing the load. I'm not
2 sure if the load is the same between those two cost of
3 service studies, but subject to that I would think that
4 calculation would work.

5 MS. HENLEY ANDREWS, Q.C.: Okay. So when you look
6 at the net change before deficit on IC-9, the net change for
7 Newfoundland Power ...

8 MR. BROCKMAN: Right.

9 MS. HENLEY ANDREWS, Q.C.: ... is 1.66 million, and the,
10 and that's when we go from, when we remove the credit,
11 Newfoundland Power has to pay 1.66 million more, the
12 industrial customers would pay 1.22 million less, and the
13 rural island interconnected would pay 440,000 less based
14 upon that table, correct?

15 MR. BROCKMAN: Yes.
16 *(9:45 a.m.)*

17 MS. HENLEY ANDREWS, Q.C.: Now, if you assume 2-CP
18 for the generation allocator, which is what Hydro has done
19 in its JAB-1, and if we could go back, Mr. O'Rielly, to JAB-
20 1, and then to page 38 of 94, you can see the allocators,
21 correct, for production demand costs?

22 MR. BROCKMAN: I'm scanning through the column here.

23 MS. HENLEY ANDREWS, Q.C.: It's the first ... it's column
24 ...

25 MR. BROCKMAN: Oh, yeah. These are the raw allocators,
26 yeah. I was looking for percentages, sorry.

27 MS. HENLEY ANDREWS, Q.C.: column three.

28 MR. BROCKMAN: Right.

29 MS. HENLEY ANDREWS, Q.C.: And then if you go down
30 to about line 14 ...

31 MR. BROCKMAN: Yes.

32 MS. HENLEY ANDREWS, Q.C.: ... you can see that the
33 ratios ...

34 MR. BROCKMAN: Yes.

35 MS. HENLEY ANDREWS, Q.C.: ... for Newfoundland
36 Power is 78.71 percent.

37 MR. BROCKMAN: That's right.

38 MS. HENLEY ANDREWS, Q.C.: For the industrial
39 customers it's 14.25 percent.

40 MR. BROCKMAN: Correct.

41 MS. HENLEY ANDREWS, Q.C.: And for the rural, island
42 rural, it's 7.04 percent.

43 MR. BROCKMAN: That's correct.

44 MS. HENLEY ANDREWS, Q.C.: And now if we could go
45 back to IC-251-C, also page 38 of 94, and go to the same
46 column, which is column three, line 14, when you remove
47 the generation credit the allocator is 79.93 percent for
48 Newfoundland Power?

49 MR. BROCKMAN: Correct.

50 MS. HENLEY ANDREWS, Q.C.: 13.44 percent for the
51 industrial customers and 6.64, 6.64 percent for the island
52 rural.

53 MR. BROCKMAN: Correct.

54 MS. HENLEY ANDREWS, Q.C.: Now we already have
55 evidence, Mr. Brockman, that, with respect to the
56 Interruptible B, Hydro compensates Abitibi at Stephenville
57 in the amount of \$1.33 million per year for 46 megawatts,
58 and that's basically \$28.20 per kilowatt per year. It's \$7.05
59 per month for four months, so ...

60 MR. BROCKMAN: That's correct.

61 MS. HENLEY ANDREWS, Q.C.: And we know the basis
62 for the generation credit for Newfoundland Power, correct?

63 MR. BROCKMAN: Yes.

64 MS. HENLEY ANDREWS, Q.C.: Now, if you take the ... if
65 you try and calculate what the value of the generation
66 credit could be under either of the two scenarios, either the
67 Interruptible B scenario using the Abitibi rate or the
68 scenario working backwards from what we know from the
69 table above, let's take a look at the box at the bottom called
70 "Option A."

71 MR. BROCKMAN: Okay.

72 MS. HENLEY ANDREWS, Q.C.: So if you take 77.8, well
73 we'll round it up to 78 megawatts of generation credit, and
74 multiply it by the \$28.20 per kilowatt per year, you would
75 get \$2.2 million roughly? You can either check it or take my
76 word for it.

77 MR. BROCKMAN: It's 2.2 million times ... what are you
78 multiplying it by, 77.8 you said?

79 MS. HENLEY ANDREWS, Q.C.: You're taking \$28.20 ...

80 MR. BROCKMAN: Okay. And multiplying it by 77.8.

81 MS. HENLEY ANDREWS, Q.C.: Megawatts, that's right.

82 MR. BROCKMAN: I'll accept your math subject to check.

83 MS. HENLEY ANDREWS, Q.C.: And if you were trying to
84 figure out where that cost would normally be allocated,
85 because in this particular case the numbers from the cost of
86 service don't have any generation credit built in ...

87 MR. BROCKMAN: Correct.

88 MS. HENLEY ANDREWS, Q.C.: ... you would use the

1 adjusted demand allocator for production demand, correct?
2 MR. BROCKMAN: Yes.
3 MS. HENLEY ANDREWS, Q.C.: And multiply for
4 Newfoundland Power its 79.93 percent by the \$2.2 million.
5 MR. BROCKMAN: Yes.
6 MS. HENLEY ANDREWS, Q.C.: And similarly the 13.44
7 percent by the \$2.2 million for the industrial customers.
8 MR. BROCKMAN: Right.
9 MS. HENLEY ANDREWS, Q.C.: And this cost, the \$2.2
10 million that would have to be paid to Newfoundland Power
11 for its generation credit, would therefore be spread
12 amongst the customers on the basis of 1.76 million to
13 Newfoundland Power, \$300,000 to industrial customers and
14 \$150,000 to the island rural?
15 MR. BROCKMAN: Correct.
16 MS. HENLEY ANDREWS, Q.C.: And then when you get
17 to "C," on the one hand you would have, looking up above
18 to the table in "A," if you wanted to look at what the impact
19 would be, the overall impact from taking the generation
20 credit out of the cost of service and then putting it back in
21 as an Interruptible B rate, up above under "A" you would
22 add \$1.66 million to the Newfoundland Power cost of
23 service to build, to take out the generation credit, as we
24 discussed, correct?
25 MR. BROCKMAN: Correct.
26 MS. HENLEY ANDREWS, Q.C.: And then you would add
27 to that their share of the generation of the cost of the
28 Interruptible B, which would be the 1.76.
29 MR. BROCKMAN: Yes.
30 MS. HENLEY ANDREWS, Q.C.: And then you would
31 subtract the \$2.2 million credit that they would receive for
32 their interruptible.
33 MR. BROCKMAN: Yes.
34 MS. HENLEY ANDREWS, Q.C.: So the net cost that they
35 would carry would be the ... the net change would be the
36 \$3.42 million minus the \$2.2 million for \$1.2 million?
37 MR. BROCKMAN: That's right, that's the effect of the
38 calculation.
39 MS. HENLEY ANDREWS, Q.C.: And the net effect for the
40 industrial customers as shown below would be that on the
41 cost of service by taking the generation credit out, shown
42 up in, under "Net Change Before Deficit" in "A," it'd be
43 \$1.22 million less that they would pay but you would have
44 to add in the \$300,000 that's their share calculated under
45 Option A, so there'd be a net improvement of \$920,000.
46 MR. BROCKMAN: Yes.
47 MS. HENLEY ANDREWS, Q.C.: Now, Option B, which is
48 shown in the other block at the bottom of IC-9, is an
49 attempt to try and work backwards to figure out what the
50 value of the generation credit is. Now we know that
51 industrial customers, if you look up in, again in the table in
52 "A," except this time in column one as filed, the industrial
53 customers are assigned \$50.16 million of the costs, correct?
54 MR. BROCKMAN: I'm sorry, could you repeat that one?
55 MS. HENLEY ANDREWS, Q.C.: If you go up to the table
56 at the top of the page ...
57 MR. BROCKMAN: Right.
58 MS. HENLEY ANDREWS, Q.C.: ... under "Before Deficit"
59 in column one ...
60 MR. BROCKMAN: Yes.
61 MS. HENLEY ANDREWS, Q.C.: ... the as filed share of the
62 costs assigned to the industrial customers is 50.16 million.
63 MR. BROCKMAN: Yes.
64 MS. HENLEY ANDREWS, Q.C.: And their revised share in
65 terms of production demand allocator, when you take out
66 the generation credit, is 13.44 percent as shown under "B."
67 MR. BROCKMAN: Right.
68 MS. HENLEY ANDREWS, Q.C.: And the impact from the
69 credit, as we've just discussed a few minutes ago, again
70 going back to the net change shown in the "Before Deficit"
71 column in the table at the top of the page is 1.22 million?
72 MR. BROCKMAN: Okay.
73 MS. HENLEY ANDREWS, Q.C.: Now, if we're going to try
74 and work backwards to see what the total value is of the
75 generation credit, we can take the after, we can take the
76 adjusted column under "B," which is, let's look at the
77 allocator for production demand once the generation credit
78 has been removed of 79.93 percent for Newfoundland
79 Power ...
80 MR. BROCKMAN: I'm sorry, I'm not following that. Say
81 that one more time.
82 MS. HENLEY ANDREWS, Q.C.: Okay. If we want to try
83 and figure out what the Newfoundland Power share is, we'll
84 have the credit payment that yields \$1.22 million cost to IC,
85 using the allocators that are up above, okay?
86 MR. BROCKMAN: Hold on. Let me just understand that
87 point before you go on. I'm having trouble following that,
88 what we're doing with that number.
89 MS. HENLEY ANDREWS, Q.C.: Okay. In the table under
90 Option B, under subcategory D, there's a formula and it

1 takes the 1.22 million and it divides it by the 13.44 percent,
2 which is the industrial customers' share before generation
3 credit that's shown up above in "B."
4 (10:00 a.m.)

5 MR. BROCKMAN: I'm not following that. That's what I'm
6 not ... I'm not following why you're doing that division.

7 MS. HENLEY ANDREWS, Q.C.: Well ...

8 MR. BROCKMAN: Where are you getting this 1.9 million
9 from?

10 MS. HENLEY ANDREWS, Q.C.: Well, because what we're
11 saying is that we know from having calculated, gone
12 through the calculation that you and I went through a few
13 minutes ago with respect to the table, the "Before Deficit"
14 at the top of the page, we know that comparing JAB-1 to
15 IC-251-C, that the industrial customers are paying \$1.22
16 million towards the generation credit, correct?

17 MR. BROCKMAN: Correct.

18 MS. HENLEY ANDREWS, Q.C.: And we know, based
19 upon our discussion a few, again a few minutes ago, with
20 respect to production demand costs and allocators using
21 2-CP for generation, that if you take out the generation
22 credit, the industrial customers' portion or their allocator
23 will be 13.44 percent, right?

24 MR. BROCKMAN: I'm sorry, I'm not trying to be obstinate.
25 I'm just having trouble following this, this ...

26 MS. HENLEY ANDREWS, Q.C.: Well, what I'm basically
27 doing is I'm taking the 1.22 million, which is the cost, and
28 I'm dividing it by the percentage share of the industrial
29 customers and I'm coming up with a number which is 9.1
30 million.

31 MR. BROCKMAN: But I don't know what the meaning of
32 that calculation is.

33 MS. HENLEY ANDREWS, Q.C.: Okay. Well let's just ... let
34 me make it ... let me do it a different way with you.

35 MR. BROCKMAN: Okay.

36 MS. HENLEY ANDREWS, Q.C.: And that is that if the
37 generation credit were 9.1 million, okay, so let's assume that
38 we know what the generation credit value is and it's 9.1
39 million ...

40 MR. BROCKMAN: You're assuming that.

41 MS. HENLEY ANDREWS, Q.C.: I'm assuming that.

42 MR. BROCKMAN: Okay.

43 MS. HENLEY ANDREWS, Q.C.: That 9.1 million would
44 have to be allocated among Newfoundland Hydro's
45 customers, correct?

46 MR. BROCKMAN: Yes.

47 MS. HENLEY ANDREWS, Q.C.: And the way that you
48 would allocate it would be that 79.93 percent of it would go
49 to Newfoundland Power.

50 MR. BROCKMAN: That's correct.

51 MS. HENLEY ANDREWS, Q.C.: 13.44 percent of it would
52 go to the industrial customers.

53 MR. BROCKMAN: Correct.

54 MS. HENLEY ANDREWS, Q.C.: And 6.64 percent of it
55 would go to the island rural?

56 MR. BROCKMAN: Correct.

57 MS. HENLEY ANDREWS, Q.C.: So if you multiply 13.44
58 percent ...

59 MR. BROCKMAN: Okay. I'm with that ... I agree with the
60 calculation on the bottom of the page, 7.33, (phonetic) 9.1,
61 if we assume the 9.1. Does that help?

62 MS. HENLEY ANDREWS, Q.C.: Yes.

63 MR. BROCKMAN: Okay.

64 MS. HENLEY ANDREWS, Q.C.: That's right.

65 MR. BROCKMAN: I'm just not following the 9.1 yet, what
66 ...

67 MS. HENLEY ANDREWS, Q.C.: Well, okay.

68 MR. BROCKMAN: ... the meaning of the 9.1 is.

69 MS. HENLEY ANDREWS, Q.C.: Well, what I'm attempting
70 to ... I think I've just shown you, because by looking at the
71 math and using what it, reciprocal part, properties or
72 something that we did in grade school, that the 1.2 ... in
73 order for the industrial customers to pay \$1.22 million
74 towards the generation credit, which is what we have
75 worked through up in the table at the top of the page in the
76 "Before Deficit" block ...

77 MR. BROCKMAN: But why ... I'm sorry, I guess I'm not
78 supposed to ask you questions.

79 MS. HENLEY ANDREWS, Q.C.: Yeah, okay. But if we ...
80 if that is the number and we've worked through both IC-
81 251-C and JAB-1 and we've come up with that number, then
82 that represents the industrial customers' share of the cost
83 of the generation credit, right?

84 MR. BROCKMAN: That represents the amount that if we
85 took the generation credit out of the cost of service study,
86 according to this calculation on the top of the page, that
87 the industrials would, their allocation would go down by
88 1.22 million.

89 MS. HENLEY ANDREWS, Q.C.: Yes, that's right.

1 MR. BROCKMAN: Right.

2 MS. HENLEY ANDREWS, Q.C.: And we know that their
3 share of the allocation is 13.44 percent.

4 MR. BROCKMAN: Right. My problem is, theirs goes
5 down by 1.22 in the table at the top, NP's goes up by 1.66
6 and then the rest of the guys almost don't matter because
7 the number is so small, I can't get up to 1.9 million. I don't
8 know where that is going to be made up from. If I say that
9 the 1.22 is the amount that the industrials have to pay, who
10 pays the rest, because it says up at the top that NP should
11 only pay another 1.66 under that scenario.

12 MS. HENLEY ANDREWS, Q.C.: No, it says that based
13 upon the cost of service that, looking at the net changes,
14 that that's correct, but if you take ... you would agree that
15 if you take the 1.22 million ... and we were talking earlier ...
16 I guess the context of it, Mr. Brockman, is that when you
17 have said that it was quite simple to look at the cost of
18 service study and come up with a number which is the
19 value ...

20 MR. BROCKMAN: I don't think I said it was quite simple.
21 I said it wasn't very difficult. You asked me the question
22 was it very difficult. I think I answered it wasn't difficult,
23 but I didn't mean to say that you didn't have to do some
24 calculations, and I'm not following your calculation on
25 Option B, but this is a different thing in Option B that we're
26 trying to do now. We're not trying to identify the amount
27 that Newfoundland Power is being given a credit for. We
28 already identified that and we worked through that and I
29 think that was relatively straightforward. It took a while
30 because we have a lot of schedules to look at but it was
31 relatively straightforward ...

32 MS. HENLEY ANDREWS, Q.C.: But you ...

33 MR. BROCKMAN: But now we're doing something else.

34 MS. HENLEY ANDREWS, Q.C.: Well, the point is though
35 that if you apply the mathematics to the numbers that you
36 generate from the exercise that we did, then the 1.22 million
37 that the industrial customers are paying is the equivalent of
38 paying a share of \$9.1 million rather than of the total that
39 we've been talking about.

40 MR. BROCKMAN: Again, I'd have to think about what the
41 implications of that calculation are a little bit more than I
42 think I can right now, but the other thing that bothers me
43 about this calculation is Newfoundland Power is given
44 generation credit for having generation available all year
45 round, not just for four months, whereas the interruptibles
46 get this \$28.20 per kilowatt year for only four months. That
47 bothers me a little bit. The other implication of this whole
48 calculation that bothers me a little bit is Newfoundland
49 Power, if they were to be given this \$28 per kilowatt year
50 credit, would end up paying 80 percent of their own credit,
51 which bothers me a little bit.

52 MS. HENLEY ANDREWS, Q.C.: But they consume 80
53 percent of Hydro's energy.

54 MR. BROCKMAN: But they've already built this
55 generation and so you ...

56 MS. HENLEY ANDREWS, Q.C.: But they're getting paid
57 for that from their own customers as part of their own cost
58 of service.

59 MR. BROCKMAN: Right, but when we're talking about the
60 cost from Hydro, those generators didn't cost Hydro
61 anything. If Hydro gave Newfoundland Power \$28.20 for
62 not having to build that generation, then asking
63 Newfoundland Power to pay 78, 79 percent of it again, it
64 just troubles me. There are a lot of implications I would
65 have to think about in these calculations as to what they
66 mean.

67 MS. HENLEY ANDREWS, Q.C.: Well, you see, that's
68 precisely the problem.

69 MR. BROCKMAN: Which is ... as I say, I didn't address
70 this issue in my pre-filed but ...

71 MS. HENLEY ANDREWS, Q.C.: No. Well let's take what
72 you've just talked about into two parts.

73 MR. BROCKMAN: Okay.

74 MS. HENLEY ANDREWS, Q.C.: And the first part was
75 your reference to the fact that Newfoundland Power
76 provides it all year.

77 MR. BROCKMAN: Right.

78 MS. HENLEY ANDREWS, Q.C.: And the industrial
79 customers only provide it for four months of the year.

80 MR. BROCKMAN: Correct.

81 MS. HENLEY ANDREWS, Q.C.: When we asked questions
82 of Mr. Budgell with respect to that, he agreed that the four
83 months was all that Hydro had wanted from the industrial
84 customers, but there's no evidence that the industrial
85 customers wouldn't have been prepared to provide it all
86 year round, it was just the four peak months were the major
87 months to deal with because that's when the peak occurs,
88 so you know, you can just as easily argue the converse,
89 which is that perhaps the industrials should be getting a
90 credit for 12 months and make it available, but nobody
91 needs it for the other eight months and they don't need it
92 for Newfoundland Power for the other eight months either,
93 but I'm not going to ...

94 MR. BROCKMAN: Well, again I haven't studied that
95 issue. A lot of industries, a lot of utilities do maintenance
96 in other months and so on, so, I mean, I don't know, I
97 haven't looked specifically at that so I shouldn't probably

- 1 say too much about it.
- 2 MS. HENLEY ANDREWS, Q.C.: Now when it comes to the
3 interruptible credit ...
- 4 MR. BROCKMAN: Okay.
- 5 MS. HENLEY ANDREWS, Q.C.: ... for the industrial
6 customers, all of the customers share in that cost, correct?
- 7 MR. BROCKMAN: Yes.
- 8 MS. HENLEY ANDREWS, Q.C.: And built into the cost of
9 service is charging Abitibi in Stephenville ...
- 10 MR. BROCKMAN: Yes.
- 11 MS. HENLEY ANDREWS, Q.C.: ... with a portion of that
12 cost.
- 13 MR. BROCKMAN: Yes, and perhaps we shouldn't do that.
14 I haven't really ... it bothers me on this table that
15 Newfoundland Power be asked to do that so perhaps that
16 should, they should be excluded from that. I don't know.
17 I'd have to think about that one.
- 18 MS. HENLEY ANDREWS, Q.C.: I'd like you to take a look
19 at **your evidence on page six, and lines three through eight.**
- 20 MR. BROCKMAN: Okay.
- 21 MS. HENLEY ANDREWS, Q.C.: And you reference in your
22 evidence that the amendments to *The Public Utilities Act*
23 and *The Electrical Power Control Act*, etc., require Hydro
24 to operate as a fully-regulated utility under the jurisdiction
25 of the Public Utilities Board. Have you reviewed the
26 legislation?
- 27 MR. BROCKMAN: I've looked at it and here I'm really just
28 giving this as Mr. Wells, from Mr. Wells' evidence. It's not
29 ... I'm not a lawyer. It's not necessarily my opinion but this
30 is what Mr. Wells said.
- 31 MS. HENLEY ANDREWS, Q.C.: In your lines seven
32 through nine, or seven and eight, you indicate that,
33 "Newfoundland Power does not necessarily agree that this
34 statement means Hydro has to have a rate of return equal
35 to an industrial-owned utility. Would you agree with me
36 that based upon, as a non-lawyer, what you may have read
37 in the legislation, there is nothing in the legislation that
38 specifically says that Hydro should have a rate of return
39 equal to that of an industrial-owned utility?"
- 40 MR. BROCKMAN: I principally based this statement on,
41 you know, conversations with counsel and how they
42 interpreted it and their, you know, I think Newfoundland
43 Power's counsel's interpretation is they don't necessarily
44 agree with all of what Mr. Wells said. That's probably
45 about as much as I can really authoritatively say about it.
46 I'd have to look at the act again. I could give you an
47 opinion but again I'm not a lawyer.
- 48 MS. HENLEY ANDREWS, Q.C.: And can we go to **page 14**
49 **of your testimony?**
- 50 MR. BROCKMAN: Okay.
- 51 MS. HENLEY ANDREWS, Q.C.: Lines 13 to 15.
- 52 MR. BROCKMAN: Okay.
- 53 MS. HENLEY ANDREWS, Q.C.: And you say, the second
54 sentence in ... it says, "Second, the amount of hydraulic
55 power changes the relative allocation of generating plant
56 between the customer classes." How?
- 57 MR. BROCKMAN: There's a fairly complicated set of
58 formulas that came out of the 1993 cost of service hearing
59 that said how we would allocate generation to the different
60 classes, and one of the components of that is how much
61 hydraulic generation we have. I'd have to look up the
62 details of it to give you the exact answer but it does, the
63 amount of hydraulic generation that we have does change
64 the allocation of generating plant, because hydraulic
65 generation is allocated differently than thermal generation,
66 is probably the simplest way to answer it.
- 67 MS. HENLEY ANDREWS, Q.C.: Can we go to page 16?
- 68 MR. BROCKMAN: Okay.
- 69 MS. HENLEY ANDREWS, Q.C.: And in your evidence
70 yesterday you referenced, in your opening questions by
71 Ms. Butler you were asked about the definition of the word
72 "load." Do you recall that?
- 73 MR. BROCKMAN: Yes.
- 74 MS. HENLEY ANDREWS, Q.C.: And could you repeat
75 your understanding of the general definition of "load"?
- 76 MR. BROCKMAN: Yes. In my experience when someone
77 says load in this industry they mean, you usually have to
78 ask them what they mean because they usually mean all of
79 the load, the demand and the energy, but they can also
80 sometimes mean either one.
- 81 MS. HENLEY ANDREWS, Q.C.: And you also made the
82 comment that it was pretty clear to you in looking at the
83 letters, which is **IC-284-E**, I think, and **IC-286-E**, as to what
84 the word "load" meant.
- 85 MR. BROCKMAN: Well, I'm just going from memory now
86 that it said they were going to re-run the cost of service
87 study, and I would assume when you do that you re-run
88 the cost of service study that has ... the load components
89 in there are demand and energy and even customer, if you
90 will, although I wouldn't count that as part of load, but
91 that's the part that makes it clear to me as ... when you say
92 you have to re-run the cost of service study, I would
93 assume that's what it means.
- 94 MS. HENLEY ANDREWS, Q.C.: Well let's go to **IC-284-E**.

- 1 MR. BROCKMAN: Okay.
- 2 MS. HENLEY ANDREWS, Q.C.: I'm having trouble with my
3 own handwriting with the "C's" and the "E's," so ... let's go
4 down and see "E." "Please provide the basis for Hydro re-
5 allocating production demand costs in the RSP." And if we
6 could go to the letter. Now let's just go back to the top of
7 the letter first. You would agree that this letter, which was
8 written in 1986, is from Hydro to the Board, correct?
- 9 MR. BROCKMAN: Yes.
- 10 MS. HENLEY ANDREWS, Q.C.: And the industrial
11 customers' rates weren't regulated at that time, would you
12 agree with that?
- 13 MR. BROCKMAN: They weren't regulated by the Board,
14 I don't believe. I don't ...
- 15 MS. HENLEY ANDREWS, Q.C.: That's correct.
- 16 MR. BROCKMAN: I don't know if they were regulated by
17 someone else but they weren't regulated by this board.
- 18 MS. HENLEY ANDREWS, Q.C.: So any references in this
19 letter to an RSP for the industrial customers would not have
20 been something that was within the jurisdiction of the
21 Board at that time, correct?
- 22 MR. BROCKMAN: That's probably correct, yes.
- 23 MS. HENLEY ANDREWS, Q.C.: Now, if you go down a
24 little further in that letter and in particular go to page two
25 and the reference to load. Just move down.
- 26 MR. BROCKMAN: Okay.
- 27 MS. HENLEY ANDREWS, Q.C.: Let's look at the paragraph
28 that starts, "The total cost change due to load variation."
- 29 MR. BROCKMAN: Right.
- 30 MS. HENLEY ANDREWS, Q.C.: And it says, "It will be
31 determined by comparing monthly the 1986 final cost of
32 service sales as presented by Hydro to the Board at the
33 conclusion of its hearing, and multiply, with the 1996 actual
34 and multiply the gigawatt hours of differential by the cost
35 of fuel at the Holyrood," correct?
- 36 MR. BROCKMAN: Yes.
- 37 MS. HENLEY ANDREWS, Q.C.: Now, when you're talking
38 about multiplying gigawatt hours by the cost of fuel ...
- 39 MR. BROCKMAN: Yes.
- 40 MS. HENLEY ANDREWS, Q.C.: ... that would normally be
41 energy, correct?
- 42 (10:15 a.m.)
- 43 MR. BROCKMAN: Right, but we're not talking about
44 allocation yet here. We're simply talking about the total
- 45 dollar change in the RSP.
- 46 MS. HENLEY ANDREWS, Q.C.: But the beginning ...
- 47 MR. BROCKMAN: This part just talks about load for
48 calculating the dollar change, you're correct, or talks about
49 energy for calculating the energy portion of the dollar
50 change in total.
- 51 MS. HENLEY ANDREWS, Q.C.: But the introduction to
52 the paragraph refers to load variation?
- 53 MR. BROCKMAN: Yes, and it can be used, as I say, either
54 way, and here it's used as energy.
- 55 MS. HENLEY ANDREWS, Q.C.: Let's go to **IC-286-E**, and
56 that's ... and go to the letter, if it's there. And there's
57 another one, the later letter. Yeah, the July 1993 letter. This
58 is a letter from Hydro to one of the industrial customers.
- 59 MR. BROCKMAN: Okay.
- 60 MS. HENLEY ANDREWS, Q.C.: Correct? And I think you
61 agreed yesterday that this letter hardly explains what we
62 know of the RSP in its present form, correct?
- 63 MR. BROCKMAN: I don't recall agreeing to that but ...
- 64 MS. HENLEY ANDREWS, Q.C.: The RSP is much more
65 complicated than a two-page letter.
- 66 MR. BROCKMAN: Oh, the RSP is fairly complicated, yes.
67 A two-page letter probably couldn't completely explain the
68 RSP.
- 69 MS. HENLEY ANDREWS, Q.C.: Now one of the things
70 that you indicated yesterday ... thank you, Mr. O'Rielly ...
71 that you indicated yesterday in response to a question was
72 that the Newfoundland Power load factor has gone up
73 since 1992.
- 74 MR. BROCKMAN: I think that's true. Their demand has
75 gone down and their energy has gone up. I hadn't made
76 that exact calculation but I guess that follows from those
77 two things.
- 78 MS. HENLEY ANDREWS, Q.C.: Okay. If we could go to
79 **IC-1-A**, it may not be ... the 1992 forecast may not be ...
80 okay. We'll have to go to the **hard copy, and it's page 54**.
81 Would you agree ... do you have that, Mr. Brockman?
- 82 MR. BROCKMAN: Yes.
- 83 MS. HENLEY ANDREWS, Q.C.: Would you agree that in
84 order to calculate the Newfoundland Power load factor you
85 would take column one, which is the sales of 4., of 4,398,382
86 megawatt hours, and divide that by the number of hours in
87 a year, which is 86, 8,760, and then divide that number by
88 the peak of nine four five zero eight seven, which is shown
89 in column three.
- 90 MR. BROCKMAN: If I wanted to calculate what's known

1 as their non-coincident load factor, yes. I mean, there are
2 different kinds of load factors, but if that's the one you
3 want, then ...

4 MS. HENLEY ANDREWS, Q.C.: Yeah.

5 MR. BROCKMAN: ... yes, that's the way you would
6 calculate it.

7 MS. HENLEY ANDREWS, Q.C.: And would you take my
8 word for it that the result of that calculation is 53.12
9 percent?

10 MR. BROCKMAN: I'll take your word for it.

11 MS. HENLEY ANDREWS, Q.C.: Now, if we go to **IC-202**
12 ...

13 MR. BROCKMAN: What was that number again? I just
14 want to write it down.

15 MS. HENLEY ANDREWS, Q.C.: 53.12 percent. Page 12 of
16 12. Well let's go to 10 of 12. Oh, you don't have pages 11
17 and 12 on the ... okay, we'll have to go to the hard copy
18 again.

19 MR. BROCKMAN: Page 11?

20 MS. HENLEY ANDREWS, Q.C.: Page 12 of 12.

21 MR. BROCKMAN: Okay.

22 MS. HENLEY ANDREWS, Q.C.: Mr. Brockman, for
23 Newfoundland Power would you expect the coincident
24 peak and the non-coincident peak to be roughly the same
25 for a year?

26 MR. BROCKMAN: Yes. I think they do tend to be fairly
27 coincident. I'm not sure what the coincident factor is but I
28 think that's relatively true.

29 MS. HENLEY ANDREWS, Q.C.: So if you take **page 12 of**
30 **12 of IC-202** and you take the CP at the customer meter ...
31 wait now, first of all we need the, oh, the megawatt hours,
32 sales at customer meter.

33 MR. BROCKMAN: Okay.

34 MS. HENLEY ANDREWS, Q.C.: Wait now. I just need to
35 make sure that I'm comparing it to the same thing that I did
36 before.

37 MR. BROCKMAN: They're not, by the way ...

38 MS. HENLEY ANDREWS, Q.C.: No. The energy at the
39 generator is what I used before, the number I used before,
40 from IC-1-A.

41 MR. BROCKMAN: Okay.

42 MS. HENLEY ANDREWS, Q.C.: So if you take the
43 4,602,195 megawatt hours ...

44 MR. BROCKMAN: Okay.

45 MS. HENLEY ANDREWS, Q.C.: ... and if I tell you that ...
46 and we divide it by the number of hours in the year ...

47 MR. BROCKMAN: Alright.

48 MS. HENLEY ANDREWS, Q.C.: ... then, and then divide
49 that again by the peak, the coincident peak, which is nine
50 eight-nine two eighty ...

51 MR. BROCKMAN: Okay.

52 MS. HENLEY ANDREWS, Q.C.: ... the load factor works
53 out to be 53.11.

54 MR. BROCKMAN: I don't have a calculator but I'll accept
55 that subject to your math.

56 MS. HENLEY ANDREWS, Q.C.: And the load factor that
57 we worked out before was 53.12.

58 MR. BROCKMAN: Okay.

59 MS. HENLEY ANDREWS, Q.C.: So they're basically the
60 same ...

61 MR. BROCKMAN: Yes.

62 MS. HENLEY ANDREWS, Q.C.: ... for both 1992 and 2002.

63 MR. BROCKMAN: According to those calculations they
64 do appear to be about the same. Now ... okay.

65 MS. HENLEY ANDREWS, Q.C.: Now, Newfoundland
66 Power has projected new peak and new energy and
67 updated their projections since that time in Revision No. 2,
68 and I can tell you that, based upon the revised numbers,
69 the load factor would be 55.2 percent rather than the 53.11,
70 but that's not a significant change, would you agree?

71 MR. BROCKMAN: Well, there hasn't been a tremendous
72 amount of change even looking at the raw numbers. It's
73 just that demand has gone down slightly and energy has
74 gone up slightly, so I don't know on a percentage basis of
75 the load factor how much change I would expect. I
76 certainly wouldn't expect it to jump from 52 to 60 or
77 something like that, but there should be some change if the
78 numbers we looked at were correct.

79 MS. HENLEY ANDREWS, Q.C.: But you would agree with
80 me based upon Newfoundland Power's original forecast
81 and based upon the data for 1992 versus 2002, which we
82 just looked at, 53.12 percent and 53.11 percent are virtually
83 the same.

84 MR. BROCKMAN: They're very close, yes.

85 MS. HENLEY ANDREWS, Q.C.: Now, can we go to the
86 second supplemental, **your second supplemental**
87 **testimony**?

88 MR. BROCKMAN: Yes.

89 MS. HENLEY ANDREWS, Q.C.: And **page six, lines 14 to**

1 17.

2 MR. BROCKMAN: Okay.

3 MS. HENLEY ANDREWS, Q.C.: You make the comment in
4 your evidence that Mr. Osler appears to have overlooked
5 the fact that the industrial customers have received several
6 decreases in rates relative to Newfoundland Power since
7 1992.

8 MR. BROCKMAN: Yes.

9 MS. HENLEY ANDREWS, Q.C.: What possible relevance
10 does that have?

11 MR. BROCKMAN: Well, Mr. Osler's, I think, point in all of
12 this was that he expected there to be a big, you know, more
13 of a spread or a large spread between Newfoundland
14 Power's currently proposed rates and industrials' currently
15 proposed rates, and he based, he had a lot of logic in his
16 original evidence, talking about why he thought that was
17 true, so I thought I would go in and do it a slightly different
18 way and look at what the rate increases had been since
19 1992 and I did that in Exhibit LBB-5 and it appears to me
20 that when you do it that way and take that into account,
21 you'll find a 16.2 percent current spread between where
22 they were in '92 and where they were today, so that's why
23 I did that and why I think that's relevant.

24 MS. HENLEY ANDREWS, Q.C.: The issue though has
25 nothing to do with the spread between Newfoundland
26 Power and the industrial customers, isn't that right?

27 MR. BROCKMAN: Well, the issue to me, when I read Mr.
28 Osler's evidence, does, he makes implications any, or says
29 he's troubled by the fact that the spread, and that's my
30 interpretation of his evidence. I'd have to let Mr. Osler
31 speak for himself as to what he meant, but when I read his
32 evidence he seemed to be saying something was wrong
33 because the spread somehow didn't increase more than
34 what he thought it should and that's the way I interpreted
35 his evidence and this is why I did this calculation. I didn't
36 find anything wrong with the spread.

37 MS. HENLEY ANDREWS, Q.C.: Okay. Well let's just
38 explore that a little bit.

39 MR. BROCKMAN: Okay.

40 MS. HENLEY ANDREWS, Q.C.: And let's look in particular
41 at your **LBB-5**.

42 MR. BROCKMAN: Okay.

43 MS. HENLEY ANDREWS, Q.C.: And you reference, the
44 first thing that you reference is a reduction of six percent
45 for 1993, correct?

46 MR. BROCKMAN: Yes.

47 MS. HENLEY ANDREWS, Q.C.: And you recall that there
48 was a rate hearing in 1992 for Newfoundland Power. In
49 other words, Hydro had a rate hearing to increase its rates
50 to Newfoundland Power, correct?

51 MR. BROCKMAN: Correct. They had a rate hearing. I
52 don't show ...

53 MS. HENLEY ANDREWS, Q.C.: Well, you testified there.

54 MR. BROCKMAN: Yes.

55 MS. HENLEY ANDREWS, Q.C.: Okay. And as part ... the
56 industrial customers' rates were not regulated by the Board.
57 We've already established that.

58 MR. BROCKMAN: That's correct.

59 MS. HENLEY ANDREWS, Q.C.: And, but the industrial
60 customers did participate in the rate hearing.

61 MR. BROCKMAN: Yes.

62 MS. HENLEY ANDREWS, Q.C.: Now, you don't know
63 what caused that rate decrease in 1993, do you?

64 MR. BROCKMAN: No, I don't.

65 MS. HENLEY ANDREWS, Q.C.: I put it to you, Mr.
66 Brockman, that the decreases occurred because the
67 industrial customers, having participated in the rate hearing
68 in 1992, felt that they were being over-charged.

69 MR. BROCKMAN: Okay.

70 MS. HENLEY ANDREWS, Q.C.: And let's take a look at
71 **CA-2**.

72 MR. O'RIELLY: Is that the report?

73 MS. HENLEY ANDREWS, Q.C.: Pardon me? CA-2 is, no,
74 not the report. It's the cost of service.

75 MR. O'RIELLY: Which is not available (inaudible).

76 MS. HENLEY ANDREWS, Q.C.: Perhaps it should be **CA-**
77 **1**. Yeah, CA-1. Now, if you go to the, to **RAB-1**, which is
78 the cost of service, the forecast, 1992 forecast.
79 (10:30 a.m.)

80 MR. BROCKMAN: Okay. I'm lost. Where am I now?

81 MS. HENLEY ANDREWS, Q.C.: You're at CA-1.

82 MR. BROCKMAN: Yes. Okay.

83 MS. HENLEY ANDREWS, Q.C.: I can't find the page, so
84 we'll go to **NP-24, page one**. Mr. Chairman, I think it might
85 be a good idea to take our break a little bit earlier because
86 I can't find my page references, and if we took the break
87 now then I could sort that out and it would save us a lot of
88 time.

89 MR. NOSEWORTHY, CHAIRMAN: That's a very good
90 idea. Okay, we'll break for 15 minutes, 10 to.

1 (break)

2 (11:00 a.m.)

3 MR. NOSEWORTHY, CHAIRMAN: I'll ask you to
4 continue with your cross-examination, Ms. Henley
5 Andrews, please?

6 MS. HENLEY ANDREWS, Q.C.: Thank you, Mr.
7 Noseworthy. I was beginning to think I had perhaps lost
8 my mind, but while there may be others who think that I
9 have, over the break I have found the pages in the exhibits
10 that I was looking for. Let's to go **CA-1**, and it is a hard
11 copy that we have to go to. And if you go to the last
12 document in **CA-1**, or next from last document, it is the
13 report of the Board from the 1992 rate hearing, and in
14 particular I want to start at page 73, so it's at the back of the
15 binder. Page 73. You have that, Mr. Brockman?

16 MR. BROCKMAN: Yes.

17 MS. HENLEY ANDREWS, Q.C.: If you look at the
18 discussion at the bottom of page 73 on interest margin you
19 can see that the Board observes that prior to the 1990 rate
20 referral of Hydro the corporation had operated with a range
21 of interest margin of 1.15 to 1.25 times the gross interest?

22 MR. BROCKMAN: Yes.

23 MS. HENLEY ANDREWS, Q.C.: Okay, and if you go over
24 to the top of page 74, and the first paragraph, you can see
25 that in the 1990 hearing the Board recommended to
26 government a rate increase for 1990 only and revised the
27 interest coverage to 1.03 times gross interest and excluding
28 the Hydro rural interest?

29 MR. BROCKMAN: Yes.

30 MS. HENLEY ANDREWS, Q.C.: Now, my understanding
31 of interest margin is that it is a margin of profit, if you like,
32 which would cover not only the interest on the debt, but
33 also a margin of safety, so the interest plus a certain
34 percentage. Is that right?

35 MR. BROCKMAN: That's my understanding of it as well.

36 MS. HENLEY ANDREWS, Q.C.: Okay, so when you're
37 looking at an interest margin of 1.03 times gross interest,
38 what you're really talking about is 103 percent of the gross
39 interest?

40 MR. BROCKMAN: Yes.

41 MS. HENLEY ANDREWS, Q.C.: Now, if you go to page 93
42 of the decision under the conclusion ... do you have that?

43 MR. BROCKMAN: Yes.

44 MS. HENLEY ANDREWS, Q.C.: The interest coverage
45 approved for Hydro in the 1992 rate hearing was 1.08 times
46 the gross interest?

47 MR. BROCKMAN: It's the amount that's recommended. I
48 don't know whether government approved this or not, but
49 ...

50 MS. HENLEY ANDREWS, Q.C.: Well, I can tell you that
51 they did.

52 MR. BROCKMAN: Okay. It's what's recommended here,
53 yes.

54 MS. HENLEY ANDREWS, Q.C.: So based upon the pages
55 that we've just looked at prior to 1990 the interest coverage
56 approved was 1.15 to 1.25 times gross interest for the 1990
57 hearing, it went down to 1.03 times the gross interest, and
58 in 1992 it went up to 1.08 times the gross interest?

59 MR. BROCKMAN: Okay.

60 MS. HENLEY ANDREWS, Q.C.: Now, we can now go to
61 **NP-24** revised, and again, you're going to need the hard
62 copy.

63 MR. BROCKMAN: Okay, I have it.

64 MS. HENLEY ANDREWS, Q.C.: The second document is
65 called "A Submission to the Minister of Mines and Energy,
66 1992, Operating and Capital Budget".

67 MR. BROCKMAN: Okay.

68 MS. HENLEY ANDREWS, Q.C.: And if you go a little
69 further in you'll find a page which is numbered 1 at the
70 bottom and at the top it says "1992 Industrial Rates".

71 MR. BROCKMAN: Okay.

72 MS. HENLEY ANDREWS, Q.C.: And you see in the ... do
73 you have that?

74 MR. BROCKMAN: Yes.

75 MS. HENLEY ANDREWS, Q.C.: In the second paragraph?

76 MR. BROCKMAN: Yes.

77 MS. HENLEY ANDREWS, Q.C.: It says "Our current
78 estimate is that if rates stay the same we can still earn an
79 interest cover of about 1.18 on our industrial sales."

80 MR. BROCKMAN: Yes.

81 MS. HENLEY ANDREWS, Q.C.: And then it talks about
82 some risks?

83 MR. BROCKMAN: Yes.

84 MS. HENLEY ANDREWS, Q.C.: And that 1.18 interest
85 coverage contrasts to the 1.08 approved by the Board for
86 Hydro in the 1992 rate hearing that we just referred to,
87 correct?

88 MR. BROCKMAN: Yes.

89 MS. HENLEY ANDREWS, Q.C.: And if you go to 19 ... if

1 you go back to the beginning of **NP-24** and we'll see a
2 document called "Newfoundland and Labrador Hydro, 1993
3 Industrial Rate Recommendation". It's right after the
4 question page, the very first page.

5 MR. BROCKMAN: My book doesn't seem to have that.

6 MS. HENLEY ANDREWS, Q.C.: Okay. It's **NP-24** revised.

7 MR. BROCKMAN: Oh, **NP-24** revised. Maybe I need the
8 revised **NP-24**.

9 MS. HENLEY ANDREWS, Q.C.: It's a three page
10 document. Now, unless it's at the very end. We shoved
11 ours in at the beginning.

12 MR. BROCKMAN: Perhaps it's at the end of ours. Okay,
13 we have it now.

14 MS. HENLEY ANDREWS, Q.C.: Does everybody have the
15 document? It's entitled **NP-24** revised, "Newfoundland
16 and Labrador Hydro, 1993 Industrial Rate
17 Recommendation".

18 MR. NOSEWORTHY, CHAIRMAN: Just give us one more
19 moment, please.

20 MS. HENLEY ANDREWS, Q.C.: Are we alright there?

21 MR. NOSEWORTHY, CHAIRMAN: Yeah, we have it.
22 Thank you.

23 MS. HENLEY ANDREWS, Q.C.: Mr. Brockman, we just
24 discussed on the 1992 one that the interest coverage ratio
25 for the industrial customers in 1992 was 1.18 times, and you
26 can see, in the 1993 ... and that was the first decrease, the
27 six percent decrease that we talked about earlier, right?

28 MR. BROCKMAN: Correct.

29 MS. HENLEY ANDREWS, Q.C.: You can see, from **NP-24**
30 revised, that the second paragraph says "It's proposed that
31 industrial rates for 1993 would be based on an interest
32 coverage of 1.15."

33 MR. BROCKMAN: Correct.

34 MS. HENLEY ANDREWS, Q.C.: So you can see that the
35 second sentence it says "This will result in an average
36 decrease in rates from the existing 1992 rate structure of six
37 percent."

38 MR. BROCKMAN: Correct.

39 MS. HENLEY ANDREWS, Q.C.: So you would agree that
40 the reduction in 1993 was as a result of a reduction in the
41 forecast interest coverage for the industrial customers?

42 MR. BROCKMAN: Well, a rate reduction which results in
43 a lower interest coverage, yes.

44 MS. HENLEY ANDREWS, Q.C.: And you go to the third
45 paragraph?

46 MR. BROCKMAN: Okay.

47 MS. HENLEY ANDREWS, Q.C.: It says, "An interest
48 coverage of 1.15 on industrial customers is higher than the
49 targeted coverage of 1.075 on which Newfoundland
50 Power's rates are set."

51 MR. BROCKMAN: Correct.

52 MS. HENLEY ANDREWS, Q.C.: So you can see from that
53 that Hydro was projecting to ... or is forecasting a bigger
54 profit on its industrial rates than on the Newfoundland
55 Power rates?

56 MR. BROCKMAN: Yes.

57 MS. HENLEY ANDREWS, Q.C.: Now, when you go to
58 1994, and there is a green sheet, the first green page, and
59 then if you go past the second green page you will get to
60 Hydro's 1994 operating and capital budget?

61 MR. BROCKMAN: 1995?

62 MS. HENLEY ANDREWS, Q.C.: 1994.

63 MR. BROCKMAN: Oh. Thank you. Okay.

64 MS. HENLEY ANDREWS, Q.C.: Now, 1994 was the year in
65 which there was the 2.3 percent decrease in rates as shown
66 on **LBB-5**?

67 MR. BROCKMAN: I believe that's correct.

68 MS. HENLEY ANDREWS, Q.C.: And you can see that
69 from page 1 of the document the top of the page is marked
70 "Newfoundland and Labrador Hydro, 1994, Industrial Rate
71 Recommendation"?

72 MR. BROCKMAN: Correct.

73 MS. HENLEY ANDREWS, Q.C.: From paragraph 2, that for
74 1994 they're proposing that the industrial rates be based on
75 an interest coverage of 1.16?

76 MR. BROCKMAN: Yes.

77 MS. HENLEY ANDREWS, Q.C.: Which is, in fact, a little
78 higher than the 1.15 that we just saw used for 1993?

79 MR. BROCKMAN: Yes.

80 MS. HENLEY ANDREWS, Q.C.: And is still in the range of
81 1.15 to 1.25 times interest coverage, which is what the
82 Board had approved for Hydro prior to 1990?

83 MR. BROCKMAN: That's correct.

84 MS. HENLEY ANDREWS, Q.C.: And if you look at page 2
85 the report indicates that the interest coverage of 1.16 on the
86 industrial customers is higher than the targeted coverage of
87 1.075 on which Newfoundland Power's rates were set in
88 1992 and higher than the 1994 forecast interest coverage for
89 Newfoundland Power of 1.12?

- 1 MR. BROCKMAN: Yes.
- 2 MS. HENLEY ANDREWS, Q.C.: So the 2.3 percent
3 reduction in 1994 was achieved, even with a very slight
4 increase in the interest coverage on the industrial
5 customers, correct, from 1.15 to 1.16 from 1993?
- 6 MR. BROCKMAN: The interest coverage is higher. I
7 assume there was a revenue requirement that possibly ... so
8 I hadn't checked that. I mean, a rate, when you design rates
9 you have to look at, you know, revenue requirements
10 divided by billing determinants, but I'm assuming the rate
11 also probably followed that. I don't know that off the top
12 of my head.
- 13 MS. HENLEY ANDREWS, Q.C.: And you don't know what
14 went on between Hydro and the industrial customers to get
15 those decreases, do you?
- 16 MR. BROCKMAN: I don't believe we were privy to that,
17 no.
- 18 MS. HENLEY ANDREWS, Q.C.: Okay, and when you look
19 at the decreases you can see that, notwithstanding the
20 decreases, the industrial customers were contributing a
21 greater percentage to profit than Newfoundland Power?
- 22 MR. BROCKMAN: Yes, their coverage ratios were higher
23 according to these documents.
- 24 MS. HENLEY ANDREWS, Q.C.: Okay, and that's even
25 after the decreases?
- 26 MR. BROCKMAN: Yes.
- 27 MS. HENLEY ANDREWS, Q.C.: Now, when you go back
28 to **LBB-5**, the next decrease that's shown for the industrial
29 customers is 10.7 percent in 2000?
- 30 MR. BROCKMAN: Correct.
- 31 MS. HENLEY ANDREWS, Q.C.: And is it your
32 understanding that that is as a result of the elimination of
33 the requirement of the industrial customers to contribute to
34 the rural deficit, or do you know?
- 35 MR. BROCKMAN: I know that was part of it. I think that's
36 all of it, but I don't think we had a rate case so that was
37 probably all of it.
- 38 MS. HENLEY ANDREWS, Q.C.: Or, in fact, it was
39 approved by the Board, in fact?
- 40 MR. BROCKMAN: Right, right, right, so I think you're
41 right, it's all of it.
- 42 MS. HENLEY ANDREWS, Q.C.: And that elimination of
43 the industrial customer contribution was required by
44 statute, correct?
- 45 MR. BROCKMAN: Correct.
- 46 MS. HENLEY ANDREWS, Q.C.: And are you aware that
47 the statute, in fact, which was enacted in 1996, provided
48 that the subsidy was to be phased out gradually over a
49 period to December 31st of 1999?
- 50 MR. BROCKMAN: I vaguely remember something of that
51 nature, but I don't know the details of it.
- 52 MS. HENLEY ANDREWS, Q.C.: But, as indicated in your
53 **LBB-5**, there was no reduction in the industrial customer's
54 rates in the period from 1996 to 1999, right?
- 55 MR. BROCKMAN: There certainly was none indicated on
56 **NP-24**, which is where these numbers came from.
- 57 MS. HENLEY ANDREWS, Q.C.: So when you look at your
58 evidence, your second supplemental testimony, would you
59 agree that there is nothing that indicates an inappropriate
60 reduction in the rates charged by Hydro to the industrial
61 customers?
- 62 MR. BROCKMAN: No, I've never alleged that there was
63 anything inappropriate in these reductions. I don't think I
64 have anyway. I hope I haven't alleged that.
- 65 MS. HENLEY ANDREWS, Q.C.: Okay, so let's take a look
66 at page 7 of your supplementary evidence, and at line 16
67 there's a question, "Are there any other significant items
68 that help explain the relative allocation of proposed
69 increases."
- 70 MR. BROCKMAN: Yes.
- 71 MS. HENLEY ANDREWS, Q.C.: And I understand that
72 your second supplemental evidence is in response to Mr.
73 Osler's evidence, correct?
- 74 MR. BROCKMAN: Partially, yes.
- 75 MS. HENLEY ANDREWS, Q.C.: Okay, and, in particular,
76 am I correct that this section of your second supplementary
77 evidence is in response to Mr. Osler's statement that he
78 would have expected a different result in terms of the rate
79 increases?
- 80 MR. BROCKMAN: Yes.
- 81 MS. HENLEY ANDREWS, Q.C.: You would agree that the
82 elimination of the industrial customers' contribution to the
83 deficit would be expected to impact Newfoundland Power
84 and Hydro's other customers?
- 85 MR. BROCKMAN: Yes.
- 86 MS. HENLEY ANDREWS, Q.C.: By increasing their costs?
- 87 MR. BROCKMAN: Well, increasing the amount they pay.
88 I guess we've quibbled over whether those are really costs
89 or not, but ...
- 90 MS. HENLEY ANDREWS, Q.C.: Okay, but increasing the
91 amount they pay?

- 1 MR. BROCKMAN: Yeah.
- 2 MS. HENLEY ANDREWS, Q.C.: Well, I've always agreed
3 with you that it's a tax.
- 4 MR. BROCKMAN: Yes.
5 (11:15 a.m.)
- 6 MS. HENLEY ANDREWS, Q.C.: And although the deficit
7 ... although the industrial contribution to the deficit was
8 eliminated in 2000, at that time it was, that portion was not
9 reallocated to the other customers, is that also your
10 understanding?
- 11 MR. BROCKMAN: That's my understanding.
- 12 MS. HENLEY ANDREWS, Q.C.: Now, the implementation
13 of the 1993 cost of service methodology would also impact
14 the customers, correct, Hydro's customers?
- 15 MR. BROCKMAN: Yes, if you instituted those changes
16 you would reallocate costs.
- 17 MS. HENLEY ANDREWS, Q.C.: Okay, so if you moved
18 from the interim methodology to the new methodology
19 there would be an impact on customers' costs, some
20 positive, some negative?
- 21 MR. BROCKMAN: Yes.
- 22 MS. HENLEY ANDREWS, Q.C.: And similarly, if you look
23 at the three percent rate of return on equity, which Hydro
24 is proposing in this hearing, which we understand is the
25 equivalent of a 1.08 times interest coverage that's in
26 Hydro's evidence?
- 27 MR. BROCKMAN: Okay.
- 28 MS. HENLEY ANDREWS, Q.C.: And if the industrial
29 customers had been paying rates based upon 1.16 interest
30 coverage they would also expect a savings on their
31 contribution to profit, correct?
- 32 MR. BROCKMAN: If you base them exactly at what we call
33 parity or 100 percent of cost, yes. We oftentimes have a
34 range of returns, as you've just pointed out, on coverage
35 ratios between classes, so you know, but, yes, if you set
36 them right at cost you would probably expect it.
- 37 MS. HENLEY ANDREWS, Q.C.: Okay. Can we take a look
38 at **IC-1(j)**? And if you go to Schedule 1.2.
- 39 MR. BROCKMAN: Okay.
- 40 MS. HENLEY ANDREWS, Q.C.: It's page ...
- 41 MS. BUTLER, Q.C.: I'm sorry, could you repeat the page
42 number for me, please?
- 43 MS. HENLEY ANDREWS, Q.C.: It's page 2 of 88.
- 44 MR. BROCKMAN: Oh, 2 of 88 on Schedule 1.2?
- 45 MS. HENLEY ANDREWS, Q.C.: Yes. It's **IC-1(j)**.
- 46 MR. BROCKMAN: Oh.
- 47 MS. HENLEY ANDREWS, Q.C.: Schedule 1.2 is page 1 of
48 6, but in the document as a whole it's page 2 of 88.
- 49 MR. BROCKMAN: Okay, I'm with you. Okay.
- 50 MS. HENLEY ANDREWS, Q.C.: You would agree that 1999
51 was the last year that the industrial customers contributed
52 to the deficit, because we know that it was eliminated in
53 2000.
- 54 MR. BROCKMAN: That sounds correct.
- 55 MS. HENLEY ANDREWS, Q.C.: Do you have page 1 of 6
56 of Schedule 1.2?
- 57 MR. BROCKMAN: Yes.
- 58 MS. HENLEY ANDREWS, Q.C.: Okay. If you look under
59 column 5 you can see that the island industrial contribution
60 to the deficit is \$4.105 million?
- 61 MR. BROCKMAN: Yes.
- 62 MS. HENLEY ANDREWS, Q.C.: So that is roughly the
63 amount which you would expect had been eliminated from
64 their rates?
- 65 MR. BROCKMAN: That sounds reasonable.
- 66 MS. HENLEY ANDREWS, Q.C.: Okay. Now, if you go ...
67 if we look at the implementation of the 1993 generic cost of
68 service versus the interim methodology ... first of all, I'd like
69 to go to **IC-90**, and that one actually might be available on
70 the screen. Okay, no, it's not.
- 71 MR. BROCKMAN: Okay.
- 72 MS. HENLEY ANDREWS, Q.C.: You can see from the
73 question, it says, "Provide the 2002 forecast cost of service
74 using the interim cost of service classifications and
75 allocations approved by the Board in 1992." Correct?
- 76 MR. BROCKMAN: Yes.
- 77 MS. HENLEY ANDREWS, Q.C.: And it says "Assume the
78 same assignments as in the 2002 forecast."
- 79 MR. BROCKMAN: Yes.
- 80 MS. HENLEY ANDREWS, Q.C.: So this is the interim
81 methodology, would you agree?
- 82 MR. BROCKMAN: Yes.
- 83 MS. HENLEY ANDREWS, Q.C.: And if you look at
84 Schedule 1.1.
- 85 MR. BROCKMAN: Okay.
- 86 MS. HENLEY ANDREWS, Q.C.: Page 1 of 6.

- 1 MR. BROCKMAN: Okay.
- 2 MS. HENLEY ANDREWS, Q.C.: The allocated cost of
3 service before deficit allocation in column 3 for the island
4 industrial customers.
- 5 MR. BROCKMAN: Yes.
- 6 MS. HENLEY ANDREWS, Q.C.: Is \$51,915,389?
- 7 MR. BROCKMAN: Yes.
- 8 MS. HENLEY ANDREWS, Q.C.: You might want to write
9 that down.
- 10 MR. BROCKMAN: Okay.
- 11 MS. HENLEY ANDREWS, Q.C.: And you also might want
12 to take a note that the allocated costs of service before
13 deficit allocation for Newfoundland Power is \$192,661,979?
- 14 MR. BROCKMAN: Okay.
- 15 MS. HENLEY ANDREWS, Q.C.: And now if we could go
16 to **IJ-18**? And also Schedule 1.2, page 1 of 6. Do you have
17 that?
- 18 MR. BROCKMAN: Yes.
- 19 MS. HENLEY ANDREWS, Q.C.: Okay, and if you look
20 again at column 3.
- 21 MR. BROCKMAN: Okay.
- 22 MS. HENLEY ANDREWS, Q.C.: And this particular exhibit
23 relates to the use of the generic methodology approved in
24 1993, you'll see that the cost of service before deficit and
25 revenue credit allocation for the industrial customers is
26 \$48,450,084?
- 27 MR. BROCKMAN: I'm sorry, what page are we on again?
- 28 MS. HENLEY ANDREWS, Q.C.: Page 3 of 104. It's 18,
29 revision 2 and it's B.
- 30 MR. BROCKMAN: Yeah, I think I'm there. Okay. What
31 was your number again?
- 32 MS. HENLEY ANDREWS, Q.C.: \$48,450,084.
- 33 MR. BROCKMAN: Okay.
- 34 MS. BUTLER, Q.C.: Sorry, I'm not there.
- 35 MS. HENLEY ANDREWS, Q.C.: It's **IC-18**, revision 2,
36 subparagraph B, as in Bob, page 3 of 104.
- 37 MR. BROCKMAN: And could you characterize for me one
38 more time what this cost of service study is supposed to
39 represent?
- 40 MS. HENLEY ANDREWS, Q.C.: If you go back to ... if we
41 could put up on the screen the questions for **IC-18**,
42 revision 2.
- 43 MR. BROCKMAN: Okay.
- 44 MS. HENLEY ANDREWS, Q.C.: And you can see it says,
45 "Provide a table which shows the following for each of the
46 years 1994 to 2000, inclusive, assuming the implementation
47 of a cost of service methodology approved in the Public
48 Utilities Board's 1993 report." So what we're talking about
49 is the 1993 approved generic cost of service methodology,
50 and if you go to the answer down below, instead of
51 providing a table Hydro attached the 2002 test year generic
52 methodology which is B. Do you see that reference on
53 page 2 of 2, the top?
- 54 MR. BROCKMAN: Yes.
- 55 MS. HENLEY ANDREWS, Q.C.: Okay, so if you ... so the
56 table that I asked you to look at is the 2002 generic
57 methodology, and we're going to compare it to the 2002
58 cost of service study using the interim methodology, which
59 is what we talked about before from **IC-90**.
- 60 MR. BROCKMAN: Right, okay.
- 61 MS. HENLEY ANDREWS, Q.C.: So if you go to column 3,
62 which is the same column on Schedule 1.2, page 1 of 6.
- 63 MR. BROCKMAN: Okay.
- 64 MS. HENLEY ANDREWS, Q.C.: Which is the same column
65 that we referred to on **IC-90**.
- 66 MR. BROCKMAN: Right.
- 67 MS. HENLEY ANDREWS, Q.C.: Then the cost of service
68 before deficit and revenue credit allocation to the island
69 industrial customers is \$48,450,084?
- 70 MR. BROCKMAN: Right.
- 71 MS. HENLEY ANDREWS, Q.C.: Which, if you subtract
72 that from the \$51,915,389 shown in **IC-90**, which I had
73 asked you to write down.
- 74 MR. BROCKMAN: Right.
- 75 MS. HENLEY ANDREWS, Q.C.: Would indicate that the
76 industrial customers were expecting savings of \$3.46
77 million?
- 78 MR. BROCKMAN: Between these two cost of service
79 studies?
- 80 MS. HENLEY ANDREWS, Q.C.: Yes.
- 81 MR. BROCKMAN: Yes. Now, I take it that the second one
82 is not supposed to include the deficit allocation to the
83 industrials?
- 84 MS. HENLEY ANDREWS, Q.C.: That's correct, but what
85 you can see is that that's why I've used column 3 instead of
86 column ...
- 87 MR. BROCKMAN: Right. I just wanted to make sure I

1 understand what I'm looking at.

2 MS. HENLEY ANDREWS, Q.C.: That's right. Because
3 we've already looked at the deficit.

4 MR. BROCKMAN: Right.

5 MS. HENLEY ANDREWS, Q.C.: And the impact of that is
6 roughly \$4 million?

7 MR. BROCKMAN: That's what we expected, roughly, yes.

8 MS. HENLEY ANDREWS, Q.C.: Okay, and what we were
9 expecting, roughly, from the interim to the generic cost of
10 service for the industrial customers is roughly \$3.46
11 million?

12 MR. BROCKMAN: Yes.

13 MS. HENLEY ANDREWS, Q.C.: Okay. Now ...

14 MR. BROCKMAN: One thing I might ... well, go ahead. I
15 might point out to you is those two cost of service studies
16 don't appear to have been done with the same revenue to
17 cost credit for industrials.

18 MS. HENLEY ANDREWS, Q.C.: I didn't do the documents,
19 I'm just comparing.

20 MR. BROCKMAN: Okay, but I ...

21 UNKNOWN SPEAKER: Neither did he.

22 MR. BROCKMAN: Neither did I.

23 MS. HENLEY ANDREWS, Q.C.: No.

24 MR. BROCKMAN: But I'm just looking at the one you had
25 me take the 51,915 from and looking over at the revenue to
26 cost coverage for the industrials ... I'm sorry.

27 MS. HENLEY ANDREWS, Q.C.: That would be after deficit
28 ... the numbers are going to change, right?

29 MR. BROCKMAN: Well, if the industrials ... let's see.
30 Yeah, okay. I'm not sure that they have the same revenue
31 to cost ratio, but perhaps they do. They certainly have
32 different numbers, but you're right, maybe the deficit is
33 changing the numbers on the coverage. I'd have to look at
34 that a little more closely.

35 *(11:30 a.m.)*

36

37 MS. HENLEY ANDREWS, Q.C.: When we go to your
38 evidence on page 8.

39 MR. BROCKMAN: Okay.

40 MS. HENLEY ANDREWS, Q.C.: The second supplemental
41 evidence.

42 MR. BROCKMAN: Okay.

43 MS. HENLEY ANDREWS, Q.C.: I indicate that because
44 energy costs make up a larger ... that's lines 11 to 14.

45 MR. BROCKMAN: Right.

46 MS. HENLEY ANDREWS, Q.C.: Indicate that because
47 energy costs make up a larger percentage of the total costs
48 for industrial customers an increase in the cost of No. 6 fuel
49 will have a greater impact on them than on Newfoundland
50 Power. What is that dollar impact?

51 MR. BROCKMAN: I didn't calculate the dollar impact, but
52 I'm just saying in general since they use more energy
53 relative to demand I would expect them to have a ... get
54 more of a share of fuel increases than Newfoundland Power
55 would. I could calculate it, but I haven't done it.

56 MS. HENLEY ANDREWS, Q.C.: So you don't know
57 whether Mr. Osler's assumption that he would have
58 expected a smaller increase for the industrial customers
59 than for Newfoundland Power is correct or not?

60 MR. BROCKMAN: Well, I tried to follow Mr. Osler's
61 argument, which is why I did my tables, because when he
62 made the allegation, you know, it's an allegation worth
63 looking into, so I tried my best. I couldn't follow
64 everything Mr. Osler said, so I tried to do it a different way.
65 He doesn't point out, at least that I found, where all of the
66 errors that ... there would have to be errors in the cost of
67 service study or omissions or something and I just wasn't
68 able to follow all of that so I tried to do it a different way,
69 but no, I don't know exactly all the ... I don't follow Mr.
70 Osler's argument completely so I can't approve it or
71 disprove it, other than the way I've tried to do it.

72 MS. HENLEY ANDREWS, Q.C.: Okay. Well, we've just
73 talked about three of the potential components, and one is
74 that the elimination of the deficit from the industrial
75 customers and transferring a portion of that ... and
76 transferring that to the other customers would have had a
77 reducing impact for the industrial customers, correct?

78 MR. BROCKMAN: Yes.

79 MS. HENLEY ANDREWS, Q.C.: And we've talked about
80 the fact that based upon the two cost of service
81 methodologies that we've looked at, that we would have
82 expected that an improvement of roughly \$3.5 million for
83 the industrial customers as a result of the implementation
84 of the 1993 cost of service methodology, correct? We just
85 went through that.

86 MR. BROCKMAN: Yes, if you're starting with those
87 revenue requirement ... interest coverage ratios.

88 MS. HENLEY ANDREWS, Q.C.: And if you reduce the
89 interest coverage ratio, or if you use a three percent rate of
90 return on equity, which is the equivalent of a 1.08 times
91 interest coverage, and you ... and if the industrial

1 customers had been contributing roughly 1.15 or 1.16, then
2 you would also expect some dollar amount?

3 MR. BROCKMAN: If you reduce someone's coverage ratio
4 you would certainly expect their rates to go down.

5 MS. HENLEY ANDREWS, Q.C.: Okay, so when you
6 indicate in your evidence at page 7, that there are
7 significant items that help explain the relative allocation of
8 the proposed increases you haven't actually done the
9 detailed analysis to ...

10 MR. BROCKMAN: No. I based my analysis on **NP-24** and
11 the relative reductions that the industrials had gotten
12 relative to NP since 1992, that's what I did and that's the
13 basis of my evidence.

14 MS. HENLEY ANDREWS, Q.C.: Those are all my
15 questions. Thank you, Mr. Brockman.

16 MR. BROCKMAN: Thank you.

17 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
18 Henley Andrews. Thank you, Mr. Brockman. We'll move
19 now to Consumer Advocate, Mr. Browne, please?

20 MR. BROWNE, Q.C.: Thank you, Mr. Chairperson. Mr.
21 Brockman, you'll be pleased to know that because of the
22 previous examinations we have a limited number of areas
23 which to examine you on, which should facilitate getting
24 you off the hot seat and getting our own expert, Mr.
25 Bowman, on later this afternoon.

26 MR. BROCKMAN: I'm sure Mr. Bowman is looking
27 forward to it.

28 MR. BROWNE, Q.C.: Yesterday you made a
29 recommendation concerning the Rate Stabilization Plan,
30 and on page 28 of the transcript, lines 22 to 34 we see
31 references to that. If we can go to that for a moment,
32 please, sir?

33 MR. BROCKMAN: Okay.

34 MR. BROWNE, Q.C.: Okay, and you say there "My
35 principal recommendation was that the cap on the
36 residential part of the RSP not be raised above 50 million.
37 Hydro is asking for it to be raised to 100 million, of course,
38 without some sort of review, and I guess I suggested at
39 various times, although I didn't fully develop the thought,
40 that there be some sort of possibility a mini hearing and a
41 filing before that overage would be allowed to be
42 recovered. I recommend that Hydro be allowed to book the
43 numbers in their accounting books so that they could be,
44 you know, recovered if they were shown to be prudent and,
45 you know, advisable to the Board. I don't think I've
46 changed that recommendation in my subsequent filings."
47 Now, the cap of \$50 million that you're saying the RSP not
48 be raised above \$50 million, in your first sentence, on what

49 are you basing the price of fuel, are you basing it at \$28 a
50 barrel, the forecast price, or \$20 a barrel, as Hydro is
51 proposing in dealing with that \$50 million cap?

52 MR. BROCKMAN: I would ... in these particular instances
53 I was, in response of my evidence, anyway, I was looking
54 at where I thought it might come out. I mean, I really don't
55 know where the number will come out in 2002 because we
56 don't really know what the price of oil is, but I think \$20 is
57 probably pretty close to what I would say the price of oil
58 might average out to be in 2002 and I would probably want
59 to put it about \$20 with this 50 million. I say that only
60 because the way I would base the price of oil, the way I
61 would base the price of oil for 2002 is I would probably look
62 at something like the futures market. If you looked at, say,
63 the futures market for Brant Crude or some other factor like
64 that that you thought was close to the ... I think Hydro
65 testified that the price of their Bunker C followed the price
66 of Brant, and I think I looked at it the day before yesterday,
67 and in fact, I looked at it again yesterday, and in almost
68 every month in the year 2002 on the market the futures
69 markets is valuing Brant Crude at somewhere around 19 to
70 \$20 a barrel, so at such time as, you know, this thing is over
71 with and we get ready to set it that's probably about where
72 I would set it, and given that number, I would probably be
73 happy with the 50 million, so 20 and 50, yes, I think that's a
74 rough ball park for the numbers, but I don't know the exact
75 numbers yet.

76 MR. BROWNE, Q.C.: But if the forecast price that Hydro
77 is coming before this Board remains at \$28.00, or \$26.00, or
78 \$25.00, at the close of this proceeding, are you still
79 suggesting to the Board that they base the price of fuel at
80 \$20.00 a barrel?

81 MR. BROCKMAN: Well, if at this close of this proceeding
82 the futures market is still valuing oil at \$20.00 a barrel for
83 every month for 2002, then I guess I would ask a lot of
84 questions as to why Hydro's forecast would be \$28.00. I
85 would want to get that number as close as possible to the
86 price of oil, what I thought it was really going to be.

87 MR. BROWNE, Q.C.: So you think we should be dealing in
88 real numbers as opposed to phoney numbers.

89 MR. BROCKMAN: Well, I don't want to call them phoney
90 numbers but, because I don't think that that's what we're
91 dealing with here. I mean Hydro certainly has reasons for
92 their forecasts and so on, but my firm, for instance, uses oil
93 forecasts every day. We do a lot of market price
94 forecasting and profitability analysis for independent
95 power generators in the United States. That's principally
96 what we do in our Cambridge office where I am, and we use
97 the (inaudible), the DRI, and all of those other, the EIA, all
98 of these standard forecasting houses for long-run gas, oil,
99 and coal prices, and we adjust them, of course, for our

1 judgement, but for the first two or three years out, we
2 believe the futures market is a much more accurate predictor
3 of what the price of fuel might be, because those are people
4 that have billions and billions of dollars at stake, and
5 they're buying and selling, you know, these futures all the
6 time, and that's what the futures market thinks oil is going
7 to be, right now, I mean today, so at such time as ...

8 MR. BROWNE, Q.C.: And is Hydro making its proposal on
9 the basis of the futures market?

10 MR. BROCKMAN: I really don't know what they're basing
11 their fuel forecast on to tell you ... I haven't really reviewed
12 their fuel forecast.

13 MR. BROWNE, Q.C.: But you have reviewed the futures
14 market?

15 MR. BROCKMAN: I've looked at it, and I'm not an expert
16 in all of that. It could .. I've looked at what the prices are.
17 It's well known to the public, it's something that's on the
18 public ...

19 MR. BROWNE, Q.C.: So can you undertake to file what
20 you discovered when you looked at it in reference to the
21 futures market over the next couple of years?

22 MR. BROCKMAN: Sure, yeah, we could do that.

23 MR. BROWNE, Q.C.: And that would be on Bunker C fuel?

24 MR. BROCKMAN: Well, Bunker C isn't traded in the
25 futures market, all I can give you is crude oil, like Brant
26 (*phonetic*).

27 MR. BROWNE, Q.C.: And why isn't Bunker C traded in the
28 futures market?

29 MR. BROCKMAN: I don't know. It just isn't.

30 MR. BROWNE, Q.C.: Is it because it's, it's not the same
31 commodity as Bunker, as Brant?

32 MR. BROCKMAN: No, it's not the same commodity.
33 Bunker C is what's left over after they crack the crude and
34 take gasoline and kerosene and all those other things out
35 of it. They aren't exactly the same price. There is some
36 relative price difference between them, but I'm simply
37 basing what I said on, I think one of Hydro's witnesses said
38 they thought it followed the price closely so ...

39 MR. BROWNE, Q.C.: And isn't it true that there wouldn't
40 be the same quantity of Bunker C in the market at any time,
41 as there would be for Brant crude?

42 MR. BROCKMAN: Yeah, that's true because it depends on
43 how much you crack in the refinery, you make gasoline out
44 of ... and you know, so on and so forth.

45 MR. BROWNE, Q.C.: So if it's not the same, in the same
46 quantity or in the same supply, why would you base your

47 projection on Brant crude?

48 MR. BROCKMAN: Well, because Hydro's fuel expert
49 witness said that they thought it followed closely the price
50 of crude oil on the world market.

51 MR. BROWNE, Q.C.: Now where you're saying Hydro is
52 asking for it to be raised to \$100 million without some sort
53 of review, and I guess I suggested at various times,
54 although I didn't fully develop the thought, that there be
55 some sort of possibility of a mini-hearing. At what point
56 will we have a mini-hearing? You're suggesting they not go
57 above \$50 million without a mini-hearing. When would the
58 mini-hearing be held?

59 MR. BROCKMAN: Okay, the way I believe this works now
60 is at the end of the year there's, you know, Hydro knows
61 how much over the, you know, the \$50 million they would
62 be, and then they make a filing, they would make a filing,
63 let's say ... I think the thing is adjusted and then it begins
64 to be recovered, I don't remember if it's June or July of the
65 next year, but it's based upon last year's accounting
66 numbers, so I suppose I would have a hearing perhaps, the
67 mini-hearing would probably occur, maybe in May. We
68 know what the numbers were, we have the little mini-
69 hearing to look at why they were what they were, and then
70 the Board approves them or disapproves them, possibly
71 even re-bases oil prices in the RSP and they institute ... but
72 the months aren't magic. It would certainly be sometime
73 after the year in which this thing occurred.

74 MR. BROWNE, Q.C.: And where would the price of fuel go
75 in the interim? What kind of latitude would you give
76 Hydro? Would you allow them to go to the \$100 million?

77 MR. BROCKMAN: No, not without an approval. It's a
78 backward looking thing. It's based upon what happened in
79 the last year, but I might, I guess to answer your question,
80 and maybe I didn't answer that question well. If the price
81 of oil in the going forward year was \$40.00 a barrel, let's
82 say, instead of \$20.00, I might re-base it to a different
83 number than the historical number. The historical recovery
84 would be done after the fact, or the recovery would, of
85 course, have to be done after the fact. Re-basing the price
86 could be done based on the current futures, and the prices,
87 let's say in May, or Hydro's forecast, depending on what
88 the Board decided was the best way to put oil into the RSP.

89 MR. BROWNE, Q.C.: So based on what you're saying, we
90 could have a hearing in May, but we might have one
91 sooner than that, say if the price of fuel took off or was as
92 Hydro is suggesting, by 2002 of December ... they're
93 suggesting it will reach \$100 million according to the
94 forecast, and I don't see any evidence coming forward
95 changing that forecast thusfar.

96 MR. BROCKMAN: Yeah, I would never preclude ... if there

1 was ... I mean that would be sort of in the nature of an
2 emergency if you will, if things have really gotten out of
3 control, I would say that, you know, Hydro should have
4 the right to file for something like that. Things are really
5 getting out of control, we desperately need to recover this
6 money and apply to the Board and let's see what's going on
7 and see what should be done.

8 MR. BROWNE, Q.C.: So it's your recommendation there
9 would be ongoing hearings of one, two, or three days, in
10 which these players would come here to determine ...

11 MR. BROCKMAN: Well, I anticipate the hearings perhaps
12 occurring, hopefully only once a year and not ongoing. I
13 wouldn't have one every month. I think the price of oil isn't
14 quite that volatile, although it's certainly possible that you
15 could have a spike in one year where you might want an
16 emergency hearing. We did that when I worked for the
17 Florida Commission. We had a regular schedule for fuel
18 adjustment hearings but there were time when things got
19 completely out of control and we needed to do something,
20 and the utilities would appeal to the Board and say we want
21 to re-base the price of oil or gas and so on in our fuel
22 adjustment charge, and we would have a little mini-hearing
23 on that issue alone and settle the issue.

24 MR. BROWNE, Q.C.: If you go for a moment to CA ... I
25 think it was IC actually, **IC-22**, and IC-22 provides the
26 average cost in US dollars of No. 6 fuel in each of the years
27 1992 to 2000 inclusive, and the last column gives the dollar
28 amount in Canadian dollars, and you can see there if the
29 price of fuel was based in 1992 at \$12.50 ...

30 MR. BROCKMAN: Yes.

31 MR. BROWNE, Q.C.: It never went to \$12.50, did it?

32 MR. BROCKMAN: No, it ... well, I guess this is a historical
33 average of the price, if I'm interpreting the table right, then
34 it was \$11.69, so I guess it didn't get to \$12.50.

35 MR. BROWNE, Q.C.: Well that's in US dollars, I think, and
36 the \$12.50 we're talking in Canadian dollars.

37 MR. BROCKMAN: I'm sorry, no, no, it never dropped as
38 low as \$12.50 in Canadian dollars.

39 MR. BROWNE, Q.C.: At what point do you believe, given
40 the fact that it never went to what it was based at \$12.50,
41 that Hydro should have come forward for a hearing to deal
42 with the fuel escalation costs? Do you have an opinion on
43 that?

44 MR. BROCKMAN: Well, it's the words should have that
45 causes me pause. You know, I think Hydro is certainly
46 obeying whatever regulatory rules we had at the time, and
47 I don't think there was anything sinister in their not coming
48 in, but certainly as I look at these price escalations, and the
49 fact that we were based at \$12.50, you know, perhaps if we

50 had had some sort of proposal where we did look at it every
51 year, we mightn't have gotten so far out of whack as we are
52 today.

53 MR. BROWNE, Q.C.: So you're not adverse to having a
54 proposal of some kind where you look at the price every
55 year.

56 MR. BROCKMAN: Oh no, I ...

57 MR. BROWNE, Q.C.: That may be the prudent thing to do
58 now.

59 MR. BROCKMAN: I think that's really what I'm
60 suggesting. I'm sort of leaving it up to either if they went
61 over the \$50 million or not, but I think that perhaps the
62 effect of that would be that you would have it every year,
63 and I'm not adverse to having a fuel adjustment hearing
64 every year either, but I haven't proposed that necessarily.

65 MR. BROWNE, Q.C.: But that's one of the possibilities,
66 that it would be based at a particular year.

67 MR. BROCKMAN: Yeah, it's a valid possibility and it's
68 used in many other jurisdictions, including the one I used
69 to work in.

70 MR. BROWNE, Q.C.: Well, and given that proposal, that
71 wouldn't be too much different than a fuel adjustment
72 charge based on averaging every six to twelve months,
73 something like that?

74 MR. BROCKMAN: That's right.

75 MR. BROWNE, Q.C.: You wouldn't be adverse to that?

76 MR. BROCKMAN: No, and now, of course, Hydro's
77 current RSP has both fuel and load and hydraulic
78 production in it, so whether you would roll all those in or
79 not, I don't know. The Board has probably got a lot of
80 flexibility on that and, you know, depending on how much
81 review the Board wants to have, they might look at all three
82 of those every year, or they might only look at fuel, or what
83 have you. It might be a good idea to look at all three, as
84 long as they're all three in the RSP.

85 MR. BROWNE, Q.C.: Would you agree with the statement
86 that the RSP as it's currently constituted disguises the
87 price, the true price of electricity for consumers?

88 MR. BROCKMAN: Well, I guess I'd want you to define
89 what you mean by disguises and what you mean by the
90 true price. Do you mean accounting price, do you mean
91 marginal cost, what do you mean by that, and what do you
92 mean by the word "disguises"?

93 MR. BROWNE, Q.C.: Well, I just mean the ordinary
94 dictionary meaning of the word "disguises", it doesn't give
95 a true reflection of the price of fuel to consumers.

96 MR. BROCKMAN: No, it tends to smooth out huge

1 increases and decreases in the price to consumers.

2 MR. BROWNE, Q.C.: So it doesn't give a proper price
3 signal, is that a fair comment?

4 MR. BROCKMAN: It doesn't give a proper price signal in
5 sort of an economist's view of the world that we always see
6 the price and we always react to it. It certainly gives a
7 proper price in the legal sense of the word, and perhaps in
8 the sense of the customers really don't want to see the
9 volatility that the economic price would send to them, then
10 ...

11 MR. BROWNE, Q.C.: But from a consumer's perspective,
12 can you see how consumers may be confused out there if
13 it's an incorrect price signal that they're following the
14 delayed charge in reference to the price of fuel?

15 MR. BROCKMAN: Well, I'm not so sure that consumers
16 are ... I hate to say they're not sophisticated, because they'll
17 at least figure out what we're trying to do to them, but, you
18 know ...

19 MR. BROWNE, Q.C.: It's a good way you put that.

20 MR. BROCKMAN: Even if consumers did see the ... even
21 if consumers did see these price spikes and these price
22 decreases in the price of oil every month, I don't know how
23 they would interpret that, so I don't know what they would
24 do, you know, if we were to start jerking the price of oil
25 around every month.

26 MR. BROWNE, Q.C.: Two days ago, it was November
27 28th, we had a letter presented to this Board by the Mayor
28 of one of our towns, the Town of Conception Bay South,
29 and it was considered a letter of comment, and I don't think
30 it was given a particular number, but I have additional
31 copies of it here now, and I just want to look at that for a
32 moment and see what the Mayor thought of, whether he's
33 been ... whether the price of fuel is disguised from his
34 perspective, and it's on the screen as well, I notice. Mr.
35 O'Rielly is always ahead of us, thank you. And this is a
36 letter of comment written on November 22nd, 2001, by the
37 Mayor of the Town of Conception Bay South, one of our
38 larger towns in this province.

39 MR. BROCKMAN: Correct.

40 MR. BROWNE, Q.C.: And the second sentence reads,
41 "The Town's position is that this rate increase is
42 unjustifiable, as oil prices have decreased significantly
43 since the application".

44 MR. BROCKMAN: That's correct.

45 MR. BROWNE, Q.C.: Now, being the Mayor of a town and
46 having, I guess, the Town officials behind him, you would
47 think that if anyone should know about the RSP, maybe
48 this mayor ought to?

49 MR. BROCKMAN: I'm not sure I'd go that far but I mean,
50 I don't know this person, so I don't know how much he
51 knows about the RSP and how much he doesn't.

52 MR. BROWNE, Q.C.: But you would agree with me that he
53 is confused, given the fact that the price of oil has come
54 down and gasoline prices have fallen in this province from
55 above 80 cents a litre some months ago, to 68.9 cents a litre
56 now, that he may be confused given the fact that Hydro's
57 application from the outset was based on variations and
58 fluctuations in fuel prices.

59 MR. BROCKMAN: He may very well be confused about
60 how these things operate. What I don't know was what
61 letter he would have written last year, had he had to absorb
62 all the increase in oil price in one month or so. He might
63 have written another letter saying that's unjustifiable so ...

64 MR. BROWNE, Q.C.: So you would have to concede
65 therefore, that at least in this instance that the Rate
66 Stabilization Plan is causing some confusion for this
67 particular individual.

68 MR. BROCKMAN: Yes, he doesn't appear to understand
69 how it works. And perhaps, by the way, perhaps, you
70 know, even having something such as a hearing might go
71 some way to clear some of that up. People would know
72 that every year, you know, it would be publicly, there
73 would be more public over-sight, I guess, or I think the
74 Board already clearly has over-sight because they get the
75 reports, but it would be something that was more well
76 known, this is going to happen every year, and you know,
77 we're all reviewing these prices, so there might be more
78 press on it, and people might understand it better.

79 MR. BROWNE, Q.C.: On **page 30 of your transcript from**
80 **your testimony yesterday**, you give some more evidence in
81 reference to the RSP and you make reference to efficiencies
82 and inefficiencies, and the lack of incentive in reference to
83 the RSP and I refer you to line 60 of that testimony on page
84 30, and at the beginning of the line, you say, "However, I
85 would like to see more incentive put on Hydro to control
86 fuel costs and be more efficient with their hydraulic
87 generation as well as their thermal generation." Then you
88 say, "I am not saying they're inefficient, but there's sort of
89 an economic perspective of can we give them more
90 incentive than we have now so that the Board doesn't have
91 to look as hard all the time, and maybe Hydro goes on their
92 own and tries to become efficient". Now what is your
93 opinion? Are they efficient or inefficient?

94 MR. BROCKMAN: Well, I haven't done any sort of
95 examination as to whether or not Hydro is efficient or
96 inefficient. My assumption is that they're doing as good
97 a job as they know how, but from an economics
98 perspective, we oftentimes in the regulatory world like to
99 try to give people incentives, and the economic theory

1 there is that they might respond more to an economic
2 incentive than they would to us sort of looking over their
3 shoulder all the time and trying to figure out whether
4 they're being efficient or not, so ... I'll give you an example
5 of what ... well, two examples of what I'm talking about here.
6 Number one, if Hydro knew that they had to come in every
7 year, or in my proposal, I guess, when they go over the \$50
8 million they knew they had to come in, they knew they had
9 to justify to the Board and talk to the Board about why fuel
10 had gone up, why their hydraulic generation had changed,
11 what is the heat rate of their thermal units and so on and so
12 forth, I mean there would be questions asked about that.
13 It would tend to make them think about it and perhaps make
14 them more efficient. It might not. It might have no effect
15 on them at all. Maybe they're already as efficient as they
16 can be. I haven't done a study of that.

17 MR. BROWNE, Q.C.: Do you believe Hydro should set
18 targets to try to reduce the amount of Bunker C fuel that
19 they are burning at the Holyrood thermal generating
20 station?

21 MR. BROCKMAN: I would have to look at the details of it,
22 but I can tell you that the board or the commission that I
23 used to work for, eventually in our fuel adjustment, which
24 was, as I say, a regular proceeding once a year or once
25 every six months ... we changed it from time to time as to
26 how long it was, but we ended up eventually putting some
27 incentive regulation targets on the utilities and said, look,
28 if you can improve your heat rate a little bit at some of
29 these plants, if you can improve some of your purchasing
30 practices, we'll let you keep a little bit of that money. Now
31 they were investor-owned utilities as opposed to Hydro,
32 but we gave them a little bit of an incentive. We gave them
33 a little bit of that money. It didn't all go back to the
34 ratepayers, and I think, rates, in fact, did improve and so
35 their efficiency improved, so I think that that ...

36 MR. BROWNE, Q.C.: Did their consumption of oil
37 improve?

38 MR. BROCKMAN: Well, since you always have load
39 increases, it's difficult to say, you know, that perhaps their
40 generation burns didn't go down but maybe they beat the,
41 sort of, average price of oil on the world market by a certain
42 percentage of ...

43 MR. BROWNE, Q.C.: Sure, so there were incentive targets
44 that can be set at that source.

45 MR. BROCKMAN: Yeah, and what that does is to some
46 degree it frees the regulators from having to rely as much
47 on auditing and on being smarter than the utility, if you
48 will, to catch these little things, and it gives the utility a
49 reason to want to be more efficient.

50 MR. BROWNE, Q.C.: Now, across the page there, you

51 were asked concerning the demand energy rate and Ms.
52 Butler was putting a question to you there, and Ms. Janet
53 Henley Andrews put some questions to you in reference to
54 your change in position from the previous hearing, and you
55 give your justification there. You said, "I think I
56 recommended", and this is page 30, lines 1 and 2, "And I
57 think Mr. Paul Hamilton recommended it, and perhaps
58 several others, we found that it would create a lot of
59 volatility in Newfoundland Power's revenues, and their
60 financial people and their accounting people didn't
61 particularly like that volatility, so all things considered, we
62 decided that perhaps it wasn't as great an idea as it seemed
63 like at first". This is when you recommended the demand
64 component in a previous hearing.

65 MR. BROCKMAN: Correct.

66 MR. BROWNE, Q.C.: "It did have some advantages,
67 perhaps it better would signal the cost in short-run, and I
68 say short-run because Newfoundland Power does pay their
69 costs, the demand costs", and so on. Now it seems to me
70 from that response that your position is coming out of the
71 financial department of Newfoundland Power. Is that fair
72 comment?

73 MR. BROCKMAN: Well, yes, I mean that's where, that's
74 where the issue or the flag was first raised. I mean we
75 looked at this thing and from an economist's perspective,
76 from an economic perspective, as I testified before, the
77 demand energy rate is generally something that's well
78 accepted and well thought of, and but to be frank about it,
79 I suppose we didn't really think enough about the volatility
80 because if you look at, we'll say page 11 of my first
81 supplemental evidence where I look at what might happen
82 to Newfoundland Power, if we instituted the demand rate
83 that was being proposed at the time by Hydro in some of
84 these negotiations back and forth between the ... it starts
85 on, I guess on page 10, we found at that time with the rate
86 that was being proposed that, you know, a five percent
87 increase in the winter load for Newfoundland Power could
88 take them all the way out of their rate of return or earnings
89 range, and so that bothers financial people a lot because
90 that's a pretty big whack to absorb, and so that was
91 something that I think we probably didn't give enough
92 thought to.

93 MR. BROWNE, Q.C.: And if they were taken out of their
94 rate of return range, what is their options?

95 MR. BROCKMAN: They'd have to file a rate case.

96 MR. BROWNE, Q.C.: Sure, and is it fair comment to say
97 that James Bond Bright probably wouldn't reduce a
98 decision like that to what the financial people of a particular
99 utility said, whether there should be a demand charge and
100 an energy charge, the principles of Bond Bright.

1 MR. BROCKMAN: I don't think I would tar Bond Bright
2 with that at all. I mean Bond Bright had more principles
3 than efficiency. He had stability of revenue, you know, a
4 lot of issues as were pointed out in Mr. Hamilton's ... and I
5 guess the bottom line of this whole thing, this whole issue,
6 you know, that the Board has to struggle with is clearly
7 from an economic perspective, the demand energy rate
8 makes sense. It's whether or not the increased volatility to
9 Newfoundland Power and even to Hydro if we don't make
10 some adjustments into the RSP, does that volatility that we
11 would expose them to outweigh any sort of economic gains
12 we might expect from giving them a demand rate and
13 perhaps having them, you know, reduce their demand even
14 more, so I guess really to ...

15 MR. BROWNE, Q.C.: But Bond Bright would say they
16 should be given a demand and an energy rate, wouldn't
17 you say that?

18 MR. BROCKMAN: I don't know whether Bond Bright
19 would say that or not, because he has more than one
20 principle. I think he would consider all of these things.

21 MR. BROWNE, Q.C.: But Bond Bright wouldn't reduce it
22 to what the people at, the financial people at Newfoundland
23 Hydro and Newfoundland Power decided to come forward
24 with a position.

25 MR. BROCKMAN: He would consider all of the, all of the
26 opinions.

27 MR. BROWNE, Q.C.: Sure.

28 MR. BROCKMAN: The economics opinion, this opinion
29 and ...

30 MR. BROWNE, Q.C.: And he'd look to principles?

31 MR. BROCKMAN: Yeah, he would look at all of them.

32 MR. BROWNE, Q.C.: Okay, thank you. Now if
33 Newfoundland Power places emphasis on price stability, if
34 Hydro were to continue the Rate Stabilization Plan, is it
35 conceivable that Newfoundland Power, if it places so much
36 importance on the Rate Stabilization Plan, could implement
37 a plan of that nature for its own customers in its own right?

38 MR. BROCKMAN: Sure, they do have a form of a plan
39 now. It's not as extensive as Hydro's.

40 MR. BROWNE, Q.C.: The equal billing plan.

41 MR. BROCKMAN: Right.

42 MR. BROWNE, Q.C.: Can you tell us this, it's a final
43 question, I guess. How does Newfoundland Power allocate
44 distribution demand costs on the basis of coincident peak
45 or non-coincident peak?

46 MR. BROCKMAN: If my memory serves me correctly, they
47 do it on NCP.

48 MR. BROWNE, Q.C.: So a non-coincident peak.

49 MR. BROCKMAN: Yes, a non-coincident peak.

50 MR. BROWNE, Q.C.: And is that a proper reflection of the
51 cost driver for distribution systems in your opinion?

52 MR. BROCKMAN: I think it is, more so, clearly more so
53 than CP would be.

54 MR. BROWNE, Q.C.: And on what basis should Hydro
55 allocate its distribution demand costs, on coincident peak
56 or non-coincident peak?

57 MR. BROCKMAN: I mean, my ... in general I would answer
58 that question, non-coincident peak, and I would probably
59 have to look at the details of the exact system we were
60 allocating, but in general, NCP follows it better than CP
61 does.

62 MR. BROWNE, Q.C.: Do you recall any discussion of that
63 particular issue in the 1993 hearing?

64 MR. BROCKMAN: Yes, I recall it, I don't remember all that
65 was said anymore, but I do think it was discussed, and I
66 probably even talked about it. I think, something vaguely
67 in the back of my mind is we ended up saying that ... well,
68 I don't remember what we said anymore to tell you the
69 truth. '90 was a long time ago.

70 MR. BROWNE, Q.C.: Yeah, well that's why we have
71 transcripts.

72 MR. BROCKMAN: Yes.

73 MR. BROWNE, Q.C.: We have to keep track of what
74 everyone says. Thank you very much, Mr. Brockman.

75 MR. BROCKMAN: Thank you.

76 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
77 Browne. Thank you, Mr. Brockman. We'll move now to
78 Counsel's questions, Mr. Kennedy, please?

79 MR. KENNEDY: Thank you, Chair. Mr. Brockman,
80 Counsel for the Industrial Customers referred you to a
81 section in your **pre-filed testimony, the section supplement**,
82 at page 16, I believe it was. I'm making the same error now
83 as counsel for the Industrial Customers. I shouldn't follow
84 her down that path obviously. Just bear with me for a
85 second.

86 MR. BROCKMAN: Well, I'm there, so ...

87 MR. KENNEDY: Generally, it was a question concerning
88 your comments. In turn, your reply to the comments of Mr.
89 Osler regarding the, a comparison in the increases or
90 decreases in the rates paid by the industrial customers
91 versus Newfoundland Power, and was I gathering correctly
92 that irrespective of what the numbers were that this relates
93 to fairness somehow, that the respective customer groups

1 ... is it an implied assumption there that the respective
2 customer groups should be somehow locked-stepped with
3 each other in increases and decreases over years?

4 MR. BROCKMAN: Well, I don't know that it's exactly that.
5 Again, I probably shouldn't ... I probably shouldn't have
6 even tried to characterize Mr. Osler, but ...

7 MR. KENNEDY: But your reply to Mr. Osler, I guess ...

8 MR. BROCKMAN: My reply to Mr. Osler, the way I
9 understood his problem was, was that he felt that from, you
10 know, say 1992 until today's proposed increase that his
11 industrial customers should have gotten more of a decrease
12 relative to Newfoundland Power than what they got, and
13 that's all bound up in, if you read what he wrote, he says,
14 you know, we reserved (*phonetic*) at certain cost ratios
15 and, you know, beginning in '92 we were paying the rural
16 deficit, and I can't remember the other one, but there are
17 other, there were three things that he basically named, and
18 he said if I look at all three of those things, and I factor
19 them all into the Board's decisions since then, as well as
20 what's happened with respect to, you know, the
21 government's decision, and cost of service and so on, I
22 would have expected more of a difference today than what
23 Hydro is currently proposing, so it has fairness as a basis,
24 I suppose, you could argue, in terms of cost of service.

25 MR. KENNEDY: And as I understand it, your reply to Mr.
26 Osler's comments were in part pointing out that while the
27 industrial customers being high load factor customers
28 would expect to get hit with more of the increases that are
29 incurred in the energy part of Hydro's business, the
30 production of the energy as opposed to capacity?

31 MR. BROCKMAN: Yes, that's not, I don't think it's a major
32 part of it, but it's certainly a component of ...

33 MR. KENNEDY: One of the things you're pointing out to
34 indicate why the industrial customers might be expected to
35 receive an increase in greater proportion than the one
36 received by Newfoundland Power.

37 MR. BROCKMAN: Yes, because if fuel price ... fuel is
38 energy and, related to energy and as energy goes up, the
39 customers who have a higher percentage of energy
40 allocated to them than others get more of an increase.

41 MR. KENNEDY: And is it fair to say then that that in itself,
42 your pointing that out is indicating that there's a cost
43 causality connection that a customer of Hydro should be
44 expected to pay the cost that they are, that Hydro is
45 incurring in delivering whatever it is that Hydro delivers to
46 them?

47 MR. BROCKMAN: Yes, there are certainly some
48 boundaries around that in terms of the relative cost of
49 return ratios that the Board sets, but in general, that's what

50 we expect.

51 MR. KENNEDY: In your **first supplementary at page 6**,
52 and line 21, it's in response to the question there at line 16,
53 do you agree with Mr. Bowman's statement on page 9 that
54 stability is of lesser importance than the other criteria, i.e.,
55 revenue requirement, market efficiency, cost-based rates
56 and administrative practicality, and your answer is no. And
57 then your first sentence is, in my experience rate designers
58 probably spend the most of their time balancing fairness
59 and efficiency.

60 MR. BROCKMAN: Yes.

61 MR. KENNEDY: I'm wondering, are these then from your
62 perspective, competing objectives?

63 MR. BROCKMAN: They very oftentimes are.

64 MR. KENNEDY: Would that be only ...

65 MR. BROCKMAN: Because what you're talking about
66 there, just to sort of explain that a little bit.

67 MR. KENNEDY: Sure.

68 MR. BROCKMAN: Is the difference, usually is the
69 difference between a marginal outlook, a marginal cost
70 outlook, and an embedded cost outlook, and sometimes the
71 two don't give you the same numbers and you have to
72 balance those two things. To give you a real world example
73 of that, which is ...

74 MR. KENNEDY: Well, let's just ... can I just deal with it
75 conceptually first?

76 MR. BROCKMAN: Yes, go ahead, I'm sorry.

77 MR. KENNEDY: Conceptually, marginal cost, as I under ...
78 marginal cost theory, as I understand it, and as I think it's
79 been established through some previous witnesses, and if
80 you disagree with it ... I think you were here during that
81 time, so ... or maybe not actually, you weren't here last
82 week, were you, but maybe you've read the transcripts.

83 MR. BROCKMAN: I've read the transcripts.

84 MR. KENNEDY: Lucky you, so would you agree though
85 that your marginal cost at its essence is an attempt to match
86 price with cost?

87 MR. BROCKMAN: Well, so is embedded endeavours ...
88 it's a question of what the cost is. Marginal cost is an
89 attempt to ... marginal cost looks forward. It's what will
90 happen if I use another kilowatt, another kilowatt hour, add
91 another customer to the system, how will the costs on the
92 system change. Embedded costs have this test year that
93 says, here's this test year, and here's the cost we already
94 have, and how should we allocate them. They really don't
95 look much at how the costs will change. So one is forward
96 looking and one is backward looking, if you will.

1 MR. KENNEDY: Do you agree with me that prices should
2 vary with costs?

3 MR. BROCKMAN: Yes, but that, until you know what you
4 mean by costs, that's a meaningless statement.

5 MR. KENNEDY: Okay, so the let's say the cost is the cost
6 of Hydro to produce that incremental ...

7 MR. BROCKMAN: Okay, marginal costs.

8 MR. KENNEDY: The marginal costs, and if marginal cost
9 is an attempt to match the price to that marginal cost, if the
10 methodology employed is to attempt to set a price that
11 matches that marginal cost ...

12 MR. BROCKMAN: Marginal cost pricing, yes.

13 MR. KENNEDY: Is it your opinion then that that's not
14 always fair?

15 MR. BROCKMAN: It can be perceived as unfair. Different
16 people view fairness in a different way. Again, I could
17 probably give you a real world example that would clarify
18 that.

19 MR. KENNEDY: Well, perhaps a concrete example might
20 help us at this point, sure.

21 MR. BROCKMAN: One of the ways I like to think of that
22 is suppose you're going to buy a pizza and you go ...

23 MR. KENNEDY: Interestingly enough, that's what I'm
24 having for lunch, so go ahead. You have my attention
25 now.

26 MR. BROCKMAN: And you find that you go to the pizza
27 place and there's an economist in front of you in line and
28 he's about to buy a pizza, okay, and the price is \$10.00, but
29 they're having a buy one, get one free day. Now if he
30 would sell you his pizza, his marginal cost he'd be paying
31 would be zero, but a lot of economists, even economists
32 wouldn't necessarily think that was fair. I think a lot of
33 people would want you to pay him five bucks, and so you
34 can't always say that ... not everyone thinks marginal cost
35 is fair. Some people think if you use something, you ought
36 to pay something for it, whether it costs society anything
37 to produce that little incremental, that you use it or not, I
38 mean ... so there is, there is sometimes a conflict between
39 what people think is fair and what a marginal cost
40 economist would say is efficient, so there is oftentimes a
41 disconnect (*phonetic*).

42 MR. KENNEDY: Okay, and we might come back to the
43 pizza example after lunch. I just wanted to, before we go to
44 our own concrete examples, look to a passage that you
45 have in your **originally filed testimony**.

46 MR. BROCKMAN: Okay.

47 MR. KENNEDY: On page 5, and it's at line 21, and you
48 state there that the major, the major issues of cost
49 allocation were decided by this Board following the 1993
50 generic cost of service hearing, we should not now have to
51 retry most of them again any time soon.

52 MR. BROCKMAN: Yes.

53 MR. KENNEDY: Now just before asking you specifically
54 about that, is it fair to say that your opinion on the
55 wholesale rate design for Newfoundland Power has
56 changed in the intervening period from 1992 to today?
57 This is arising from cross-examination of counsel for the
58 Industrial Customers pointing out some evidence that you
59 provided in previous hearings in which on behalf of your
60 client at the time you were indicating support, I believe, for
61 a demand component to a wholesale rate.

62 MR. BROCKMAN: Yes, I ...

63 MR. KENNEDY: As I understand your testimony now it's
64 different than that, so, and without getting into the reasons
65 why, just the fact that it has changed in the intervening
66 period.

67 MR. BROCKMAN: Yes, because of the, well because of
68 the volatility issue, as I explained, we're no longer
69 necessarily wanting to have a demand rate, at least as it
70 was proposed to us in those negotiations.

71 MR. KENNEDY: Sure. So that's an example of a shift, if
72 you will, in the thinking of what makes sense today as
73 opposed to what made sense back in 1992/1993?

74 MR. BROCKMAN: Well to be truthful about it, it probably
75 didn't make sense in 1992 either, it's just that we didn't fully
76 understand the amount of volatility, and we, once we really
77 started looking at it really hard, we understood the
78 volatility, so I'm not sure that it wasn't always there, we just
79 didn't really understand it as well.

80 MR. KENNEDY: Okay, turning back to the statement there
81 at the bottom of page 5 at line 21.

82 MR. BROCKMAN: Okay.

83 MR. KENNEDY: I guess it sort of begs the question if it's
84 your indication that we shouldn't retry most of them any
85 time soon, of course the key word there is soon, and soon
86 means many different things to many different people, just
87 like fairness can.

88 MR. BROCKMAN: Right.

89 MR. KENNEDY: So we've had eight years go by, nine by
90 the time we put the actual cost of service methodology in
91 play again for the test year, so how often should the cost
92 of service methodology be examined in your opinion, and
93 is eight years or nine years too soon to do that?

94 MR. BROCKMAN: I think, well I don't know that I could

1 put a number on it, a year number on it. I guess the trigger
2 to me would be if the significant, the significant
3 characteristics, I suppose, of the system have changed a
4 lot. For instance, we no longer have, you know, 80 percent
5 hydro and now we're all of a sudden switched over and
6 we're 80 percent thermal maybe, and we're 20 percent hydro,
7 or we've interconnected the whole island with huge high
8 voltage transmission. I mean things like that have to be
9 always considered, but the hope in that ... I mean we spent
10 two weeks on that generic hearing here trying to sort of,
11 can we sort through some of these issues, and come to an
12 agreement, or at least have the Board come to a decision on
13 them, and the hope is that we don't have to do that every
14 time we have a rate case, otherwise that whole two weeks
15 was for naught, so I think it's more, and I think people are
16 still free, as they have in this proceeding, to raise those
17 issues if they think something has significantly changed.
18 For instance, to give you a concrete example, the GNP line
19 ...

20 MR. KENNEDY: I was just going to point that out.

21 MR. BROCKMAN: Yeah.

22 MR. KENNEDY: That's a fairly significant change in the
23 system.

24 MR. BROCKMAN: A very significant upgrade, you know,
25 an interconnection there, 138 kV, and so something, you
26 know, has changed.

27 MR. KENNEDY: And it has cost implications for all parties
28 that are here in this hearing.

29 MR. BROCKMAN: Yes, and so even though in that
30 proceeding, you know, I had one position on it, and I even
31 have a slightly different position on it today because the
32 underlying sort of system conditions change. But even so,
33 I don't think that means that we have to go through the
34 whole two weeks of generic cost of service hearing again.
35 I don't think anybody is trying to do that. We don't have
36 ... well, I hope not. I don't think we've had a lot of evidence
37 trying to change the way the Board allocates hydraulic
38 plant or that sort of thing. We haven't reopened that, or I
39 hope we haven't anyway, reopened those issues.

40 MR. KENNEDY: Chair, that's a good place to pause.

41 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
42 Kennedy. Enjoy your pizza and (inaudible). If you're going
43 to a two for one place you can bring me back the second
44 one at your marginal cost. *(laughter)* Thank you, we'll
45 reconvene ... thank you, Mr. Brockman ... at 2:00.

46 *(break)*

47 *(2:00 p.m.)*

48 MR. NOSEWORTHY, CHAIRMAN: Thank you and good

49 afternoon. Before we get started, Mr. Kennedy, are there
50 any preliminary matters?

51 MR. KENNEDY: I don't believe so, Chair, not this
52 afternoon. I don't think there is any reportings on
53 undertakings? No.

54 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, I do have
55 ... if there are none, I do have one issue I'd like to raise.

56 MR. NOSEWORTHY, CHAIRMAN: Sure.

57 MS. HENLEY ANDREWS, Q.C.: And that is that before the
58 break Mr. Kennedy seemed to be asking the witness
59 questions about the possibility of reviewing the cost of
60 service methodology, and in light of the Board's decision
61 in PU-25, 2000/2001, which was filed October 27th of 2000,
62 where the counsel agreed that the generic methodology is
63 still appropriate in the current day rate setting environment,
64 and that was our understanding at the hearing. I was just
65 wondering where Mr. Kennedy was going with that?

66 MR. KENNEDY: I'm not quite sure what document Counsel
67 is referring to. Obviously, a Board order, and when she
68 says counsel agreed with it, counsel at the time, I take it. I
69 have no knowledge of what she's speaking to, Chair. I
70 don't know if I had an opportunity to actually review the
71 document, that might ...

72 MS. HENLEY ANDREWS, Q.C.: It's the order which
73 ordered Hydro to file its general rate application no later
74 than May 1st of 2001, so it's the order that ordered Hydro
75 to bring its rate application in this matter.

76 MR. NOSEWORTHY, CHAIRMAN: It was the Board
77 order?

78 MS. HENLEY ANDREWS, Q.C.: It's the Board order. I
79 only have one copy of it, but if we could get it copied ...

80 COMMISSIONER SAUNDERS: Maybe I'm missing
81 something here, but I thought Mr. Kennedy was referring
82 to a future timeframe.

83 MR. KENNEDY: I ...

84 MS. HENLEY ANDREWS, Q.C.: And if he is, that's fine.

85 MR. KENNEDY: Yes, and I don't know if it's appropriate to
86 try to flush out counsel's line of questioning by asking
87 them where they're headed with the cross-examination,
88 counsel, unless there's something untoward being asked of
89 the witness. I can, however, say that the line of
90 questioning is in keeping with previous lines of
91 questioning that I've conducted of the other cost of service
92 experts concerning marginal cost theory and is also
93 consistent with the testimony of the Board's expert, Dr.
94 Wilson, who's clearly recommended that this board look to
95 marginal cost as an appropriate methodology that could be
96 used in the future, and if counsel wants to make

1 submissions in that regard, and any counsel for that matter,
2 then they're free to do so in their arguments, written and in
3 final summations. I don't think I'm, as stated previously,
4 making any representations that are being made on behalf
5 of the panel as to say a demarcation that's been indicated
6 previously.

7 MS. HENLEY ANDREWS: Mr. Chairman, I wasn't
8 intending to interrupt Mr. Kennedy's cross-examination.
9 The simple purpose of my question was that if my
10 understanding of the scope of the hearing is incorrect, and
11 my understanding is based upon the pre-hearing order that
12 I've just referred to, then I was just, would like to know that.

13 MR. ALTEEN: Mr. Chairman, if I might chime in, I was at
14 that pre-hearing and I'm aware of the order though I don't
15 have it in front of me, and I'd understood that the purpose
16 of the order was to ensure that Hydro came forward with a
17 cost of service based on the generic methodology, and
18 counsel had agreed to that and the Board had ordered that.
19 I think that Hydro has come forward with a cost of service
20 based on the generic methodology as ordered by the Board
21 and agreed to by counsel and from what I can see of what
22 Mr. Kennedy is asking, is are there other ways to look at it.
23 I think that's a fair question. In terms of whether the Board
24 might order a different approach into the future, I think
25 that's a fair result, possible result. Other than that I don't
26 think the Board can ... there's no marginal cost study before
27 the Board, so I don't think there's a material issue that the
28 Board is going to do something contrary to that order.
29 That would be my understanding or take on where we are
30 with that and I thought I'd just place that on the record.

31 MR. NOSEWORTHY, CHAIRMAN: I'll say that was my
32 recollection of it as well, that I think Mr. Kennedy was
33 looking at the line of questioning which is surrounding
34 options and certainly in no way to (inaudible) the
35 application that Hydro has brought forward on the generic
36 method, so that's my ... if you wish to raise, I guess, a
37 formal objection, we'll have to deal with it.

38 MS. HENLEY ANDREWS: Oh, no, no. I'm not raising ... I
39 was asking a question. It wasn't an objection.

40 MR. NOSEWORTHY, CHAIRMAN: Okay. So I'll ask Mr.
41 Kennedy to proceed.

42 MR. KENNEDY: Just, Chair, before I did, I didn't know if
43 the other counsels wanted to make comment, whether
44 Hydro wanted to ... it might be appropriate to do that in the
45 circumstances.

46 MS. GREENE, Q.C.: Mr. Chair, we have nothing to add to
47 the comments of Mr. Alteen and Mr. Kennedy.

48 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne?

49 MR. BROWNE, Q.C.: No, we have nothing further to add.

50 I think our view would be reflected in the comments of Mr.
51 Alteen.

52 MR. NOSEWORTHY, CHAIRMAN: Thank you. Mr.
53 Kennedy.

54 MR. KENNEDY: Thank you, Chair. Good afternoon, Mr.
55 Brockman.

56 MR. BROCKMAN: Good afternoon.

57 MR. KENNEDY: Did you have a good lunch?

58 MR. BROCKMAN: Yes, thank you.

59 MR. KENNEDY: I had pizza for lunch, Mr. Brockman, and
60 I saved you a piece of pizza. I have it here with me actually.
61 I can give it to you after we're finished. And my pizza was
62 a large pizza and it cost me \$14.51 tax included. There was
63 ten pieces in the pizza so it came out to \$1.41 (*sic*) a piece,
64 and I checked on a medium pizza, if I had to buy that, would
65 have been \$9.98 tax included and if it would have had six
66 pieces and it would have cost me \$1.66 per piece of pizza,
67 so can I for overly simplistic purposes assume that the
68 marginal cost of a piece of pizza is about 25 cents a piece?

69 MR. BROCKMAN: Sounds about right for that increment.

70 MR. KENNEDY: Okay. And would you agree then if I had
71 that large pizza and I was fortunate enough to have a two
72 for one sale happen while I was in there and I got that
73 second large piece of, or second large pizza for a penny, as
74 you were using in your example I believe, that the two
75 pizzas together would have cost me \$1.42 and I would have
76 got 20 pieces of pizza for the \$1.42, if I'm still in keeping
77 with your example.

78 MR. BROCKMAN: 14 ...

79 MR. KENNEDY: I'm sorry. It ...

80 MR. BROCKMAN: Well, you got 20 pieces of pizza for 14,
81 whatever the \$14 and something was.

82 MR. KENNEDY: Sorry, \$14.52, that's right.

83 MR. BROCKMAN: Right.

84 MR. KENNEDY: For 20 pieces of pizza.

85 MR. BROCKMAN: Right.

86 MR. KENNEDY: Now you were indicating, I think, in your
87 example that that last piece of pizza from the free piece of
88 pizza, you wouldn't sell that for a penny though, would
89 you, because that would break the causality between the
90 actual cost and then the price, right?

91 MR. BROCKMAN: Well, I might sell it for a penny. It just
92 depends on my sort of view, I guess, of efficiency versus
93 fairness.

94 MR. KENNEDY: But the price doesn't have anything to do

1 with the cost then really.

2 MR. BROCKMAN: No. Well, it has to do with ... the cost
3 of that second ten pieces in your example is a penny, right,
4 so, I mean, unless you want to sell them for a tenth of a
5 cent each, then it doesn't have anything to do with the
6 cost.

7 MR. KENNEDY: Well, the price of the second ten pieces
8 of the pizza was a penny but that ...

9 MR. BROCKMAN: Yes.

10 MR. KENNEDY: ... wasn't the cost to produce the second
11 pizza.

12 MR. BROCKMAN: It was your cost.

13 MR. KENNEDY: It was the cost to me.

14 MR. BROCKMAN: Yes.

15 MR. KENNEDY: That's right, but it wasn't the cost to
16 produce the pizza, wasn't one penny obviously.

17 MR. BROCKMAN: Not to the pizza place but to you it
18 was.

19 MR. KENNEDY: Right. But if I'm looking to sell, re-sell
20 that second pizza ...

21 MR. BROCKMAN: Yes.

22 MR. KENNEDY: ... and I wanted to reflect my true costs, I
23 would take into account the fact that I actually paid \$14.52
24 for 20 slices of pizza, wouldn't I?

25 MR. BROCKMAN: You might. It would somewhat depend
26 on your alternatives, I mean, whether there were other
27 markets for it, whether you wanted to eat it, whether you
28 could take it home. I mean, you certainly would take into ...
29 what you paid for it in the marginal sense is almost
30 irrelevant because, except for the penny. You paid a penny
31 for it in the marginal sense but the fact that you have an
32 embedded cost now of \$14 and something in the marginal
33 sense is irrelevant, so you ... I don't know that you would
34 take the \$14 into account except for perhaps a fairness
35 issue.

36 MR. KENNEDY: Can we just go to **your pre-filed** ...

37 MR. BROCKMAN: Sure.

38 MR. KENNEDY: ... **first supplementary evidence at page**
39 **seven and at line 22**, and this is in response to a question
40 about whether you agreed with Mr. Bowman's statement
41 that, concerning Newfoundland Power's wholesale rates
42 and that if they were properly designed to reflect marginal
43 supply cost it would not be necessary to look beyond the
44 wholesale rate design, and then at line 22 you say,
45 "Because of the uncertainty of the system expansion plans
46 of Hydro, there are difficulties in estimating the marginal
47 cost of demand." I just wanted it confirmed first that, is my
48 assumption correct that what you're referring to there is the
49 long-run marginal cost.

50 MR. BROCKMAN: Yes, and actually probably to be more
51 theoretically correct, I guess, we'd be talking about the
52 long-run incremental cost. Sometimes we use the word
53 marginal cost in this business, just means sort of short-run
54 marginal fuel cost, but here we're really talking about long-
55 run demand cost, so they would probably be calculated on
56 long-run incremental basis, but we're using the two terms
57 here sort of interchangeably I guess.

58 MR. KENNEDY: Okay. You continue on then with,
59 "However, the short-run incremental cost of Holyrood is
60 4.59 cents per kilowatt hour," from **Request for Information**
61 **CA-179(iii)**, and the proposed energy rate only is 4.8 cents
62 per kilowatt hour.

63 MR. BROCKMAN: Right.

64 MR. KENNEDY: Given these circumstances one could
65 argue that the current wholesale is properly designed to
66 reflect marginal supply cost while recovering the revenue
67 requirement.

68 MR. BROCKMAN: Right.

69 MR. KENNEDY: So just so I understand it, you're
70 indicating that the 4.59 cents per kilowatt hour is the short-
71 run marginal cost for Hydro to produce energy.

72 MR. BROCKMAN: At least it was at the time CA-179 was
73 answered. I think the price has probably come down since
74 then.

75 MR. KENNEDY: I understand that that was based on a \$28
76 a barrel ...

77 MR. BROCKMAN: Right, right.

78 MR. KENNEDY: ... presumption.

79 MR. BROCKMAN: Right.

80 MR. KENNEDY: So at \$28 a barrel for No. 6, the marginal
81 cost of Holyrood is 4.59 cents a kilowatt hour.

82 MR. BROCKMAN: Yes.

83 MR. KENNEDY: Okay. And NP's, or Newfoundland
84 Power's energy rate is 4.8 cents a kilowatt hour so it reflects
85 this marginal cost, short-run marginal cost.

86 MR. BROCKMAN: Yes.

87 MR. KENNEDY: Now as I understand it, the total amount
88 of energy sold by Hydro in the run of a year is somewhere
89 in the order of 6.3 gigawatt hours.

90 MR. BROCKMAN: It sounds about right.

91 MR. KENNEDY: Okay. And if we were to take that

1 Holyhood short-run marginal cost of 4.59 cents a kilowatt
2 hour and we were to multiply it by the 6.3 gigawatt hours,
3 you come up with a number of \$290 million?

4 MR. BROCKMAN: I'll accept your math.

5 MR. KENNEDY: Now, that's not far off of the revenue
6 requirement of Newfoundland and Labrador Hydro, is it?

7 MR. BROCKMAN: I don't remember exactly off the top of
8 my head what the revenue requirement is, total revenue
9 requirement in the test year, but ...

10 MR. KENNEDY: I think the total revenue requirement is in
11 the order of \$320 million.

12 MR. BROCKMAN: Okay. So it's close then.

13 MR. KENNEDY: So I'm using just as an example, if we were
14 to use the Holyhood short-run marginal cost of 4.59 cents
15 a kilowatt hour and we were to just charge that out as a,
16 based on a marginal cost theory, we would get quite close
17 to the overall revenue requirement of Hydro.

18 MR. BROCKMAN: Yeah, and that's essentially what you're
19 doing with Newfoundland Power. They're a very large
20 customer. Their average, if you will, probably pretty much
21 make the average up of the system, and you charge them
22 that cost in a fit (phonetic).

23 MR. KENNEDY: And you could use a demand component
24 to the rate structure to make up for any variation between
25 what the overall revenue requirement actually is and then
26 the \$290 million that you derive just by simply using the
27 marginal cost for Holyhood.

28 MR. BROCKMAN: I'm sorry, could you ...

29 MR. KENNEDY: Well, if the total revenue requirement for
30 Hydro is, just assume, \$320 million, and we, Hydro could
31 raise or generate \$290 million worth of revenue just by
32 charging out a marginal cost, 4.59 cents a kilowatt hour ...

33 MR. BROCKMAN: Yeah.

34 MR. KENNEDY: ... based on Holyhood's marginal, short-
35 run marginal cost, then the difference, the \$30 million, you
36 could derive that \$30 million just by adding a demand
37 component to the rate structure.

38 MR. BROCKMAN: You could, a demand and/or customer
39 charge.

40 MR. KENNEDY: And customer charges, correct. Would
41 you agree that that methodology would send a reasonable
42 pricing signal to the market?

43 MR. BROCKMAN: Before you could answer that question
44 you really would have to look at one other piece of the
45 puzzle, that piece being what's the marginal cost of demand.
46 I mean, that ... where it's a long-run incremental cost of

47 demand, I guess I should say, is ... you don't necessarily
48 just want to, for long-run efficiency, you don't necessarily
49 just (inaudible) short-run marginal cost although some
50 economists would argue that's the best thing to do. Others
51 say because customers are making investment decisions all
52 the time, we ought to reflect back sort of that next plant
53 that's being built, if you will. This number doesn't really do
54 that. And so you might want to also take a look at what, in
55 terms of dollars per KW, what would it cost me to add
56 another peaker to the system or something like that, and I
57 don't remember what that number is, we've looked at that
58 number at various times, but you might want to see where
59 the number that you got from your calculation comes down
60 with respect to that number, because what generally
61 happens is you can't set everything to marginal cost so in
62 many cases you're required to make a choice between is
63 demand growth more important to you, is energy growth
64 more important to you, what's more important to you if you
65 have to ... you can only collect the embedded revenue
66 requirement, the \$320 million, so you may have to do a bit
67 of juggling, so it's hard to answer that question without
68 looking also at the incremental cost of demand.

69 MR. KENNEDY: And I guess if you try to build in the
70 incremental cost of demand, those long-run issues related
71 to capacity, it's sort of the case of the best laid plans, isn't
72 it, because something can come along and completely
73 disrupt your theory of what the long-run marginal cost
74 might be.

75 MR. BROCKMAN: Yes, and that's why I say it's sometimes
76 difficult to know what Hydro's plans might be in the long
77 run. I mean, we've talked at various times about expansion
78 at Churchill Falls, building a line and things like that.

79 MR. KENNEDY: And for instance there was, at one point
80 ...

81 MR. BROCKMAN: Yeah.

82 MR. KENNEDY: ... as has been the testimony of Mr. Wells,
83 Hydro was grappling with the possibility of having to build
84 a 200 megawatt generating station in order to satisfy the
85 power demands of a smelter ...

86 MR. BROCKMAN: Right.

87 MR. KENNEDY: ... related to the Voisey's Bay
88 development.

89 MR. BROCKMAN: Right. So there are always a lot of
90 questions you have to answer about that.

91 MR. KENNEDY: And that came up on the horizon rather
92 quickly. It's not something that you could have built into
93 a long-run marginal cost structure because no one knew for
94 sure whether that was even in the offing at any point in
95 time.

1 MR. BROCKMAN: Yeah. There are always more
2 difficulties ... the short-run marginal energy cost, which is
3 what we've talked about here with the 4.59 cents. It's
4 always easy to calculate. It's just the heat rate of these
5 (inaudible) units that are on the margin times the fuel cost.
6 It's a very simple number, the heat rate being, you know,
7 how many (inaudible) you use per kilowatt hour you burn.
8 That's a pretty simple thing to calculate but the other one
9 is always more controversial and much more difficult to
10 calculate.

11 (2:15 p.m.)

12 MR. KENNEDY: And so the ... it's simple if, from ... at least
13 from a short-run perspective it sends a reasonable price
14 signal, you'd agree with me that far, would you?

15 MR. BROCKMAN: From a short-run perspective it sends
16 a very good price signal and in fact, as I say, many
17 economists would argue that that's even the right price
18 signal to send all the time. It tends to let people know
19 what, at least in this year, what's the price of using another
20 kilowatt hour in the marginal sense even.

21 MR. KENNEDY: And you'll agree with me then as well that
22 if, for instance, that was a methodology that was employed,
23 it would obviate the need for allocations related to cost of
24 service on an embedded basis. There's no need for us to
25 do a functionality and classification of all the embedded
26 assets of Hydro, the embedded cost of Hydro.

27 MR. BROCKMAN: If you converted everything, the
28 customer cost, the demand cost, the energy, you know, all
29 of the costs into marginal costs or long-run incremental
30 costs, then you could simply, you'd still have to make some
31 adjustments for things like losses. Different classes create
32 different losses. You'd have to look at, you know, where
33 people were served and ...

34 MR. KENNEDY: Seasonal variation.

35 MR. BROCKMAN: Some things like that but, sure, you
36 could create a ... you know, and we have done that before.
37 You could create a completely marginal cost base rate.
38 You'd still eventually have to reconcile it back to the \$320
39 million as you ... but you could do that, and you would do
40 ... I guess what you're alluding to is you'd certainly do your
41 cost of service study in a completely different way.

42 MR. KENNEDY: Mr. Brockman, I just want to turn to the
43 wholesale rate. Is it fair to say that your principal, chief
44 concern that you have with a demand structured wholesale
45 rate to Newfoundland Power would be the volatility that it
46 creates in the earnings of principally Hydro and also
47 potentially Newfoundland Power? That's your ...

48 MR. BROCKMAN: Yes. That's ... of course my client is
49 Newfoundland Power. I'm more concerned about the

50 volatility to them than I am to Hydro, but that's our chief
51 concern that we have over that rate design.

52 MR. KENNEDY: Sure, and there's been some questions
53 relating to that and you've provided some supplementary
54 evidence indicating that, and I think actually **your first
55 supplementary evidence, page 8 on to page 11**, we don't
56 need to read it but it gives a rationale of, if you will, and
57 some calculations relating to the calculation of that
58 volatility and what impact it could potentially have on
59 Newfoundland Power.

60 MR. BROCKMAN: Yes.

61 MR. KENNEDY: Okay. Isn't it the case though that the
62 reason that Newfoundland Power would sustain some
63 volatility in its earnings under a demand-structured
64 wholesale rate is because it in turn doesn't have a demand-
65 structured ... in other words, the pricing signals aren't being
66 sent back through now, that if it was properly structured
67 between Hydro and Newfoundland Power, that
68 Newfoundland Power would only sell what it buys and
69 therefore there wouldn't be earning volatility between, as
70 between the two companies.

71 MR. BROCKMAN: Well, one of the largest contributors to
72 that problem is that about 60 percent, I believe it is, of
73 Newfoundland Power's load is domestic, residential. Those
74 customers don't have demand charges and so, you know,
75 as the demand changes Newfoundland Power's costs
76 would change but they wouldn't necessarily get a
77 compensurate (phonetic) change in revenues from those
78 customers, and that's a large contributor of what creates the
79 volatility. I'm not sure if I answered your question on that
80 or not but that's ...

81 MR. KENNEDY: I think you may have actually.

82 MR. BROCKMAN: Okay.

83 MR. KENNEDY: Just to close off on that point, other than
84 the rationale that has been provided in response to direct
85 questions, I believe it was by the Consumer Advocate but
86 I could be corrected there, are there any studies that you're
87 aware of that have been conducted by Newfoundland
88 Power or Hydro that would quantify this volatility in
89 earnings that's being suggested in response to a demand-
90 related wholesale rate?

91 MR. BROCKMAN: There are none that, you know, that I'm
92 privy to. I won't say that none have ever been conducted
93 but I don't have any.

94 MR. KENNEDY: That's all the questions I have, Chair.
95 Thank you very much, Mr. Brockman.

96 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
97 Kennedy. Thank you, Mr. Brockman. We will move now
98 to redirect, Ms. Butler, if you would, please.

1 MS. BUTLER, Q.C.: Thank you, Mr. Chairman and Mr.
2 Brockman. The first issue I want to address stems from a
3 question from Mr. Browne in terms of the price of No. 6 fuel
4 which came earlier this morning.

5 MR. BROCKMAN: Yes.

6 MS. BUTLER, Q.C.: And you had indicated in relation to
7 the use of a price per barrel for the No. 6 fuel for utilization
8 in the Rate Stabilization Plan that you would probably use
9 the \$20 per barrel because that's what the crude, which Mr.
10 Osmond alluded was trading at a similar price, was trading
11 for based on a number of different forecasting houses.

12 MR. BROCKMAN: Just to keep the record clean on that,
13 he said he followed it closely, and I'm not exactly sure when
14 he said that that he meant it exactly the same price, so you
15 might have to make some adjustments to the NYMEX fuel
16 price but in general I think, after making those adjustments,
17 because Brant (phonetic) crude is not No. 6 delivered to
18 Holyrood, but after making those adjustments, yeah, I'd
19 probably be happy with setting it somewhere where the
20 futures prices were.

21 MS. BUTLER, Q.C.: And can you tell the Board, please, in
22 terms of the acronyms that you use, what is NYMEX?

23 MR. BROCKMAN: NYMEX stands for the New York
24 Mercantile Exchange.

25 MS. BUTLER, Q.C.: And you used a couple of other
26 acronyms as well, and what are they generally?

27 MR. BROCKMAN: I used the WEFAM (phonetic) and
28 DRI and EIA. Those are ... well, EIA is the Energy
29 Information Administration of the United States Federal
30 Government. They follow ... they have a web site and they
31 follow fuel prices of forecasts and energy forecasts and all
32 that. WEFAM and DRI are major economic forecasting
33 houses that most firms in the US use and Hydro may even
34 use them, you guys may even use them, I don't know.
35 They predict fuel prices. I don't remember what all the
36 acronyms stand for but ...

37 MS. BUTLER, Q.C.: And you've given an undertaking to
38 file with the Board later in the hearing perhaps some
39 information relative to what Brant (phonetic) crude is
40 trading at from ...

41 MR. BROCKMAN: Yes, on current NYMEX exchange.

42 MS. BUTLER, Q.C.: Okay. The only other point I wanted
43 to follow up with relates to **IC-286-E**, if we could see that,
44 Mr. O'Rielly, please, and this of course addresses a
45 question from Ms. Henley Andrews. The line of
46 questioning that we were concerning (*sic*), and as she
47 correctly pointed out, I think it was "C" and not "E." Yeah,
48 that's fine. Same page, just scroll down a bit. Thank you.
49 We're talking about the load variation component of the

50 RSP and there is **attached as "E" a letter in 1993**, if we
51 might go to that, Mr. O'Rielly, please. Thank you. And in
52 cross-examination, I believe it was this morning, she had
53 you read on page one a paragraph starting with "Fuel."
54 There you go. But to complete the picture, I wonder if you
55 could look at the second page of the letter to which you
56 weren't referred and just read the paragraph there on cost
57 sharing ratios and once you've done that, Mr. Brockman,
58 explain to us, please, what you take from that paragraph.

59 MR. BROCKMAN: It says, "(2) Cost sharing ratios. This
60 component reflects the changes in energy and NCP," and
61 NCP there of course stands for non-coincident demand
62 (*sic*), "during the month compared to the test year forecast.
63 In January the increases in energy for both NP and
64 industrials do not cause any significant change in the
65 energy ratios as both customer classes increase by
66 proportionately similar quantities. The major factor
67 resulting in a shifting of 361,000 to the industrial class was
68 the four megawatt increase in NCP."

69 MS. BUTLER, Q.C.: Okay. Now what do you take from
70 that paragraph as it relates to the line of cross-examination
71 which was in terms of the load variation component of the
72 RSP?

73 MR. BROCKMAN: Well, as I said, the letter appears to be
74 talking about making changes to both demand and energy
75 components in the cost of service study as these RSP
76 balances and allocations are re-calculated.

77 MS. BUTLER, Q.C.: Mr. Osler had testified that he did not
78 interpret load in the same way. Can I ask you whether in
79 fact this letter came as a surprise to you in terms of the load
80 as it was used in the RSP?

81 MR. BROCKMAN: Well, this letter didn't come as a
82 surprise to me, although I must confess, I didn't see this
83 letter in 1993, but I guess, you know, just, I've been
84 working with Newfoundland Power for quite a while and
85 we've sort of always, I've always been told that it's re-run
86 through the cost of service study and that's, I assume that
87 meant what this letter says.

88 MS. BUTLER, Q.C.: Mr. Chairman, those are my questions
89 on redirect, thank you.

90 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
91 Butler. We'll move now to Board questions, Commissioner
92 Powell, please.

93 COMMISSIONER POWELL: Thank you. Thank you, Mr.
94 Brockman. Just one on the RSP while we're there. My
95 understanding, they've changed going forward, the
96 allocation, the load in the new RSP, it's been changed. Do
97 you agree with that?

98 MR. BROCKMAN: I'm sorry, I'm not exactly sure what ...

1 COMMISSIONER POWELL: My understanding, the
2 allocation has been changed going forward.

3 MR. BROCKMAN: The allocation between classes you ...

4 COMMISSIONER POWELL: No. The calculation of the
5 load variation. The issue brought up by the industrial
6 customers, in my understanding that was changed going
7 forward.

8 MR. BROCKMAN: I think the load variation is, we just
9 looked at it, has always been run back through the cost of
10 service study and then re-calculated in there, so I'm not
11 completely sure ...

12 COMMISSIONER POWELL: You're not aware of any
13 changes in the RSP going forward then, what has been
14 done in the past.

15 MR. BROCKMAN: Nothing specifically comes to mind.

16 COMMISSIONER POWELL: Okay. One other thing,
17 (inaudible), when you start talking there about the price of
18 fuel, we've had a number of comments on hedging. Do you
19 have any views on that?

20 MR. BROCKMAN: I'm not an expert on hedging and
21 certainly not in my field. I mean, I know what it is, I know
22 that people spend a lot of money doing it, it's probably a
23 good idea in the sense of to protect yourself from, you
24 know, extreme swings in price, in prices, which is what you
25 would do with hedging. You know, for instance, if you
26 really thought the price of oil was going to go up to \$30 a
27 barrel next year and the futures right now are selling at \$19
28 (inaudible) \$20, you might buy some on an option, you
29 know, buy an option to buy them at ... that would be a form
30 of hedging. There are other ... you invest in something else
31 that sort of, so you get your money (inaudible), so I mean,
32 it's probably a good idea but I'm not an expert on it.

33 COMMISSIONER POWELL: So you have no experience if
34 other utilities have done it, wish they hadn't or wish they
35 had, stuff like that, or ...

36 MR. BROCKMAN: Well, many of my clients, my current
37 clients, which are really not utilities anymore, they're ... at
38 the present time most of my clients are independent power
39 producers in the United States. I mean, many of them
40 hedge their fuel contracts because they just about have to.
41 If they have a gas turbine that burns gas and they have a
42 fixed contract that they're serving someone at, they just
43 about have to have some insurance that if the gas prices go
44 through the ceiling, they're not going to get hurt, so they
45 might buy something else or buy an option and protect
46 them from that, so a lot of people do it. It can hurt or it can
47 help you. It's just like buying insurance. If you buy life
48 insurance, you don't die, you lost money, okay.

49 COMMISSIONER POWELL: But you don't have any

50 reference, any studies or things that you recommend to
51 Hydro to go and look and get some experience over the last
52 five, ten years?

53 MR. BROCKMAN: Well, I certainly think it's something
54 that Hydro's fuel people probably would want to look at.
55 They may already be doing it, I don't know.

56 COMMISSIONER POWELL: Yes. They've indicated they
57 are. I just ... I'm just wondering if you had some live
58 examples.

59 MR. BROCKMAN: Yeah. I think it's a good idea to look at
60 it because it's something that people do a lot.

61 COMMISSIONER POWELL: One of the comments you
62 made that sort of interests me in your testimony, you
63 mentioned that Newfoundland Power pays all their costs
64 and, well, it's not that I didn't expect them to be paying all
65 their costs but it sort of struck, the thought struck me was
66 Newfoundland Power are sort of cost driven in a sense that
67 the more cost energy they purchase from Hydro the more
68 revenue they generate, unlike the industrial customers, it's
69 the opposite. The more cost they incur, unless they can
70 save some costs somewhere else or increase revenue
71 somewhere else, it'll come off their bottom line. And I was
72 interested in the conversation yourself and legal counsel
73 had in terms of in the short-term marginal cost and these
74 sort of situations. Do you have any views on ... talked
75 about whether there should be a demand charge, but ...
76 because Newfoundland Power increased (inaudible) for
77 energy, which increased their costs (inaudible) recover, but
78 they're also potentially increasing Hydro's costs, so there
79 should be some sort of incentive for everybody, for
80 Newfoundland Power to reduce their energy needs but not
81 affect their bottom line, at the same time to help Hydro
82 control their costs. So is there sort of a medium in there
83 that everybody wins or is this another demand side
84 management type thing issue we have to look at?

85 (2:30 p.m.)

86 MR. BROCKMAN: Well, I think there, yeah, it's probably
87 ... demand side management probably is helpful in that, in
88 some of those senses. I mean, if you shared some of the
89 savings, for instance, with the, say the stock ... I guess
90 we're talking about Newfoundland Power's stockholders
91 when we talk about their earnings.

92 COMMISSIONER POWELL: We're also talking about the
93 rate payers as well.

94 MR. BROCKMAN: Sure, sure. I mean, there are other
95 jurisdictions that have instituted various kinds of incentive
96 regulation to try and, you know, give a small piece or let the
97 stockholders keep a small piece of anything they can do in
98 that respect or charge them more if they don't do it, but,
99 you know, I don't know that anything's really been

1 proposed in that sense. I think Newfoundland Power is
2 currently engaging in some demand side management.
3 They don't have a whole lot of demand shaving programs
4 other than their generation that I know of, but I think they
5 do have some conservation-oriented programs.

6 COMMISSIONER POWELL: We were told by a witness, I
7 can't remember how long ago but it seems a long time ago,
8 the question of demand side management came up and we
9 were, suggested that you have to be, look at it hard
10 because it can be fairly expensive to put ...

11 MR. BROCKMAN: Yes, it can be, and, I mean, it has been
12 looked at. It's not that they've never looked at it. I mean,
13 I've seen various ... there were some time of use studies
14 filed, there were some, there's been some attempts at doing
15 marginal cost. I know Newfoundland Power used to have,
16 and I assume they still have, a whole department that
17 looked at those kind of issues and whether they could be
18 done in a cost-effective manner or not, and I haven't looked
19 at it lately, I must be honest, in terms of, you know, whether
20 or not what they're doing or how much of it they're doing,
21 but the Board can certainly, you know, look at what they're
22 doing and ask them questions about it or, you know, even
23 ...

24 COMMISSIONER POWELL: They never ask you to do
25 anything ...

26 MR. BROCKMAN: Other than I have, you know, given
27 some oversight to them on some of the calculations, things
28 like marginal costs or time of use rates and that sort of
29 thing. They've never asked me to come in and evaluate a
30 water heater blanket program or any of that sort of thing.

31 COMMISSIONER POWELL: Is there a minimum level in
32 terms of revenue where a plan like that would kick in? \$300
33 million is a lot of money for an ordinary person, but in terms
34 of a utility it's not a large utility, so is there a ...

35 MR. BROCKMAN: Well, what you have to do, and, you
36 know, we used to, these used to be a lot more common I
37 guess than they are now, at least in the States, you know,
38 you have to evaluate every program by itself. How much
39 does the equipment cost? Let's say we're talking about a
40 water heater blanket. What would it cost to put a water
41 heater blanket on the water heater, how much would it
42 save, how much does that, you know, and is the savings
43 equalled by, you know, is it more than or equal to the cost
44 of doing it, and usually when we do those kinds of studies
45 we do look at things like marginal costs. We look at would
46 it save a power plant or something coming on line?
47 Because as counsel for the Board has already pointed out,
48 I mean, Newfoundland Power is already paying a rate that's
49 fairly close to the short-run marginal cost, so the energy
50 burned at Holyrood is pretty much taken care of. The
51 customers are seeing that price already. There's probably

52 no reason to reflect even more cost to them for fuel anyway
53 because they're already paying almost that much, if not
54 more. So I guess the real issue is by doing some of those
55 programs would you somehow prevent a new power plant
56 being built or a new transmission line and what's that worth
57 and you'd have to compare that back to the cost of the
58 water heater blanket or, you know, a heater, whatever it is,
59 a heat controller or ...

60 COMMISSIONER POWELL: One of the aims would be
61 even if no growth (inaudible) eliminate Holyrood, because
62 that's the real (inaudible) cost, can't control is the thermal
63 costs in terms of the price of energy?

64 MR. BROCKMAN: No, I don't know that I would say you
65 want to eliminate Holyrood. I guess it's really an issue of
66 whether the customers are willing to pay the cost of, are
67 willing to pay for the cost of Holyrood. If they are, you
68 know, the Board has to make the decision, do they want to
69 get into the business of telling the customer if you want to
70 pay, you know, whatever the number was we were just
71 looking at, 4.59 cents, the short-run marginal costs are six
72 cents or whatever it is for energy, and you want to do that,
73 should we somehow do something that causes you not to
74 do it? Should we make you put a water heater blanket on
75 or encourage you to ...

76 COMMISSIONER POWELL: Doesn't the Rate Stabilization
77 Plan disguise the cost of Holyrood from the customer?

78 MR. BROCKMAN: It smooths the cost changes. You
79 know, as the fuel price goes up and down every year, and
80 it was very, very high last year ...

81 COMMISSIONER POWELL: But the customers of ...

82 MR. BROCKMAN: The customers didn't see that ...

83 COMMISSIONER POWELL: ... Newfoundland Power
84 didn't know that.

85 MR. BROCKMAN: That's right, they didn't see that right
86 away. They began to see it and they'll continue to see that
87 some of that change for the next two or three years, but
88 remember one of the things we're trying to do with the kind
89 of things you and I were just talking about is make,
90 customers make sort of long-run decision, you know,
91 should I build this or not build this, should I buy this or not
92 buy this. Those kind of decisions, perhaps the customer is
93 a little better at predicting these things than we think they
94 are. They know that the price is going up and going down.
95 Maybe they don't get the exact every month, you know, the
96 trigger, but, you know, and in the long run what do they
97 really think is what's important, so it tends to smooth the
98 price out because I don't think customers like extreme
99 volatility. The other thing I would worry about is what
100 about the poor customer that saw the prices last year spike
101 through the roof and said oh my gosh, I'm going to go out

1 and buy something, and then all of a sudden the price
2 comes back down again as it has this year. He made the
3 wrong decision. So how do they interpret that?

4 COMMISSIONER POWELL: The rural subsidy, **page six of**
5 **your pre-filed testimony** you deal with, on line 12 there,
6 page six, you said, "One important aspect of dealing with
7 this issue (inaudible) rural rate subsidy in Hydro's plans
8 with respect to it. In some sense the rural rate subsidy
9 could be considered a return on equity since Government
10 has decreed that it be collected in certain ways and it bears
11 no relationship to the cost of service. In fact, in October '94
12 the Board reported to Government that the surcharge upon
13 Hydro's customers was equivalent of a hidden tax." And
14 down on line 22 you say, "This results in a social policy
15 directed (inaudible) Government with which Newfoundland
16 Power takes no issue." So since it's not really, it don't bear
17 any cost, relationship to the cost of service, just wondering
18 what you would think if Hydro then didn't include the rural
19 subsidy in its cost of energy to, cost of power to
20 Newfoundland Power, but is a pass through of the tax, and
21 Newfoundland Power collected on behalf of the
22 shareholders and not be included in their cost of service
23 and therefore not passed onto rate payers as a ...

24 MR. BROCKMAN: Who would pay the tax, I guess I'd ...

25 COMMISSIONER POWELL: The ratepayers obviously.

26 MR. BROCKMAN: All the rate payers of Newfoundland
27 Power? Would the industrials pay it, would ... who ...

28 COMMISSIONER POWELL: Well, they exempt by
29 legislation.

30 MR. BROCKMAN: Right.

31 COMMISSIONER POWELL: But right now it's passed as
32 a cost of service but if you say there on line 15 it bears no
33 relationship to the cost of service, so therefore ...

34 MR. BROCKMAN: Right.

35 COMMISSIONER POWELL: ... it shouldn't be passed
36 through to Newfoundland Power as a cost of service but
37 rather as a tax.

38 MR. BROCKMAN: Right. I'm not sure I completely
39 examined all those sort of legal ramifications of what you're
40 suggesting, but, you know, if you're passing it through the
41 same amount to the same customers, then I assume it
42 would have no economic effect. In other words, you're just
43 saying let's not put it in the cost of service study and put
44 it in Newfoundland Power's rates, which is where it is now,
45 but let's just collect it as a tax. I don't know, it seems like six
46 of one and half dozen of the other.

47 COMMISSIONER POWELL: Well, the difference, would
48 have an impact on Newfoundland Power. They wouldn't

49 earn a rate of return on it.

50 MR. BROCKMAN: I don't think they earn a rate of return
51 on it now. I think it's just a pass through. In other words,
52 they get charged a certain amount and they pay it. You
53 know, their customers pay it.

54 COMMISSIONER POWELL: And it's not ...

55 MR. BROCKMAN: I don't think Newfoundland Power
56 earns a return on the rural deficit.

57 COMMISSIONER POWELL: (inaudible) Thank you.
58 That's all my questions.

59 MR. NOSEWORTHY, CHAIRMAN: Thank you,
60 Commissioner Powell. Commissioner Saunders, please.

61 COMMISSIONER SAUNDERS: Yes, Mr. Chair, just a
62 couple. Good afternoon, Mr. Brockman.

63 MR. BROCKMAN: Good afternoon.

64 COMMISSIONER SAUNDERS: DSM has been referred to
65 by a couple of the intervenors here, and I was interested in
66 your view, your comment in respect of what environment
67 do you observe or have you observed over the years in
68 your experience in this business? What environment has
69 to be present, let's say, to encourage or promote DSM
70 projects, if you like?

71 MR. BROCKMAN: Okay. Basically, I mean, you can
72 always encourage DSM, demand side management, by
73 simply raising the price very high so that people see an
74 extremely high price and decide, as we're saying, to go to
75 Home Depot or wherever and ... do you guys have Home
76 Depot here? But ...

77 COMMISSIONER SAUNDERS: Close. (phonetic)

78 MR. BROCKMAN: Yeah. You go to your local builder
79 store and buy a water heater blanket or some other form of,
80 say, conservation device. If you see a very high price you
81 might decide that that's a good thing to do. That's one way
82 to encourage DSM, is to have very high prices. Now
83 normally you don't want to do that in the economics ... you
84 don't want to raise the price so high that it's above marginal
85 cost because that's not efficient either. That causes people
86 to buy too many water heater blankets instead of buying
87 electricity. Sometimes it's better to buy electricity from
88 societal's viewpoint because it costs money to make water
89 heater blankets too. It costs resources, you know, get this
90 insulation and all this other stuff, so which you don't want
91 to overreact. The other climate that's required is that you're
92 having something happen in your system which is causing
93 a lot of extreme price increases, a bunch of big power plants
94 like ... where we really got into it in the States, I guess,
95 originally was when we started building nuclear plants and
96 it got way out of control. I mean, we were putting plants on

1 line that were \$6,000 a kilowatt, you know, just pulling up
2 out of the air, but I think we had some that were actually
3 almost that much. Costs got way out of control and we felt
4 like we had to do something about it, and so the boards in
5 many states in the United States decided that we would try
6 to reflect somehow marginal cost to the customers, either
7 by changing their rates or by letting the utility put these
8 programs in but not necessarily charge the customers for
9 them, and as long as the cost of putting them in was less
10 than the cost of, say, building a nuclear plant, it was a good
11 idea, and in your condition, I mean, if the cost of doing
12 some of these things is a whole lot less than the cost of
13 bringing on another Holyhood or bringing on another ...
14 Granite Canal is not a good example because it's a very
15 inexpensive plan, but, you know, bringing on some big
16 hydro project like Churchill Falls. If the cost of doing these
17 programs was less than that, and to know that you'd have
18 to do a study as we've many times done in integrated
19 resource planning studies in years past in other
20 jurisdictions, and I think you even did some of that over
21 here, then you would do it. That's the kind of climate ...
22 you need the climate. If it's a voluntary program, you have
23 voluntary and mandatory programs, I mean, you could
24 force customers to do these things if you have the right
25 legislation or you could have it on a voluntary basis. On a
26 voluntary basis you also need a climate so that the
27 customers want to do it, believe that the cost is worth it,
28 the inconvenience in some cases is worth it, or that they
29 just want to do it for to be patriotic or, you know, because
30 they want (inaudible) oil or something like that. So I guess
31 that's generally the kind of climate you would need to really
32 push it.

33 COMMISSIONER SAUNDERS: So if there's no clamouring
34 from customers of the utilities for a demand side
35 management program, is one to assume that there's no need
36 or there's no perceived need, I suppose?

37 (2:45 p.m.)

38 MR. BROCKMAN: Well, it's a question of, I guess of
39 whether you have a bent towards being a centralized
40 planner or you're a free economist, you know, free market
41 type of economist, and I have friends who are involved and
42 I guess I tend more to be a free market person and let the
43 market do its job, which is kind of what we've done in the
44 US now. We pretty much ... there's not a whole lot of
45 clamouring or to make utilities do demand side management
46 because we've sort of, starting to free up the generation
47 markets. Customers see the prices. If they want to do
48 these DSM things, they can. Now there are some programs
49 they can't do by themselves, obviously, if it requires the
50 utility to set up some sort of big controls, you know, where
51 they turn their water heaters off and stuff from a central
52 location. The customer can't do that but, yeah, if you're a

53 free market person and as long as the customers are seeing
54 something approximating what you think the marginal cost
55 is and they don't want to do these things, then a free
56 market person would say, fine. Other people who are more
57 centrally planning-oriented would say we ought to make
58 them do it and somehow we got to think of ways to either
59 encourage them or make them do it, but I ... I don't know if
60 I answered your question or not.

61 COMMISSIONER SAUNDERS: Yeah. That's fine, Mr.
62 Brockman. One more question. Mr. Osler when he was on
63 the stand, on a couple or three occasions at least, pointed
64 out that when you are considering the coincident peak, that
65 the month in which it occurs is not important. Are you of
66 the same view?

67 MR. BROCKMAN: No.

68 COMMISSIONER SAUNDERS: I didn't think you were.
69 Do you want to explain what the difference is between you
70 and Mr. Osler?

71 MR. BROCKMAN: I'm not sure I can explain the complete
72 difference but I can say what I think on that, and when I do
73 a cost of service study in order, and I, say I pick a 2-CP, I
74 got to pick some sort of year or a load shape, if you will,
75 that has peaks in two months, and if I pick the wrong two
76 months it's certainly possible that, you know, I've picked
77 two months where one of my customer classes is
78 disadvantaged. Maybe they would have been better off if
79 I had looked at March instead of February. So I don't know
80 how large an effect that is but I'm concerned that we, if we
81 completely ignore some of the months where the peaks
82 might occur, it's certainly possible that some classes could
83 be disadvantaged. To give you an example, the industrial
84 class has a fairly flat load. I mean, they're not, compared to
85 Newfoundland Power, they're not weather sensitive to
86 much degree, whereas Newfoundland Power is, so, you
87 know, depending on what month I pick, I mean, something
88 could change. I haven't looked at that an awful lot but I
89 certainly believe something could change between those,
90 the months, so I think it is important to at least know what
91 months it is or factor that into what you would call your
92 typical load shape, and by typical load shape I mean maybe
93 you take ten years and you would factor in the fact that
94 sometimes the peak does occur in margin, so on, and
95 modify these things, so, I mean, if the peak occurs in
96 different months, it matters in load, and that year in which
97 the peak occurred in March, it's a simple fact that the
98 generation on peak served the peak during March, so to me
99 it matters, especially since what Newfoundland, what
100 Hydro really uses anyway is a loss of load criteria to
101 calculate when they need new generation as well as when
102 they need energy, and so the loss of load hours in those
103 months would be very high. It was contributed by the loss
104 of (inaudible) contribution in March, not necessarily

1 January, that the highest one ... to me it matters. It's sort of
2 if you use it you got to pay for it issue, I guess.

3 COMMISSIONER SAUNDERS: Okay. Thank you, Mr.
4 Brockman. Chair.

5 MR. NOSEWORTHY, CHAIRMAN: Thank you,
6 Commissioner Saunders. Commissioner Whalen.

7 COMMISSIONER WHALEN: Thank you. Good afternoon,
8 Mr. Brockman.

9 MR. BROCKMAN: Good afternoon.

10 COMMISSIONER WHALEN: I'll just have a couple of
11 questions. One question that occurs to me, in terms of
12 some of the discussion we've been hearing on the
13 difference in the way, the difference in the opinions, I
14 guess, between industrial customers and Newfoundland
15 Power and how they're treated by Newfoundland Hydro on
16 various issues, generation credit versus the interruptible
17 rate for example and the energy demand versus energy only
18 wholesale rate. From the Board's perspective, I guess
19 industrial customer rates are now being set for the first time
20 by the Board. What would be the basis for the Board to
21 treat those two major customers of Hydro differently?

22 MR. BROCKMAN: Well, they're ... first of all, they're
23 providing sort of two different things, I guess. One is
24 providing generation on, you know, potentially providing
25 generation on a year round basis and the other is providing
26 interruptible load for four months of the year. One is being
27 given a credit. You know, it's historically been done that
28 way and in the cost of service study they're being forgiven
29 some demand because Newfoundland Power, I mean,
30 Hydro can call them up and ask them to get that demand off
31 the system, it will. That's just the way that's been done for
32 a long time. The other one was a negotiated rate with these
33 customers. These customers agreed to be, to take demand
34 off the system under a negotiated idea. They went to them
35 and said, I guess, presumably, went to them, I wasn't privy
36 to any negotiations, and asked them what they would take
37 to do it and they agreed to it and they signed up for it.
38 Both of those are accepted ways of doing things. Whether
39 one's better than the other, you know, I guess to me it's,
40 perhaps six of one and half dozen of the other. I mean,
41 eventually the Board may feel more comfortable to have
42 them done exactly, both exactly the same way, but I don't
43 think anything's being done wrong in either case. It's just
44 a sort of historical artifact of how we got here. One was
45 negotiated, the other one was historically done in the cost
46 ...

47 COMMISSIONER WHALEN: Yeah. I guess I wasn't clear
48 in the intent of my question. I understand the historical
49 context for why the differences are there on a go-forward
50 basis. When the Board sits down to make decisions on

51 these various issues, we'll be looking at rates for industrial
52 customers, we'll be looking at rates for Newfoundland
53 Power, and we will still have those issues, and is there any
54 basis for us to treat those two customers differently going
55 forward, forget the historical context ...

56 MR. BROCKMAN: The only basis for treating them
57 differently going forward, I would say, is that if, insofar as
58 there's a difference between having generation year round
59 versus being interruptible, there may be some differences
60 there. I mean, I have to see the proposal to treat them both
61 the same in order to know how I felt about the proposal. I
62 mean, would you give them both a credit? In other words,
63 would you give them both a rate credit but no contribution
64 in the cost of service study or would you put them both in
65 the cost of service study? I don't know. I'd have to see
66 which proposal you came up ... I don't think there's been
67 anything proposed in this proceeding yet but ...

68 COMMISSIONER WHALEN: My understanding is it's,
69 most of the, more of the same as to what's happened in the
70 past. On the issue hydrology, Mr. O'Rielly, is **U-Hydro-17**
71 electronically complete? I understand that Newfoundland
72 Power through you, Mr. Brockman, do have concerns with
73 the methodology that Hydro uses in forecasting its
74 hydraulic generation for the test year. Is that a fair
75 comment?

76 MR. BROCKMAN: Yes. When we looked at what's been
77 happening in the last few years with respect to, you know,
78 the amount of hydraulic generation that's been on the
79 system versus what was being used, forecast in the test
80 year, we began to ask questions, why is it that in the last,
81 say, 11 years has been so high but now it seems lower, and
82 so we began to look at the issue with respect to that and
83 what we did was ask Hydro for more, first of all, for more
84 data, because originally they didn't file, I guess, as much
85 data as we got later on, and what we found was that if we
86 did something like take a 30-year rolling average as
87 opposed to this sort of full historic average, going all the
88 way back even sometimes before the plants existed, we
89 found that in the last 22 or so years we got closer to what
90 ... we would have been on more than we ... about 60 percent
91 of the time as opposed to Hydro being on about 40 percent
92 of the time, and on I mean being closer to the forecast, and
93 that's really the basis of our, you know, our wanting to use
94 a 30-year rolling average, that we think it's just a better
95 indicator of what's going to happen, even given, you know,
96 who knows what's going to happen this year? We're not
97 basing it on whether it's higher or lower in the sense of
98 whether we pay more money or less money. We just think
99 why not use an indicator that's a better indicator, and we
100 think the 30-year rolling average is better, and we also think
101 the median is a better number than the average.

102 COMMISSIONER WHALEN: And that was going to be

1 one of my questions. My sense is that there are two
2 issues, the issue of a moving average versus a simple
3 average, or the median, which I think was introduced was
4 in the second supplementary, and also the actual time
5 period ...

6 MR. BROCKMAN: Yes.

7 COMMISSIONER WHALEN: ... itself that's used for the
8 data. Could you look at **Figure 7**, which is the graph that
9 shows the combined inflows?

10 MR. BROCKMAN: Yes.

11 COMMISSIONER WHALEN: Could you tell me, Mr.
12 Brockman, what this figure tells you?

13 MR. BROCKMAN: Well, the first thing ... I mean, it tells me
14 a lot of things, I guess, number one, that the average
15 energy, it's a little hard to read it off of a graph like this
16 which is why I looked at Table 4, but first of all the inflows
17 do vary quite a bit. I mean, they bounce around a lot. The
18 30-year average number is a higher number in the last, I
19 don't know, since 1980, I guess, than the full historic
20 average is, and I think closer to the clusters that you see in
21 the last 30 years because they seem, most of them appear
22 to lie above that line, and I think again that's brought out
23 by calculating from Table No. 4, which is in the same
24 document, how many of those years would you be closer
25 using the pink line or the purple line, 30-year rolling
26 average, than you would if you used the blue line, and the
27 simple fact of the matter is you've been right 60 percent of
28 the time in the last 22 years as opposed to 40 percent of the
29 time, so that's what that graph tells me.

30 COMMISSIONER WHALEN: In examining this issue ...
31 well, I guess I wanted to ask you first, have you provided
32 expert testimony to any other boards on the issue of
33 hydrology forecast or ...

34 MR. BROCKMAN: No.

35 COMMISSIONER WHALEN: You haven't. Because my
36 question was going to be whether or not in examining this
37 issue you had actually, were taking any comprehensive
38 analysis from a statistical basis of the data set itself,
39 whether or not there was any real trend there, whether or
40 not ...

41 MR. BROCKMAN: No, I haven't done any.

42 COMMISSIONER WHALEN: So you haven't done any
43 significance testing or anything on the actual ...

44 MR. BROCKMAN: No.

45 COMMISSIONER WHALEN: On the numbers. I guess
46 you just answered my last question, was whether or not
47 you would still recommend using a 30-year moving average
48 or the mean over 30 years if the result was different, for

49 example, if the 30-year rolling average showed that the
50 average was actually lower than what Hydro was
51 forecasting as using a 50 ...

52 MR. BROCKMAN: Yes. I don't think we're trying to pick
53 a methodology that gives us the number we want. I think
54 we're trying to pick a methodology that gets the Board as
55 close as possible to what might actually occur. That's our
56 goal in this. So some years we might lose, some years we
57 might win in the sense of Newfoundland Power's rate
58 payers paying more or less in ... I mean, all of it comes out
59 in the wash anyway in the RSP, but what we're talking
60 about is pay me now, pay me later.

61 COMMISSIONER WHALEN: I think that last statement is
62 probably the one that would cause me the most concern
63 from the point of view, you know, it all does come, it
64 washes out in the RSP because the pay me now, pay me
65 later is, I think, what we're trying to get at the rate up here.

66 MR. BROCKMAN: Right.

67 COMMISSIONER WHALEN: It's pay me now is probably
68 the preferred approach, I would expect.

69 MR. BROCKMAN: Yes.

70 COMMISSIONER WHALEN: And I think you address in
71 your supplementary evidence as well the issue of whether
72 utilities use different hydraulic forecasting or different
73 hydraulic forecasts for rate making versus system planning
74 ...

75 MR. BROCKMAN: Yes.

76 COMMISSIONER WHALEN: ... in a general sense. Could
77 you just expand on that for me, whether or not you know
78 this to be true or is this ...

79 MR. BROCKMAN: Well, I guess it's more an issue of a
80 survey was presented by Hydro which, you know, at least
81 implied that there was some sort of Canadian standard that
82 everybody used all the years that they could find, and what
83 we wanted to know was while that's probably true for
84 planners, although, you know, who knows if every planner
85 in the world does that, but because there was only a limited
86 amount of people asked in the survey. I think it was, when
87 you boiled it all down, there were five utilities in the survey
88 in Canada. What we really wanted to know was there some
89 sort of Canadian standard for rate making, because what
90 we're trying to do here is make rates, we're trying to get as
91 close as we can to the forecast test year, not plan so that
92 we don't have the lights go out, you know, when we built
93 a dam somewhere. The survey to me was very
94 inconclusive. I found people that used the median, we
95 found people that used different number of years, we found
96 some as short as Nova Scotia using five years for
97 budgeting purposes, and while it may not have as huge of

1 an impact on them as it does on Hydro, it still impacts their
2 financials, so to me the survey was very inconclusive. I
3 don't believe there's a Canadian standard for rate making
4 and so I think this board unfortunately is put in the
5 position of having to choose what they think, the
6 methodology which they think will get them as close as
7 possible over the long run to the forecast, you know, so
8 that the forecast they assume in the test year will be as
9 close as possible to what actually happened so they don't
10 have to keep making adjustments all the time. So I think the
11 survey was not very helpful to me or to this board, I don't
12 think, but ...

13 COMMISSIONER WHALEN: Thank you. That's all I have.
14 Thank you, Mr. Chair.

15 MR. NOSEWORTHY, CHAIRMAN: Thank you,
16 Commissioner Whalen. Good afternoon, Mr. Brockman.

17 MR. BROCKMAN: Good afternoon.

18 MR. NOSEWORTHY, CHAIRMAN: Thank you for your
19 evidence and testimony. I found it to be very informative.
20 I just have a couple of questions. One area you were
21 discussing I believe with Mr. Browne this morning was the
22 whole issue of the efficiency of Hydro and ways and
23 means, I guess, of putting in place incentives from a
24 regulatory perspective, and I guess being new to this I've
25 done some small amount of reading simply because there's
26 a fair amount of it comes across my desk on the whole
27 issue of performance based review, and I know a little bit
28 about it now, I'll say that and leave it there at this point in
29 time. Stepping back from that, I suppose, and certainly
30 we're not at performance based review in any way, shape,
31 or form, and I know enough to know that. Looking at,
32 stepping back from that, you know, there's the whole
33 matter, I guess, of improving the accountability, one of the
34 ways you mentioned, in particular in respect to the RSP and
35 having Hydro come back on a regular basis with a view to
36 at least the fuel adjustment and that's one way, and there
37 may be other incentives as well, I'm sure there are, that you
38 would have referred to. I guess my question relates to, in
39 what context were you discussing that, and was it with a
40 view to the performance based system you commented, I
41 think you had some experience in Florida with that, or
42 indeed are there ways and means outside of that type of
43 performance based mechanism where indeed incentives
44 could be employed with a view to the efficiency of a utility,
45 and what might they be, some examples, I guess.

46 MR. BROCKMAN: Most of my experience, I guess, we'll
47 deal with the easy one first, was in Florida, was with
48 incentive based regulation primarily on fuel adjustment
49 which is akin somewhat to the RSP here, although we didn't
50 have load and we didn't have hydraulic generation in there
51 to worry about, it was just fuel, and again, there what we

52 did was not only did we make them, did we review that
53 regularly, which gave some incentive because, again,
54 people have to come in, they would have to file every year,
55 we would review what they had done and we would review
56 their fuel costs before we sort of allowed them to recover
57 over a certain amount, and as well as we would, you know,
58 reset the base in the fuel adjustment for the next year. That
59 creates some incentive because when people have to
60 justify what they're doing, they tend to pay more attention,
61 I think. I'm not saying that Hydro is not paying attention
62 now, but it's just an economic idea to give them a little more
63 incentive than perhaps they would have. It also frees you
64 a little bit from having to look as hard. I had a staff working
65 for me, just on my fuels department of seven people who all
66 they did was look at the utilities in Florida's fuel costs
67 every day. That's all they did all year round. That's one
68 form of regulation, and you know, a better form perhaps, if
69 you believe in incentive regulation is to, if they can
70 improve things, if they can beat a certain benchmark price,
71 or they can improve their heat rates and so on, you might
72 let them keep a little bit of it. You might let the
73 stockholders keep a little bit of it and give, say, the
74 ratepayers 80 percent and the stockholders 20 percent of
75 the savings. That was, we began to do that in Florida.

76 Another way that we didn't do in Florida, at least
77 at the time I was there, that's a common form of incentive
78 regulation is to set up targets for things like O & M
79 expenses, for instance, outside of fuel. I mean labour costs
80 and things like that. You could certainly give Hydro the
81 goal to improve their sort of labour costs over the next few
82 years and maybe you want to even divide it by employees
83 per kilowatt hour or ... I mean, you know, I haven't thought
84 a whole lot about it ... employees per customer or
85 something like that, and if they can improve on that, if they
86 can get more efficient, perhaps you'll let them keep a little
87 bit of the money. That would be one way, I mean I haven't
88 proposed that in this proceeding, but that's something you
89 could think about doing. Some people have also put in
90 caps from time to time. This was very common in the
91 telephone industry for a while because the telephone
92 industry came to the regulators and said, look, we need to
93 put in all this solid state switching devices and so on and
94 you can get rid of all these ... they used to have all these
95 tube switching stations and it was awful, you know, in
96 terms of just cost and everything, and they said but we
97 can't afford to make the investment of converting
98 everything over, so can you maybe cap our rates and if we
99 can do a little better than that on our costs can we keep
100 some of the money, and that's another form of incentive
101 regulation, so I mean there are many ways to do incentive
102 regulation. I guess it's fair to say that almost all of them
103 allow the utility to keep a little bit of the savings as a way
104 of encouraging them to get more efficient. You know,

1 there's tons and tons of books, and it sounds like you've
2 already started reading on all of these issues.

3 MR. NOSEWORTHY, CHAIRMAN: Would that be within
4 the rubric, if you will, of this performance based review? I
5 mean would you categorize what's been done, with a view
6 to a whole regime which might be defined as that, or is
7 there, it can be done on a piecemeal basis as well ...

8 MR. BROCKMAN: Well, yeah, I think you can do it on a
9 piecemeal basis. I mean I'm only proposing it be done for
10 now to some degree with the RSP but you could certainly
11 think about doing it with other things if you wanted to, on
12 a piecemeal basis.

13 MR. NOSEWORTHY, CHAIRMAN: Sure. I did have
14 another question if I could find my note here. You referred
15 up front in terms of some of your expertise to, to the, an
16 issue which intrigues me ... least cost planning. Apart from
17 the obvious, could you define for me what you mean by
18 that, or what are the elements of that?

19 MR. BROCKMAN: Yes, least cost planning, which you
20 almost never hear the terminology anymore, was extremely
21 popular in the States, I guess, ten years ago. Many
22 jurisdictions passed laws that said you, that said the
23 utilities have to engage in something called least cost
24 planning, and what that basically means is that when they
25 get ready to plan a new generator or a new transmission
26 line or something like that, they have to evaluate all the
27 other options, for instance, they have to evaluate the DSM
28 that the Commissioner and I talked about. What would that
29 cost to meet this demand versus what the generator would
30 cost to meet the demand, both in terms of the longer and
31 incremental costs and the short-run marginal costs and so
32 on, which of those two is the least cost, and in some states
33 in the US they said you have to pick the one that's the least
34 cost. You can no longer ... and there was some timeframe
35 involved in that, maybe over the next 30 years you have to
36 go down the path that will result in the least revenue
37 requirement, present value of revenue requirement over the
38 next 30 years. That had some good effects in the sense of
39 it perhaps caused us to evaluate some of the other options
40 to traditional generation and transmission. It also had
41 some bad effects in the sense that it did some funny things
42 sometimes with rates because another way to look at that
43 is we want you to try to reduce the rates over the next 30
44 years, with a minimum rate sort of a plan, and that might be
45 contrary to a least cost plan. For instance, if you had a
46 utility that had a lot of surplus off peak generation and they
47 could sell that generation at three cents or something to
48 customers, maybe those customers would take that up.
49 That might tend to reduce the overall rates because they
50 would be contributing something to the fixed cost at a very
51 low rate, but it also might raise the total revenue
52 requirement, so there are a lot of ways to look at it, but in

53 general, least cost planning at the time meant you would try
54 to minimize the present value of revenue requirements for
55 all the things that you could do, not just generation.

56 MR. NOSEWORTHY, CHAIRMAN: How is capital
57 budgeting tackled in that sense?

58 MR. BROCKMAN: Capital budgeting is really more of
59 short-term, you know, what are you going to build over the
60 next four or five years. It's part of it, obviously, but it's a
61 more detailed accounting sort of plan to, for what you're
62 going to expend in the next ...

63 MR. NOSEWORTHY, CHAIRMAN: And does a
64 component in that involve cost benefit analysis and things
65 of that nature?

66 MR. BROCKMAN: I'm not really an expert in capital
67 budgeting so I don't know how to answer that one.

68 MR. NOSEWORTHY, CHAIRMAN: Okay, that's all I have.
69 Thank you very much, Mr. Brockman. We'll move now to
70 questions on matters arising and Mr. Young?

71 MR. YOUNG: Mr. Chair, I'm guessing that matters arising,
72 a considerable number of issues were raised, so it's going
73 to take more than a couple of minutes, so ...

74 MR. NOSEWORTHY, CHAIRMAN: I didn't look at the
75 clock. My apologies, I didn't look at the clock. We'll break
76 for 15 minutes until 25 after.

77 *(break)*

78 *(3:30 p.m.)*

79 MR. NOSEWORTHY, CHAIRMAN: We lead now to
80 matters on questions arising. Mr. Young, if you could
81 begin please.

82 MR. YOUNG: Mr. Chair, it's obviously a break well spent
83 because we did determine that after all we had no business
84 arising. Thank you.

85 MR. NOSEWORTHY, CHAIRMAN: It obviously was,
86 thank you. Ms. Henley Andrews, please.

87 MS. HENLEY ANDREWS, Q.C.: Mr. Brockman, in answer
88 to a question by Commissioner Saunders, you indicated
89 that you thought that the choice of month for CP might be
90 important because it would depend on how large an affect
91 there is on the contribution by each of the customers to the
92 CP, is that correct?

93 MR. BROCKMAN: Something along those lines. I don't
94 remember what my exact words were. We have to look at
95 the transcript.

96 MS. HENLEY ANDREWS, Q.C.: You also indicated that
97 you haven't looked at it in detail, would you agree that if
98 the relative contributions to CP during peak months have

1 remained relatively constant then the choice of the month
2 would be irrelevant?

3 MR. BROCKMAN: Well, I guess I'd have to look at how
4 many of those years, you know the years in question, we'd
5 say peaked in March versus how many peaked in, either
6 not January or not February and make some sort of
7 decision as to whether or not I thought that was material.
8 I think I looked at them once, you know, and there were a
9 couple of times when the peak that had occurred, I don't
10 remember the exact numbers any more, but I did take a look
11 at to see if it was just some sort of spurious thing that
12 occurred, but there does seem to be some probability of the
13 peak occurring either in non-January or non-February.

14 MS. HENLEY ANDREWS, Q.C.: I think perhaps you
15 misunderstood my question, which probably means it
16 wasn't worded as well as it could be and that is that I
17 understood from your testimony in answer to some
18 questions from Commissioner Saunders that your concern
19 about not predicting the correct month was, in terms of
20 using 4-CP for example versus 1-CP or 2-CP, was that you
21 might find that if you picked the wrong month that the
22 relative contribution to the coincident peak would be
23 different if the peak occurred in March versus December.

24 MR. BROCKMAN: Yes, that, I think that's a fair
25 characterization.

26 MS. HENLEY ANDREWS, Q.C.: So my question then was
27 that if you did an analysis of the months in which the peak
28 occurred and if you determined that regardless of whether
29 the peak occurred in March or December or January or
30 February, that the relative contributions of the customers
31 to that peak remain the same, then it wouldn't make much
32 difference as to whether you picked the right month?

33 MR. BROCKMAN: That's right for that particular
34 objection, I think you're right, if it doesn't change anything,
35 it doesn't change anything.

36 MS. HENLEY ANDREWS, Q.C.: Thank you.

37 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
38 Henley Andrews. Mr. Browne, please.

39 MR. BROWNE, Q.C.: Sure, just one area in reference to the
40 demand side management. I think both Commissioner
41 Powell and Commissioner Saunders made reference to
42 demand side management, and Commissioner Saunders
43 made the reference to people weren't clamouring for
44 demand side management initiatives, and my question
45 comes around an analogy, I'm reminded of that television
46 commercial I see and some people may have seen it here, I
47 think there's a piano dropping from the sky from a large
48 building headed toward a woman who's on a park bench.
49 I don't know if people have seen it, and she's unaware the
50 piano is coming in her direction but people across the

51 street are clamouring to her to get her out of the way,
52 attempting to move her, they have the knowledge and
53 eventually they do get her attention and she does move,
54 and I put it to you, sir, that we here in this forum, we have
55 a certain knowledge of what electricity is costing but the
56 consumers, many of them, are like the person on the park
57 bench, they don't have the knowledge of what's going on
58 around them, and until ... we're the ones, until we start
59 informing people as to the true cost of electricity and stop
60 disguising prices and start clamouring ourselves, the
61 consumers would still be lulled asleep in this process. Is
62 that fair comment?

63 MR. BROCKMAN: I don't necessarily agree with that. I
64 think, I've been in this business a long time. I've seen
65 people who think they know what's good for the
66 customers, try to make the customers do it. I know that
67 when I first got into the business, the Federal Government
68 in the United States said we're running out of natural gas.
69 We got to get all the utilities off natural gas by 1991, they
70 passed a law. Lo and behold we weren't running out of
71 natural gas, so then we had to reverse that thing. I don't
72 know that we always know more than the customers, we
73 sometimes do, we sometimes don't, but I get very nervous
74 in trying to force the customers to do, I think the customers
75 know what the price of electricity is, whether they know
76 what it's going to be next year, I think they also know there
77 are trends. I don't think they're really that simplistic so, I
78 may agree with some of what your saying, but I'm not sure
79 I'm quite as much of a centralized planner as your testimony
80 would be, but I'm not sure if I would agree with that
81 completely.

82 MR. BROWNE, Q.C.: We had evidence before this tribunal
83 of a customer survey that Hydro had done and they took
84 some consolation in the fact that when customers were
85 asked concerning their education or knowledge re. the use
86 of electricity, that it was the last, the least important on the
87 list in two consecutive years, and that's what they were
88 asking and I went back and took a look at it, your education
89 or knowledge re. use of electricity. Well, I guess if I put
90 that to you, is that asking the same as would you be
91 interested in demand side management programs which
92 could reduce the cost you are paying for your electricity?
93 Would you say that's the same question?

94 MR. BROCKMAN: The first question is, give me the first
95 question if you can again and then what's the second
96 question?

97 MR. BROWNE, Q.C.: The first question is, it's all one and
98 same question actually, I said Newfoundland Hydro took
99 some consolation in the fact earlier in this hearing that they
100 had a customer survey and the customer survey, under the
101 heading education or information, I think they said, re. use
102 of electricity. I think that's what it was, education or

1 information re. use of electricity and they asked where
2 consumers rated that and consumers rated it low, I think it
3 was the least important factor of a number of factors of
4 which Newfoundland Power were surveying at the time,
5 and they took some consolation and they said there people
6 are not so interested in demand side management
7 programs, but I put it to you if they had asked not re.
8 education or information re. use of electricity, but if they
9 asked consumers re. demand side management programs,
10 if we offered demand side management programs that could
11 reduce your costs it may not have gotten the same
12 reaction, is that a fair comment?

13 MR. BROCKMAN: Sure, if you ask them a different
14 question you'd probably get a different answer.

15 MR. BROWNE, Q.C.: We had, during this hearing earlier
16 on, Ms. Pauly from the Federal EnerGuide Program who has
17 a wealth of experience, I think she said since 1976, in
18 dealing with various programs the Federal Government here
19 had instituted and she made a cogent point which no one
20 has really attempted to answer here and she said this,
21 "Why are you burning oil, Bunker C oil, at Holyrood so
22 people can heat their homes with electricity. Why wouldn't
23 people buy their own oil to heat their own homes". Isn't
24 that the perfect demand side management question?

25 MR. BROCKMAN: The perfect, I'm not sure what you
26 mean by the perfect question, it is a good question.

27 MR. BROWNE, Q.C.: Maybe we'll leave it at that. I was
28 just trying to end with a comment. Thank you very much,
29 sir.

30 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
31 Browne. Mr. Kennedy, please.

32 MR. KENNEDY: No questions, Mr. Chair.

33 MR. NOSEWORTHY, CHAIRMAN: Thank you very much.
34 Now to redirect, Ms. Butler, please.

35 MS. BUTLER, Q.C.: Thank you, Mr. Chair, and I just have
36 two. The first arises from Commissioner Powell's question
37 in relation to whether the load variations component of the
38 RSP had changed, and I wonder, Mr. O'Rielly, if you could
39 provide for us **Mr. Brockman's original testimony, page**
40 **16**. Thank you, lines 5 to 11, Mr. Brockman. Would you be
41 kind enough to read those in for us please.

42 MR. BROCKMAN: Yes. It says, finally given the size of
43 RSP increases forecast by Hydro, RSP mechanics are
44 becoming more important. Currently the calculations are
45 done after the actual loads and generation are known, but
46 the process of allocating the amounts is not very
47 transparent. The numbers are run back through the cost of
48 service study and the final results reported. It is difficult to
49 track this calculation after the fact. Hydro is now

50 proposing that they simply be allocated based on relative
51 energy use which would remedy this to some extent.

52 MS. BUTLER, Q.C.: Okay. So this is addressing
53 Commissioner Powell's concern, can you just tell me how it
54 was or perhaps why it was you didn't recall this?

55 MR. BROCKMAN: Yeah, my mind is just a little blank I
56 suppose after being on the stand for a day, but when you
57 asked me that question I wasn't really sure what you were
58 trying to do, but there has been a change, you know,
59 proposed. Hydro is currently proposing that when we redo
60 this allocation of the RSP that we not use both demand and
61 energy as currently is being done and run back through the
62 cost of service study, but it simply be done on energy, so
63 there has been a change in that respect if that's what you
64 were asking me.

65 (3:45 p.m.)

66 MR. POWELL: I just wanted to get your opinion on it.

67 MR. BROCKMAN: I guess I really don't have a big
68 opinion on it either way. I didn't take issue with it. Most of
69 the, I suppose most of the RSP balance, I'm just trying to
70 think of what's in there ...

71 MR. POWELL: A lot of money.

72 MR. BROCKMAN: Yeah, but it's mostly, I guess, energy
73 related things, you know, fuel costs, so most of it probably
74 is energy related so I think maybe the change makes some
75 sense.

76 MR. POWELL: Do you think the fact that they're changing
77 it, they may be admitting that the way they've been doing
78 it for the last 16 or 17 years is a mistake?

79 MR. BROCKMAN: Well, I think maybe they think that this
80 is a better way of doing it, whether it's a mistake or not, I
81 guess it's the way it was done and it was the way it was
82 approved and you know perhaps this will be better.

83 MR. POWELL: Do you think they're now doing it the way
84 it probably was intended to be done back in 1986?

85 MR. BROCKMAN: No, I think it was intended to be done
86 the way it was done, according to those letters that we've
87 read and the fact that everybody sort of knew it was done
88 that way. I don't think it was done in secret, I think the
89 Board was aware of it and certainly my client was aware of
90 it.

91 MR. POWELL: Do you think the people who wrote the
92 letters misinterpreted the way it should have been put in
93 place?

94 MR. BROCKMAN: That I don't know, sir.

95 COMMISSIONER POWELL: You'd have no opinion on it?

1 MR. BROCKMAN: It was done the way it was done. I
2 think it was, at least to the degree that it was known in
3 those letters and so on in the proceedings here it was
4 known, and I guess it's sort of all water under the bridge at
5 this point, but I think perhaps, perhaps it is a good move to
6 move it towards energy.

7 MR. POWELL: Do you think we should look upon it as all
8 water under the bridge?

9 MR. BROCKMAN: To some degree, I'm not sure that, you
10 know, I'd be troubled by some sort of retroactive, I would
11 view that almost, if we tried to go back and correct it
12 somehow, I guess I would view that as what the lawyers
13 always say is retroactive rate making. I got to go back and
14 recharge somebody for something I didn't do, I did
15 differently ten years ago. That troubles me a lot in terms of
16 cost of service and sort of intergenerational issues, and
17 you know, who would pay those things. They're not all the
18 same customers on the system. I think we've done what
19 we've done. We're making a change now and perhaps for
20 the better, but I don't know what we can do about it, even
21 if we did believe that. I haven't really studied it in great
22 detail in terms of whether it's better or worse, but just
23 thinking about it now in terms of, it's probably not a bad
24 change but I don't think we can correct the past. I don't
25 know of any way to do it that's fair and equitable and legal.

26 MS. BUTLER, Q.C.: Thank you. Mr. Brockman. My
27 second question stems from Commissioner Whalen's
28 question on the hydrology issue, and specifically you were
29 asked for if you had done any statistical analysis or
30 training respecting the hydrology. Mr. Brockman, can you
31 address whether in your opinion the information provided
32 by Hydro and with which, I'm sorry, which you addressed
33 in giving your pre-filed testimony does disclose a trend of
34 any relevance to the issues before the Board in this
35 proceeding?

36 MR. BROCKMAN: Well, as I said in my pre-filed evidence
37 it does appear that, you know, we've had more, more years
38 in the last 22, even in the last 11 years, and certainly in the
39 last 22 years, towards the 30 year rolling average which
40 would get us closer perhaps that's because they've been
41 wet years, so there's some trend there. There seems to be
42 a trend towards the 30 year rolling average getting it to be
43 a better indicator. When I said we hadn't done any
44 statistics, I mean what I really, I guess we have done
45 statistics. We've calculated the percentage of time we
46 would be wrong or right, we've calculated the sort of
47 residuals between the actual and ... but what I meant by
48 that is we haven't done a lot of "R" squared and sort of
49 sophisticated correlation coefficients and all that, we
50 haven't tried to do that, but we've done sort of the most
51 simple obvious form of statistics so as to see can we come
52 up with a method that fits better, so that's, I guess that's

53 what I wanted to say. The other thing is that, you know,
54 I'm just a bit troubled by the fact that if we use too much of
55 this old data. Some of this data was pre-plant data. It was
56 data before the plants were even ... used before the plants
57 were even in existence, and I think even Mr. Henderson
58 said that he couldn't completely vouch for the accuracy of
59 that data, so I just hesitate to use too much of that old data
60 in calculating this. I think our method is more accurate in
61 that sense it's statistically, you know it's statistics, it's not
62 what I think of when I remember, not so fond memories of
63 my college statistics courses.

64 MS. BUTLER, Q.C.: Thank you, Mr. Brockman. Thank
65 you, Mr. Chairman. Those are my questions.

66 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.
67 Butler. That concludes your testimony. Thank you very
68 much, Mr. Brockman. You're excused. Thank you, sir.

69 MR. KENNEDY: Mr. Chair, while we have this pause in the
70 action. We received a letter of comment from Iron Ore
71 Company of Canada, dated November 26, 2001, authored
72 by Mr. Dave Porter, Vice-President of Human Resources,
73 addressed to Ms. Cheryl Blundon, Public Utilities Board, to
74 be entered into the record. It's a letter of comment in the
75 appropriate manner, and also I'd note that the Industrial
76 Customers have filed their reply to Hydro's capital budget
77 application which I think has been delivered to all of the
78 counsel as well as the panel itself, so it's my intention to
79 poll the other counsel over, hopefully at the end of today
80 and tomorrow about the schedule in the upcoming week
81 and to see if there's some efficiencies that we can gain in
82 light of the optimistic view of this week that we may
83 actually complete the cost of service on time.

84 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.
85 Kennedy. Mr. Browne, could I ask you if your in a position
86 to bring Mr. Bowman forward.

87 MR. BROWNE, Q.C.: Okay, we're calling Mr. Doug
88 Bowman.

89 MR. NOSEWORTHY, CHAIRMAN: Good afternoon, Mr.
90 Bowman, could I ask you to take the Bible in your right
91 hand please. Do you swear on this Bible that the evidence
92 to be given by you shall be the truth, the whole truth, and
93 nothing but the truth, so help your God?

94 MR. BOWMAN: I do.

95 MR. NOSEWORTHY, CHAIRMAN: Thank you sir, you
96 may be seated and I'd like to welcome you to the witness
97 stand.

98 MR. BOWMAN: It's nice to be here.

99 MR. NOSEWORTHY, CHAIRMAN: I'm sure.

100 MR. BOWMAN: So far.

1 MR. NOSEWORTHY, CHAIRMAN: You can take a
2 moment to get ready if you wish, sir, and just let us know
3 when you're ready.

4 MR. BROWNE, Q.C.: Mr. Bowman, can you recite for the
5 Board your professional qualifications please.

6 MR. BOWMAN: I have a B.S. and M.S. in Electrical
7 Engineering, both from the State University of New York at
8 Buffalo, and I'm a Professional Engineer in the Province of
9 Ontario.

10 MR. BROWNE, Q.C.: Can you describe the work in which
11 you are normally engaged.

12 MR. BOWMAN: Generally I'm involved in power sector
13 issues related to restructuring and regulation, pricing, and
14 contracts. I have 24 years experience, 16 of those were
15 spent at Ontario Hydro and the last eight years I have
16 worked for a number of different consulting firms on power
17 related issues.

18 MR. BROWNE, Q.C.: Have you worked nationally in the
19 United States, and, I guess, nationally in Canada, because
20 you're a Canadian National, I understand, but have you
21 also worked internationally?

22 MR. BOWMAN: Yes, I've worked in, I think my resume
23 lists the countries ...I've worked in Canada, China,
24 Columbia, Egypt, Ghana, India, Indonesia, Pakistan, United
25 States, and Vietnam, and actually I can add the Dutch
26 Antilles to that now as well.

27 MR. BROWNE, Q.C.: And you have pre-filed evidence in
28 this proceeding, are you adopting that evidence as your
29 own?

30 MR. BOWMAN: Yes, I am.

31 MR. BROWNE, Q.C.: And I understand you have some
32 opening remarks. Can you provide those to us please.

33 MR. BOWMAN: I'll try to be brief. I wanted to first
34 commend Hydro for the job it's done in responding to the
35 large number of information requests and undertakings,
36 responses from, at least the responses I've received,
37 they've been complete, forthcoming and timely and it
38 indicates to me that the effort's been well managed. Having
39 worked under similar circumstances with Ontario Hydro,
40 where we filed a rate application in each and every year but
41 the last of my 16 years I can say that I have a fair
42 understanding of the substantial effort involved. Now as
43 Mr. Browne said, before I'm made available for cross-
44 examination I wanted to give a more complete explanation
45 of the recommendations in my pre-filed and that hopefully
46 will help reduce some of the confusion that might exist.
47 Now with regards to cost of service, my review of the cost
48 of service study indicates that Hydro has done a
49 reasonable job of reflecting the Board's guidelines set out

50 in its 1993 report on cost of service methodology. While
51 I've conducted, while I have not conducted an indepth
52 review of the cost of service treatment of each piece of
53 equipment on the system, I do feel that the Applicant's
54 accurately reflected the base of principles and intent in the
55 Board of 1993 report and I believe they've applied them in
56 a reasonably consistent manner. In this regard I have only
57 two comments concerning the cost of service study. The
58 first relates to the number of CP allocators. It's my
59 recommendation to go with a 1-CP allocator. It's more
60 appropriate than the 2-CP allocator as proposed by Hydro
61 for allocation of generation demand costs on the Island
62 interconnected system. I favour a 1-CP allocator because
63 it's consistent with what Hydro has proposed for its other
64 systems and because it reflects cost causation. When Mr.
65 Budgell testified that Hydro plans its generation to meet an
66 18 1/2 percent reserve margin at time of system peak, he
67 goes on to say that a change in models from LOLE to LOLH
68 should have no impact on the need for additional capacity.
69 Therefore, I conclude that 1-CP allocator is appropriate.
70 Mr. Osler, Mr. Brickhill, and myself all favour 1-CP
71 allocation. I'm not sure what Mr. Wilson's proposing. We
72 haven't had the benefit of cross-examination of him yet. So
73 only Mr. Brockman favours a multiple CP allocator. The
74 rest of us are in favour of 1-CP. The allocation of
75 distribution demand cost, my recommendation is that they
76 be allocated on the basis of non-coincident peak rather
77 than coincident peak as proposed by Hydro. Distribution
78 equipment is sized to meet local peak load as opposed to
79 system peak load. Now all experts at this hearing agree that
80 utilities generally size their distribution systems to meet
81 local peak loads, including Mr. Brickhill, Dr. Wilson, Mr.
82 Brockman, and Mr. Osler. However, Mr. Brickhill believes
83 that Hydro's distribution plan investment decisions are
84 more appropriately reflected in a coincident peak allocator.
85 I don't understand his reasoning on this, but I do, it is
86 without question, inconsistent with the testimony
87 submitted by other experts, and on this basis I recommend
88 a non-coincident peak allocator for distribution demand
89 costs for consistency with other jurisdictions.

90 With regards to rate design, I recommend that the
91 Board hire an independent consultant to review and
92 recommend rate designs for customers in Newfoundland.
93 The Board should table the independent consultant's
94 report at a public hearing. I make this recommendation
95 because in spite of the Board's efforts over the years,
96 Hydro's proposed rates fail to meet its design criteria,
97 particularly with regard to market efficiency and cost base
98 rates. I make this recommendation primarily on the basis of
99 the following; with regards to the wholesale rate design,
100 Hydro has not submitted for the Board's review a revised
101 wholesale rate design for sales to Newfoundland Power, in
102 spite of the Board's order to do so as far back as 1992.

1 Every rate design expert involved in this hearing has
2 recommended before this Board that more complex
3 wholesale rate with demand and energy charges be
4 implemented. Mr. Osler, Dr. Wilson, Mr. Hamilton at the
5 1990 hearing, Dr. Surekais representing Mr. Brickhill's firm
6 in the 1990 hearing, and Mr. Brockman at the 1990 hearing.
7 In the Board's 1990 report on proposed rates to be charged
8 to Newfoundland Light and Power, Newfoundland Power
9 witnesses, in particular Dr. Bruneau, the CEO at the time,
10 and Mr. Brockman came out strongly in favour of a rate
11 with a demand charge component. Dr. Bruneau stated that
12 NLP cannot send the proper price signal to its customers
13 until it gets proper pricing signals from Hydro, and he went
14 on to say that waiting three years for the implementation of
15 a rate structure with a demand charge would be a serious
16 impediment to the introduction of cost effective demand
17 side management program. Mr. Brockman states that a
18 widely accepted practice, consistent with the principle of
19 ensuring rates reflect cost, signal cost separately ... I'm
20 sorry, it's a widely accepted practice to signal cost
21 separately in customer energy and demand charges were
22 practical to do so. The counsel for the Industrial
23 Customers brought out Mr. Brockman's views during cross-
24 examination yesterday. Newfoundland Power represents
25 over 60 percent of Hydro's test year sales, and over \$200
26 million in annual revenues at current rates. A more complex
27 rate structure is likely to be cost effective. In fact, Mr.
28 Brockman states on page 4, line 16 to 17 of his
29 supplemental testimony, that the size of the Newfoundland
30 Power's load means demand meters can clearly be afforded.
31 Now it's likely to be cost effectively and it better reflects
32 cost causation and fairness. If that's the case then it
33 should be done. In words of Bond Bright, Danielson and
34 (inaudible) in *Principles of Public Utility Rates*, whether it
35 is difficult for large customers to react to peak rates by
36 changing load patterns, it's also not relevant. The benefit
37 to cost ratio is a criteria for utilization of peak tariffs for any
38 class of customer. Economic deficiency simply dictates a
39 customer should be faced with prices reflecting the true
40 cost imposed on society regardless of how they choose to
41 react to these tariffs. Now, time of day and seasonal rates
42 and marginal costs ... Hydro has not performed an analysis
43 of time of day and seasonal rates since 1990. It refers to a
44 marginal cost study it conducted in 1984 when they
45 designed a rate for non-utility generators. Now without
46 updated studies of marginal costs and time of use rates,
47 Hydro is missing an opportunity to better meet its rate
48 design criteria and related market efficiency and cost based
49 rates and improved customer service by offering rate
50 options and providing customers a level of control over
51 their bills. Now Mr. Brickhill, in response to a question
52 from Commissioner Whalen, say that TOD, time of day
53 rates have not been taken up by a large number of its
54 customers because people don't want to get up at 3:00 a.m.

55 to do their laundry. I can't say, I was on a time of day rate
56 for a little over five years, living in Springfield, Virginia, and
57 I can honestly say I was never up at 3:00 a.m. doing my
58 laundry and I feel quite confident speaking on my wife's
59 behalf in that regard as well. Now the one thing I did do
60 was install a timer on my hot water heater. Basically what
61 that did was it allowed, it only allowed the hot water heater
62 to come on during the off peak hours. So basically I've
63 seen a price signal at that time of 3 cents a kilowatt hour
64 rather than an average price that was something closer to
65 9 cents per kilowatt hour. Okay, that was the one change
66 I made and as a result of that I saved something in the
67 order of \$250.00 that year, and had similar savings each
68 subsequent year. Now the cost of that timer was \$20.00
69 and it took me something in the order of one to two hours
70 to install the timer. Now, the other thing I should say here,
71 technology is making it easier too all the time for customers
72 to respond without changes in lifestyle. Now, it was
73 announced a couple of months that two companies, and
74 they're called PTSC and Intercoastal System Engineering,
75 they're producing prototype devices for not-at-home
76 appliance control and that's for home, office and
77 commercial use. Now a recent study in Rhode Island states
78 that time of day rates, based on production costs, is one of
79 the keys to bringing true competition in the electricity
80 market. There's a saying if you don't have time of day rates,
81 and if you don't show customers a price signal, these types
82 of markets will never exist. Now, if you do pass those
83 through to consumers, these types of markets will exist and
84 it won't be onerous on customers to make changes in their
85 lifestyles and to reduce their electricity bills, to the benefit
86 of everyone.

87 And the third reason I have for recommending an
88 independent consultant review the rates relates to cross-
89 subsidization. Now, it's fair to say that Hydro's made no
90 progress in reducing excessive levels of cross-
91 subsidization in its rate structure, in spite of the Board's
92 recommendations in its 1996 report. Customers are
93 currently paying between 9 and 334 percent of the cost of
94 service. Not only is there significant cross-subsidization
95 amongst customer classes, but according to Hydro's expert
96 witnesses, taxpayers are subsidizing electricity consumers,
97 and that's because you're not collecting a high enough rate
98 of return. In addition through the RSP, future customers
99 are subsidizing current customers. Because rates are
100 averaged over the year rather than reflecting seasonal
101 variations, in effect, electric heating customers are being
102 subsidized by non-electric heating customers. Now Hydro
103 makes a weak attempt at subsidy reduction, proposing a 20
104 percent increase for government institutions on isolated
105 systems (inaudible) addressing a subsidy reduction in
106 2003, but it's fair to say the subsidy reduction is moving at
107 a snail's pace here.

1 Now, in summary, an independent consultant
2 could review the tariffs free of the historical baggage faced
3 by Hydro. I have to be fair to Hydro, every time they have
4 tried to submit something, they've had some kind of order
5 that hasn't allowed them to do anything about it, so in that
6 sense if you hire an independent consultant he'll be, he or
7 she will be able to come in here, will be free to interpret
8 things without the historical baggage that's been going on
9 here for a number of years, and the fact that we're giving, it
10 will give all stakeholders a chance to review that report in
11 a public hearing like this means that you won't be saddling
12 the utility with something it can't live with.

13 Okay, now I want to talk about industry and
14 regulatory structure for a moment here, and I think the
15 Chair has led into this nicely with his questions for Mr.
16 Brockman. Now the current structure of the electricity
17 industry is inconsistent with a move to more competitive
18 electricity markets throughout North America and around
19 the world. Customers are missing out on the potential
20 benefits. Okay, now competition should be assessed at the
21 generation procurement level, and through the introduction
22 of performance-based regulatory mechanisms at a minimum.
23 Now you're not going to be able to implement a fully
24 competitive wholesale market here in Newfoundland, the
25 market is just too small, but that doesn't preclude you from
26 doing things like performance-based regulation to help
27 move it in that direction.

28 Now at the procurement level, Hydro has indicated
29 a need for new generation by 2006 or 2007. It appears to me
30 in responses to information requests, that the procurement
31 process would include a request for proposals and that
32 Hydro might be allowed to submit a bid, okay. Now if
33 you're an independent power producer and you see a
34 government-owned entity that you're going to be
35 competing with in the bidding process, it's less likely you're
36 going to submit a bid in that process, the reason being the
37 odds are just too stacked against you. It does require a
38 certain amount of money to put a bid together and you
39 wouldn't want to spend that kind of money if you think that
40 the odds are pretty, are certainly against you.

41 Now when quality developers fail to participate in
42 the competition, the quality of the bids is reduced and the
43 prices tend to be higher. Of course, both of these things
44 lead to an increase in the cost of power, and when you're
45 talking a procurement program like Hydro that's going to be
46 in place for 20 to 30 years, you're not, it's not only the
47 capital component you're committing to, but it's also
48 operating costs over the life of that contract.

49 Now performance-based regulation, before I get
50 into that I want to discuss what it is that customers care
51 about. Now, let's consider telephone long distance
52 companies, and I'll use my own example because I'm much

53 more familiar with that. A couple of years ago I was getting
54 calls weekly, if not daily, from the various long distance
55 carriers, and the three big ones in our area was MCI, Sprint,
56 and AT & T. Now when they contacted me, for me to make
57 that decision, there was really only two things I was
58 concerned about and that was what services they're
59 offering, and basically the price of those services, okay.
60 Now in my case, we're Canadians, both my wife and I, and
61 both our families are in Canada, what was important to us
62 was to have a cheap rate to Canada basically, because I
63 was travelling internationally if we could tie in phone calls
64 to places like Pakistan and India at a low rate, that would be
65 good as well. That was what we cared about, basically the
66 number that showed up on our bill, okay.

67 Now in a competitive market like that, if the
68 service, customer service wasn't good, I could always back
69 out, I could always choose another supplier, and I did
70 actually do that. One supplier actually miscalculated my
71 bill three months in a row, at that point I decided it was time
72 to cut them loose, okay. Now so it's fair to say, the only
73 thing that really mattered to me was that number that was
74 on my bill. Now I never asked any of the service providers
75 what their return on equity is. I never asked them about
76 their depreciation expenses or how they had been doing in
77 their operating and maintenance costs. The thing that I
78 cared about, or the thing that any customer cares about
79 here is just the dollar figure that appears on his bill,
80 customer service, and the quality and reliability of service,
81 okay.

82 Now, performance-based regulation, it's a more
83 light-handed form of regulation that focuses on what
84 customers want. Now under PBR, prices are capped at a
85 level, possibly at today's prices and then they're allowed to
86 increase at the beginning of each subsequent year usually
87 according to the consumer price index. Okay, but that
88 allowed increase is offset at an appropriate productivity
89 factor. So in other words, if you have a consumer price
90 index that's running at about two percent, you would have
91 to come up with an appropriate productivity factor, and if
92 that was three percent you would actually see a one
93 percent reduction year over year under PBR.

94 Now costs over which the utility has no control,
95 for example, if you had a one in one hundred year storm
96 come through and cause severe damage, that type of cost
97 would be allowed direct pass through to consumers, and
98 that's what's commonly called a Z factor here in Canada.

99 Okay, now in order to ensure the utility has not
100 cut costs to the point that reliability is affected, you include
101 performance benchmarks that are established with
102 penalties, and they're applicable when these performance
103 benchmarks aren't met. Now if there is a particular area
104 you're targeting that you want to see improvement, you

1 might also have a system of bonuses that would reward the
2 utilities if they do better in those areas, okay.

3 Under performance-based regulation since 1990,
4 the National Grid Company, and the National Grid Company
5 is a transmission service provider in the United Kingdom,
6 they have reduced the cost of transmission by 37 percent
7 while increasing the capacity of the transmission system by
8 20 percent, and reducing the unavailability of the system
9 by half. Basically, the availability of the system improved
10 from 98 percent to 98 (*sic*) percent ... sorry, 98 percent to 99
11 percent in that period.

12 Like I said, this relates only to the transmission
13 component but the distribution companies in the UK under
14 PBR in the period from '95 to '98, reduced its operating
15 costs by 20 percent while making significant improvements
16 in quality of service. Now this is coming out of their
17 regulatory report. And for example, the minutes not served,
18 and I might add, that on a typical utility system, 80 percent
19 of the unreliability relates to the distribution system, but
20 under the PBR scheme in the UK, in that period they
21 reduced the minutes not served by 10 percent.

22 Now Norway's regulator expects network
23 companies to improve efficiency under PBR by 50 percent
24 over the next 10 to 15 years. Now with this type, with these
25 results, the regulator really can't ignore this. You really
26 need to take a close look at this thing and see how it relates
27 to Newfoundland and I would say if you look at what the
28 Flatrock ladies including Mrs. Peddle were looking for in
29 1986, I think what they were looking for was sustained
30 pressure on the utilities to provide quality service at low
31 cost. Now they would have got that, or they would get
32 that under something like a performance-based regulatory
33 mechanism, but instead what they got was the RSP and
34 that didn't meet their requirements.

35 Now PBR is receiving increasing attention within
36 the industry. Royal Bank endorses PBR in the countries
37 I've worked. Consultants in our bond office, when I
38 contacted them in Germany, they don't even consider PBR
39 to be innovative anymore, all European countries are doing
40 this. A recent survey report in Public Utilities Fortnightly
41 indicated that 40 states now employ PBR to regulate
42 interstate operations of local exchange carriers, and at least
43 28 electric utilities in 16 states currently operate under some
44 form of broad based performance-based regulatory
45 mechanism, and Ontario has recently implemented PBR for
46 distribution companies in the last couple of years.

47 And I did notice in this Board's annual report from
48 last year that a study was to be undertaken on alternative
49 regulatory mechanisms, but I understand that's never been
50 completed.

51 Now you can see how a system like this has the

52 potential to produce significant benefits to both consumers
53 and the utilities by giving utilities an opportunity to
54 increase returns to their shareholders. In a system like this,
55 you can be quite sure that Hydro and Newfoundland Power
56 would cooperate and work much harder to identify and
57 implement shared programs that result in cost savings, and
58 I think Mr. Browne was able to indicate in cross-
59 examination that Hydro and Power have studied cost
60 sharing mechanisms and although they have identified a
61 number of areas, they really haven't made much progress in
62 terms of implementation. Under a PBR scheme like this
63 there would be more incentive to make these things
64 happen. So in my opinion, it's pretty clear to me that a
65 performance based regulatory mechanism would certainly
66 improve, would certainly serve customers better than the
67 current system which you have in place.

68 Now, with regards to the RSP, I think everyone is
69 familiar with my recommendation which was to eliminate the
70 RSP but gradually in order to spread the rate impact over
71 time. There has been a lot of discussion on the actual
72 administration and how you calculate the RSP, but it's
73 important to understand what it is. Now what it is really is
74 a fuel adjustment charge, okay, that enables refunds or
75 pass through of fuel costs that are different from forecast,
76 and then it includes a balancing account, and that enables
77 pass through or refunds of one third of the balance each
78 year. Now unfortunately the balances have been accruing
79 since 1994 and a deficit of \$100 million is projected for next
80 year.

81 No other utility in North America appears to have
82 an RSP charge like that used in Newfoundland. The
83 National Association of Regulatory Utility Commissioners
84 does not address RSP accounts in its manual. The survey
85 of Canadian utilities undertaken by Hydro indicates that no
86 Canadian utility uses an RSP account. My own firm
87 contact at the National Regulatory Research Institute, and
88 they indicated that no US utility uses an RSP like that used
89 in Newfoundland. Now they did indicate that fuel
90 adjustment clauses are common, although they have been
91 under fire in recent years because they tend not to provide
92 incentive to the utilities to do a better job managing fuel
93 costs.

94 Now the National Regulatory Research Institute
95 did indicate that all but one state that had fuel adjustment
96 clauses balanced the fuel adjustment account either
97 annually or semiannually. Now Connecticut is the only
98 state that uses a monthly balancing mechanism, similar to
99 the fuel adjustment clause that preceded Newfoundland's
100 RSP.

101 So in summary, according to the National
102 Regulatory Research Institute, no state utilizes a fuel
103 adjustment clause that balances over a period of greater

1 than one year. Now there is a number of reasons why
2 utilities don't use a multi-year balancing account with their
3 fuel adjustment clauses. It distorts price signals. Now last
4 year when Hydro's price of oil was about \$35.00 customers
5 were seeing rates that reflected something lower than that
6 price. Okay, now three years from now customers might be
7 seeing rates reflecting an oil price of \$35.00 when oil prices
8 at that time could actually drop to \$10.00 per barrel, so the
9 effect is that customers will be reacting to the wrong price
10 signal, okay, potentially conserving when oil prices are low
11 and consuming when oil prices are high. That's how it
12 distorts the price signal to consumers.

13 Now as I've already mentioned, the RSP causes
14 cross-subsidization and in the past consumers are being
15 subsidized by current consumers. It appears that current
16 consumers will be subsidized by future consumers. Now
17 when the two industrial customers left, their share of the
18 RSP was left for remaining customers to pay, so you can
19 see how that cross-subsidization works. Now similarly, my
20 brother-in-law left the province last year to move out west,
21 basically he left his share of the RSP for the remaining
22 customers to pay, and the converse is true as well.
23 Customers moving to the province will be stuck paying a
24 sizeable debt that they in no way were responsible for, and
25 that's customers at the industrial level, or at the residential
26 level.

27 Now the third reason is that it provides little
28 incentive for Hydro to better manage its fuel supply cost
29 and improve its forecasting techniques, so it simply
30 allowed pass through of all these costs to consumers, so it
31 doesn't provide a particularly good allocation of risk
32 between Hydro and the consumers.

33 It's difficult for customers to understand, and
34 that's witnessed by the number of information requests, the
35 amount of time spent explaining the administration of the
36 RSP at this hearing. You still have ... the industrial
37 customers now are complaining that the RSP has been
38 calculated incorrectly since 1992. Clearly customers don't
39 understand the current administration of this charge.

40 Now as Newfoundland Power states, on page 51
41 of the Board's 1993 report on proposed rates to be charged
42 to Newfoundland Light and Power Company, NLP
43 submitted that cost deferrals are against generally accepted
44 utility practice of matching rates to costs in the period in
45 which they occur, and that cost deferrals should not be
46 made especially when they can be reasonably avoided,
47 okay. The RSP being a fuel charge is something that could
48 be reasonably avoided. It happens on a moment to moment
49 basis.

50 Now the RSP balancing account, by deferring
51 costs to future periods, violates this basic principle and

52 that was agreed to by Mr. Hamilton under cross-
53 examination. And number six, all cost of capital experts
54 testified that the RSP offers protection from variations in
55 forecast load, generation mix, and fuel prices. Okay, they
56 indicated this protection enables a reduction in the rate of
57 return required by Hydro. I certainly agree with that
58 assessment, but I have to point out that protection is
59 offered by the fuel adjustment component of the RSP alone,
60 not the balancing account. Okay, now only one rate of
61 return expert testified concerning the effects of the
62 balancing account, and that was Dr. Kalymon. He testified
63 under cross-examination that if the outstanding balance in
64 the RSP became too large, the financial community may
65 view this negatively resulting in an increase in the required
66 rate of return. Okay, therefore, Hydro and NP, by
67 endorsing the RSP in its present form are promoting higher
68 rates for customers.

69 Now as I alluded to earlier, Hydro and
70 Newfoundland Power support the RSP on the basis that
71 customers demanded the RSP back in 1985. In addition to
72 the fact that this information is out of date, being 16 years
73 old, it's very much exaggerated. None of the
74 documentation submitted by Hydro in its response to **CA-
75 179** indicates that consumers in 1985 were complaining
76 about unstable year over year prices. In fact, the
77 newspaper articles and transcript excerpts are clear that
78 customers were not satisfied that the RSP addressed their
79 concerns. The New Labrador Action Committee stated that
80 the averaging plan was only a whitewash and demanded a
81 full inquiry into why electricity bills were so high. In the
82 transcript, Mrs. Peddle stated, "We reject the proposal
83 insofar as we can understand it". Now my review of **CA-
84 179**, I was unable to find a single article indicating that
85 customers wanted the Rate Stabilization Plan.

86 Balancing the fuel adjustment account on an
87 annual basis rather than a monthly basis, and an equalized
88 billing option would have addressed customer concerns
89 about billing stability on a month to month basis. Now to
90 suggest that the RSP addressed customer concerns at that
91 time, because there has been no rioting in the streets since
92 it was implemented, that to me is a rather coarse measure of
93 customer satisfaction.

94 Now, in summary, there is many problems with the
95 RSP and that explains why no other jurisdictions in North
96 America have such a plan in place. Now the fact that the
97 plan would be \$100 million in arrears next year, the
98 equivalent to roughly one third of the revenue requirement,
99 adds significantly to the need to act quickly on its
100 elimination.

101 Now what are the options for replacing the RSP.
102 Okay, if you're going to eliminate the RSP as I recommend,
103 you need a replacement mechanism of some sort. Now I

1 would like to see a plan with a mechanism that transfers a
2 portion of the risk associated with fuel cost to Hydro. At
3 this point in time all cost of capital experts have referred to
4 the very low risk that the utility must manage. Well, this is
5 not a good thing for customers because it means that risks
6 are being transferred on to them. Now although Hydro is
7 unable to control such things as the amount of rainfall and
8 the world price of oil, there are things it can do to manage
9 the risk to some extent. For example, Hydro has
10 implemented a software package that enables it to maximize
11 output from its hydraulic generating stations, and Mr.
12 Osmond outlined details of a phantom oil price hedging
13 program that might be utilized under the right regulatory
14 mechanism to reduce exposure to variations in world oil
15 prices. Okay, if you can see ... if you compare Hydro's
16 options for risk management to the consumers, there's
17 certainly more options available to Hydro than the
18 consumers have.

19 Okay, now fuel price risk management, and Mr.
20 Brockman touched on this briefly, what they were doing in
21 Florida. One means of providing a better allocation of risk
22 between consumers and Hydro would be through the
23 application of a fuel price mechanism commonly used in
24 power purchase agreements. Often the energy component
25 of a power purchase tariff has two features; the first relating
26 to the conversion efficiency of the generator, and the
27 second relating to the price of fuel. Now the conversion
28 efficiency is typically set at an industry standard
29 consistent with the type of generator in order to encourage
30 the owner to continue to adequately maintain the unit.

31 Using Holyrood as an example, you might peg the
32 conversion efficiency at a level reflecting recent plan
33 experience, or at a level reflecting the industry standard for
34 this type of facility. Now pegging it an industry standard,
35 Hydro would keep any revenues gained from improvements
36 to the efficiency, to the conversion efficiency, that place it
37 ahead of the industry standard, but would absorb any
38 losses arising if the efficiency of the unit falls below the
39 industry standard. So in effect, the risk is transferred to
40 Hydro as Hydro clearly is best able to manage this risk.
41 You certainly can't expect the customers to do anything in
42 the way of managing the fuel conversion efficiency at
43 Holyrood.

44 Now with regard to the fuel price component, it's
45 recognized that Hydro has only limited control over fuel
46 prices, so the fuel price is allowed to increase or decrease
47 according to a published fuel price index. For example, Mr.
48 Brockman listed a number of potential indexes and if
49 Statistics Canada publishes such an index you could use
50 that. Now in this manner, if Hydro can manage its fuel
51 contracts, so its cost of fuel is less than the increase in the
52 index, it will increase its revenues. Okay, conversely, if

53 Hydro does not do a good job managing its fuel contracts,
54 its revenues would be reduced. In either case the
55 consumer sees the index.

56 Now you can see how this provides incentive to
57 Hydro to do a good job managing its fuel contracts while
58 taking into account that it has only a limited amount of
59 control over world oil prices. Now this mechanism
60 provides a better allocation of risk between Hydro and
61 consumers than what a direct pass through does, as is
62 currently the case under the RSP.

63 Okay, now if you applied PBR mechanism to the
64 overall cost of fuel, like the Board might allow Hydro what
65 it views to be a reasonable fuel price for 2002 based on
66 current forecast. For example, the Board might determine
67 that \$100 million represents an appropriate cost of fuel for
68 2002, and at the end of next year you could review what
69 Hydro spent on fuel so if Hydro spent \$110 million you
70 might decide that you want to allow them to pass through,
71 say \$5 million to consumers, while absorbing the other \$5
72 million. Okay, conversely, if the fuel cost came in at \$90
73 million, \$5 million would be refunded to customers, and
74 Hydro would keep the other \$5 million, so that provides
75 Hydro an incentive to better manage its overall fuel costs
76 and provide a benchmark for deciding how much it wants
77 to spend on hedging programs. It would also encourage
78 implementation of demand management and energy
79 efficiency programs. So these are the types of things I
80 would like to see the RSP replaced with.

81 Now Board considerations, I say these are the
82 types of things I'd like to see it replaced with, but on the
83 other hand, I'm not sure the Board, number one, if the
84 Board, how far the Board's jurisdiction extends here. The
85 other thing, I don't know that the Board has enough
86 information before it that would allow it to design such an
87 incentive mechanism. Now, an alternative to the RSP has
88 not really been presented in testimony and received the
89 necessary scrutiny from the various stakeholders, yet, I feel
90 the RSP in its present form is untenable for the consumers
91 in the province. Okay, so as a result, and in keeping with
92 the question posed last week by Commissioner Powell, I am
93 recommending that the stakeholder groups, including
94 Newfoundland and Labrador Hydro, Newfoundland Power,
95 the Industrial Customers, and the Consumer Advocate,
96 meet off the record in an effort to negotiate a solution that's
97 agreeable to all parties, and I feel that this potentially
98 represents the optimum solution to this dilemma for
99 stakeholders.

100 Now I've pulled together a brief terms of reference
101 for the negotiations. These terms of reference are
102 submitted in an effort to focus stakeholders and be
103 completely open to suggestions and comments from the
104 various stakeholder groups, and I'll just quickly go through

1 what I proposed here, and I don't think we've got a copy of
2 this but we can make it available ... when ... tomorrow? One
3 member from each of Newfoundland and Labrador Hydro,
4 Newfoundland Power, Industrial Customers, and Consumer
5 Advocate to be proposed by the relevant parties. The
6 proposed individual should have rate design expertise.
7 One negotiating session on December 5th with a proposed
8 duration of two hours. Okay, a second negotiation session
9 on December 6th, if necessary. I think it will be necessary
10 because I believe that if we have agreed on something, we'll
11 have to go back to the respective clients. A written
12 agreement would be presented to the Board by December
13 11th, 2001, reflecting the outcome of the negotiating
14 sessions. The intent is that one agreement would be
15 delivered to the Board, although dissenting proposals can
16 be made if a party does not conform with the position put
17 forward in the agreement, and if there is more than one
18 dissenting proposal, an agreement would not be submitted
19 to the Board and the parties would present their positions
20 in final argument.

21 Now if conformity is reached among the parties,
22 the Board has a consensus agreement to consider and
23 include in drafting its decision. Now the negotiating
24 sessions will focus on developing a suitable replacement
25 for the current RSP design. The replacement design will
26 adhere to generally accepted rate making principles and be
27 consistent with the collection of Hydro's full revenue
28 requirement as determined by the Board. Okay, the
29 agreement will address the design of the mechanism that
30 will replace the RSP. Actual figures associated with the
31 design will be developed by Hydro consistent with the
32 Board's ultimate decision with regard to the appropriate
33 revenue requirement to be granted to the Applicant, and
34 this concludes my opening remarks.

35 MR. BROWNE, Q.C.: Thank you, Mr. Bowman. Mr.
36 Bowman is available for cross-examination.

37 MR. NOSEWORTHY, CHAIRMAN: Thank you very much,
38 Mr. Browne and Mr. Bowman. It is 4:30.

39 MR. YOUNG: I wasn't about to begin cross-examination,
40 Chair. In fact, I was going to request something a little
41 different than you might have been expecting at this time.
42 The evidence that Mr. Bowman has provided this
43 afternoon, while interesting, it's sort of voluminous and all
44 over the place, and we have not had this pre-filed. There
45 was quite a bit of new stuff and I would draw distinctions
46 between the nature of the evidence that Mr. Bowman has
47 presented and the nature of the presentation Mr. Osler has
48 presented. To be quite frank, especially considering the
49 last few comments, and I was racing writing notes as to this
50 proposal he had done, I would like to seek instructions
51 from my client before we cross-examine him, and I'd like to
52 have a delay until perhaps two o'clock tomorrow before we

53 start that because there is quite a bit of new stuff here
54 which hasn't been pre-filed, and our view is that it could
55 have been.

56 MR. NOSEWORTHY, CHAIRMAN: I'll entertain some
57 other comments on that please?

58 MS. BUTLER, Q.C.: Mr. Chairman, I have to say that
59 during the course of listening to this witness late this
60 afternoon, that the thought also crossed my mind that I
61 might need some time to do a proper job of cross-
62 examination, if in fact this testimony is permitted testimony.
63 Certainly the last five minutes in terms of the formal
64 recommendations to the Board are complete news to me
65 and may require some input from Newfoundland Power's
66 officials in terms of giving us instruction, so I would agree
67 with Mr. Young's comments on that, and I think given the
68 speed with which we have actually run through the cost of
69 service witnesses this week, really a half a day to get ready
70 properly wouldn't really be a disservice to anybody.

71 MR. NOSEWORTHY, CHAIRMAN: Ms. Henley Andrews?

72 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, I think that
73 Hydro's request is reasonable and we don't have any
74 objection to everybody having that time to think through
75 the proposal and perhaps see the written copy of it. We
76 don't object, however, to Mr. Bowman's additional
77 evidence.

78 MR. NOSEWORTHY, CHAIRMAN: Mr. Kennedy, do you
79 have any comments?

80 MR. KENNEDY: Chair, it would seem that the only thing
81 that Mr. Bowman provided by way of evidence that was
82 unexpected related to this proposal for a negotiated
83 settlement to an RSP. The rest of the items from what I can
84 tell are in keeping with, for the most part, his pre-filed
85 evidence. I can't see why Hydro would need till two o'clock
86 tomorrow afternoon in order to get directions on that one
87 item, and it puts us into a timing issue clearly with the fact
88 that Mr. Bowman will end up not starting cross until
89 tomorrow afternoon, extensibly not finishing until Friday in
90 which case Mr. Wilson wouldn't be able to start until
91 principally Friday or even Monday, so we're into the
92 second week, as opposed to if we, as I thought, marched
93 on with the cross-examination of Mr. Bowman as
94 contemplated, it was, had every potential that we could
95 complete this cost of service on schedule this week, so I'm
96 wondering whether Hydro would be prepared to commence
97 its cross-examination tomorrow morning as scheduled and
98 then perhaps reply back later as to this specific proposal
99 regarding the negotiated settlement to the RSP issue.

100 MR. YOUNG: Mr. Kennedy, Mr. Chair, if I may respond to
101 that. I have to be honest and say that Ms. Greene and I
102 exchanged a few comments before we got into the

1 discussion of this proposal and the parties getting together
2 with a delegate and behind closed doors and whatever
3 exactly that proposal is, and I'm looking forward to reading
4 the transcript, unless perhaps I can get a hard copy in
5 which case I can read it tonight instead of in the morning
6 and then have a chance to discuss it. There were, in our
7 view, a number of new matters explored much more fully in
8 this testimony than were pre-filed. I think the whole
9 discussion of PBR and the amount of information given
10 around that, while useful, would have been preferably pre-
11 filed and I can guarantee I would have a number of other
12 issues I have to follow up on with people in our company
13 as to what our positions may be on some of this stuff and
14 to verify whether or not some of the points raised by Mr.
15 Bowman are, accord with our understanding of it, so Mr.
16 Kennedy, I guess we disagree with your point about the
17 only issue new being that last proposal, and aside from that
18 one, I would say that was a mouthful to say the least, and
19 that was very much a new issue and very much a new
20 proposal and so a whole new procedure potentially which
21 may have all kinds of possibilities, so all I can do is ask for
22 the opportunity to have a chance to read the transcript in
23 the same way that we have been able to do with other
24 witnesses who pre-filed large amounts of testimony with
25 some detail in it. I mean if you compare Mr. Osler's
26 testimony to Mr. Bowman in the pre-filed, there's a lot of
27 difference in content, and now it seems that for Mr.
28 Bowman, we do have more flesh on these bones, and we
29 have no problem with that but we need time to prepare.

30 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, sure.

31 MR. BROWNE, Q.C.: Mr. Chairman, I might be of
32 assistance here. We will file for the parties and they'll all
33 have a copy of it within the hour of any comments that Mr.
34 Bowman has made so that they won't have to wait
35 overnight for them, and given that, I don't see Mr.
36 Bowman's evidence departed in any way from the opening
37 comments of Mr. Osler, and we continued with him the next
38 day. I'm for moving the hearing on and if we're able to give
39 the opening comments which are general comments
40 concerning performance based regulation and things that
41 most parties would be familiar with here, I don't see any
42 reason why we should delay the opening of the hearing
43 tomorrow morning beyond the usual opening, so all parties
44 will have it sent to them within the hour, both
45 electronically, and we will send it to them by a courier if
46 that's not suitable to them, and they'll have the night to
47 dwell on it, the same way as we've had overnight to dwell
48 on the opening statements of other witnesses.

49 MS. GREENE, Q.C.: Mr. Chairman, if I might. Our position
50 is that Hydro has been taken by surprise. We believe that
51 there is substantial new information that was just read by
52 Mr. Bowman. We would need to review that with our

53 clients who are not here this afternoon. We need to take a
54 position. I am all for moving this hearing along, but our
55 position is we've been taken by surprise. It is regrettable.
56 Hydro has throughout this hearing endeavoured to provide
57 information in advance. We don't believe that same
58 courtesy has been extended with respect to this witness
59 and we are asking for that half day delay.

60 MR. NOSEWORTHY, CHAIRMAN: Okay, I'm going to
61 take ...

62 MR. BROWNE, Q.C.: I think, Mr. Chairman, I'm not letting
63 that stand on the record. I think that's nonsense. Mr.
64 Bowman made an opening statement. It took him, the way
65 I read it, 30 minutes to make it, and I don't think the surprise
66 factor is fair. I don't think this idea of being taken by
67 surprise is fair either, as I'm sure the facts will come out
68 eventually, so I would hope that the Board would consider
69 the matter. You could open at 10:30 for instance, if you
70 want to try to get the morning in a bit. That might be a
71 good compromise. We're all for compromises.

72 MS. GREENE, Q.C.: And my last comment is we haven't
73 taken this position with any other witness, whether it was
74 Mr. Osler or Dr. Kalymon. He also filed new information.
75 So if the Board's looks back at Hydro's position during this
76 hearing, when opening statements have been made, and in
77 fact, when additional evidence was filed such as through
78 Dr. Kalymon, we did not object. We are saying that we
79 need time to review this new ... and in our view, it is
80 significant new information, with our clients.

81 MR. KENNEDY: Chair, maybe just if I may, there was six
82 points raised by Mr. Bowman. The first related to the CP
83 allocators. That's in his pre-filed testimony. The second
84 related to distribution demand costs. That's in his pre-filed
85 testimony. The third related to the wholesale rate design
86 between Hydro and Newfoundland power. That's in his
87 pre-filed testimony. The fourth related to the
88 implementation of seasonal or time of use rates. That's in
89 his pre-filed testimony. The fifth related to the performance
90 based regulation. I can't see how Hydro would be
91 surprised by that. It's the sixth item relating to the
92 recommendation of a negotiated settlement on the RSP,
93 which I think is the one that perhaps is sticking in Hydro's
94 craw as being a surprise, and I can see why they would
95 need directions on that matter, so I think that that's an
96 issue that the panel would need to decide whether they
97 want to give Hydro an opportunity to get instructions
98 regarding that specific item. If, in fact, Hydro is willing to
99 contemplate such a negotiated settlement, well in actual
100 fact their cross-examination may go faster because then it
101 takes out the necessity perhaps of cross-examining Mr.
102 Bowman on the RSP. If they reject that proposal, then it
103 would seem to me it would just be a straightforward cross-
104 examination on the abandonment of the RSP as being

1 recommended by Mr. Bowman, which is also in his pre-filed
2 testimony.

3 COMMISSIONER SAUNDERS: With all due respect, Mr.
4 Kennedy.

5 MR. KENNEDY: Yes, Mr. Saunders.

6 COMMISSIONER SAUNDERS: This is the first witness
7 that I've heard anyway, and I think I've sat through all of it,
8 where any new evidence has come out and I wonder why
9 Mr. Browne could not have circulated the additional
10 evidence that your witness has given this afternoon in
11 advance of today. Why would you have waited until 4:25
12 knowing that it was going to cause what, you know, a
13 disruption in a process that so far has gone fairly smoothly.
14 Now we're faced with having to lose half a day, and I say
15 we're faced with it because it's being asked for by the
16 Applicant. We can't very well compel the Applicant to
17 proceed if it's not ready.

18 MR. BROWNE, Q.C.: I think your own counsel just told
19 you that of the points that were raised ...

20 COMMISSIONER SAUNDERS: I know what my own
21 counsel has said, Mr. Browne. My question to you was
22 why couldn't you have put this on the table yesterday?

23 MR. BROWNE, Q.C.: Because we didn't have it ready for
24 yesterday. We were dealing with it as testimony was
25 changing. We worked into last night, we worked over
26 noontime, and we have it ready, and ...

27 COMMISSIONER SAUNDERS: Well, then noontime.

28 MR. BROWNE, Q.C.: I'm a bit concerned, I've heard some
29 comments from you previously, Commissioner Saunders,
30 concerning ... you cut off Mr. Fitzgerald here on one
31 occasion, you haven't done that to any other witness, and
32 I'm just wondering how open a mind you have ...

33 COMMISSIONER SAUNDERS: I guess no other witness
34 strayed like Mr. Fitzgerald did.

35 MR. BROWNE, Q.C.: Well, I'm very concerned ...

36 COMMISSIONER SAUNDERS: In my view.

37 MR. BROWNE, Q.C.: I'm very concerned, I don't see you
38 as speaking for the panel but ...

39 COMMISSIONER SAUNDERS: Well, let's not get back to
40 that ...

41 MR. BROWNE, Q.C.: If you're speaking for the panel I
42 would be very concerned ...

43 COMMISSIONER SAUNDERS: Why don't you please
44 answer the question I asked you, Mr. Browne. Why didn't
45 you file this when you knew it?

46 MR. BROWNE, Q.C.: We're ready to file it within the hour.

47 I just gave you the answer. The answer is we ...

48 COMMISSIONER SAUNDERS: You should have been
49 ready to file it before the hour.

50 MR. BROWNE, Q.C.: Well, we wanted to hear the evidence
51 up to late yesterday. We got the transcripts again this
52 morning. We wanted to be sure it's what we're saying.
53 There's nothing in there new, save an expanded definition
54 of performance based regulation, and the proposal, and I
55 can tell you and some of the parties, the idea that there
56 might be some kind of discussions on the go isn't new
57 either. We have to protect the panel from that.

58 MR. KENNEDY: Chair, if I may, there are two options that
59 the panel may want to consider. There is the potential that
60 we could switch out the order of Mr. Bowman and Dr.
61 Wilson, so in other words, tomorrow morning commence
62 with Dr. Wilson. The only thing is then that would involve
63 a reordering of the cross-examinations by counsel and I
64 don't know if they'd be prepared to do that. The second
65 option would be to conduct a hearing tomorrow evening
66 which has been done, I know, in the past, in an effort to
67 speed the schedule along as well, and I just put them
68 forward as possibilities that the panel could consider.

69 MR. NOSEWORTHY, CHAIRMAN: I don't know if the first
70 is a possibility because presumably if we went on with Dr.
71 Wilson, that all the parties would have to be here to
72 prepare and listen to that testimony. I don't know if that
73 would necessarily ... I'm inclined to ... I've heard ... and are
74 there any other additional comments. I'm inclined to take ...
75 sorry.

76 COMMISSIONER WHALEN: I just wanted to just clarify
77 comments by Ms. Butler. Is it Newfoundland Power's
78 position that there would be a question as to whether that
79 evidence would actually be admissible, is that your
80 position, whether it's allowed in at all?

81 MS. BUTLER, Q.C.: Well, with respect to the pre-filed
82 evidence, and again, you know, I'd have to say, Ms.
83 Commissioner, I'm new to the game, but it seems to me that
84 the evidence always came in the form of a hard copy to all
85 of the counsel prior to a witness taking the stand. Now I
86 have to take some guidance from my colleague, Mr. Alteen,
87 who has been appearing here for many years as to whether
88 in fact this strays from the normal procedure, but I have to
89 agree with Commissioner Saunders that by breaching the
90 protocol in this fashion, I feel that I'm at a disadvantage,
91 and I don't know whether in fact it's a simple matter of just
92 correcting that by filing something now within the hour and
93 just moving on tomorrow morning, but I would certainly
94 like the time to discuss it with Mr. Alteen in terms of a
95 formal position.

96 MR. BROWNE, Q.C.: If we could point out, Mr. Chairman,

1 everyone will have this evidence within the hour and we'll
2 file it electronically and otherwise. If the Board wants to
3 start at 10:30 as a compromise, if the Board wanted to start
4 the hearing at 11:00, that would be a further compromise.
5 The fact of the matter is, if the parties were able to agree on
6 a rate stabilization alternative, the hearing would be
7 expedited tremendously if the Board were to accept that
8 recommendation, or if the parties were able to put
9 something together for the Board for serious consideration,
10 and it was with that objective that the last paragraphs in
11 Mr. Bowman's evidence was designed. It was designed to
12 be helpful.

13 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, if I might,
14 we're in your hands in terms of the ultimate decision, but
15 I've been in practice doing litigation for a long time and
16 these things do occur, and you know, asking for time for
17 Newfoundland Hydro to respond to something which they
18 weren't expecting is not an uncommon event certainly in a
19 courtroom, and it's not uncommon for those types of
20 accommodations to be made. Obviously, it's for the Board
21 to decide how to deal with it and what type of delay or how
22 much delay. I understand the problem that Mr. Kennedy
23 faces, but we had the two full weeks set aside for the cost
24 of service witnesses plus Monday as I understood it, in
25 case it was necessary, so it's a question of balancing the
26 interests but the most important thing from a legal
27 perspective at the end of the day is not only that
28 everybody be treated fairly, but that they also be perceived
29 to have been treated fairly, so you know, I think that that's
30 something that we'll just have to leave to you.

31 MR. NOSEWORTHY, CHAIRMAN: Thank you, I have
32 heard the comments and I'm going to exercise my
33 prerogative now and take five minutes with my colleagues
34 and we'll return after that.

35 *(break)*

36 MR. NOSEWORTHY, CHAIRMAN: Thank you, sorry for
37 the little bit of an extra delay. Okay, I notice that the
38 evidence has been filed, Mr. Browne, thank you very much.
39 We've had some considerable discussion and we feel that
40 the process has certainly gone on relatively smoothly
41 given the nature of the application to date, and I think all
42 parties from the very outset, we have sat down and either
43 through motion days or through meetings of counsel have
44 set a procedure and a schedule which I think we've,
45 generally speaking, adhered to throughout the proceedings
46 and throughout this hearing, and I think in fairness to the
47 Applicant, they have made every effort as well throughout
48 this process to provide undertakings on a timely basis,
49 certainly working through the evenings and after hours
50 outside the hearing and certainly they have made every
51 effort, I think, to respond to the questions. I think it was
52 acknowledged earlier on by Mr. Bowman even, the

53 considerable effort that has gone into this, so the second
54 comment that I would make, given the fact that I think we
55 should be cognizant of the effort that has been put into it
56 by the Applicant and indeed others is the fact that we have
57 looked at the evidence, or considered the evidence by Mr.
58 Bowman, and certainly while much of the comments that he
59 would have made in his opening remarks correlate and
60 correspond to the pre-filed testimony, that indeed there are
61 a couple of areas, and these are substantive areas with a
62 view to the performance based process that he talked about
63 in terms of the regulatory process, but in particular the
64 proposal that has been put forward which indeed in relation
65 to the timing and in relation to the process, would have a
66 considerable impact and indeed would need to be in my
67 view reconsidered in a formal way. I guess in the first
68 instance we feel that there's enough here certainly that we
69 will take tomorrow to consider these matters that are in the
70 evidence. We will reconvene at 2:00, but we will take
71 tomorrow to assess that as the, as Hydro has suggested
72 here. When we do reconvene as well, I think the panel, Mr.
73 Browne, I have to say this has taken us by surprise. I think
74 this is the first instance to this degree in any event that it's
75 happened throughout the proceedings and I think there
76 has been certainly a good measure of cooperation in this
77 matter ... I'm not suggesting that you haven't indeed
78 intended to cooperate here. I know we're all working
79 overtime to read this evidence and what have you, but you
80 will have to admit that this is, that this, at least in respect of
81 the proposal that's before us, does change the water on the
82 beans considerably if indeed it's to be considered. What I
83 would ask is that when we start at 2:00 tomorrow that I
84 would like to hear comments, because I think we have to
85 deal with this, with the evidence that's presented, or these
86 suggestions, in any event, that has come forward to us
87 before we can really get into cross-examination to deal with
88 this in a sensible fashion, and I would like to hear
89 comments from the parties on whether these suggestions
90 would be indeed considered as part of the evidentiary
91 record, how it is to be dealt with, quite frankly, and any
92 timing considerations and how it will impact the remainder
93 of the schedule that we have agreed. I think the matter has
94 to be dealt with up front before we can get into the cross-
95 examination on this matter and be in a position to actually
96 hear it and deal with the proposal as put forward. Okay, so
97 we'll reconvene, thank you very much, and I apologize
98 again for the lateness, but we'll reconvene at 2:00 tomorrow.
99 Thank you.

100 *(hearing adjourned to December 5, 2001)*