

1 (9:30 a.m.)

2 MR. NOSEWORTHY, CHAIRMAN: Thank you and good  
3 morning. Before we get started, I wonder, Counsel, are  
4 there any preliminary matters, please?

5 MR. KENNEDY: No, Chair, not that I'm aware of, not this  
6 morning.

7 MR. NOSEWORTHY, CHAIRMAN: Okay. Having heard  
8 none, we'll get directly to business. Good morning, Mr.  
9 Brushett.

10 MR. BRUSHETT: Good morning.

11 MR. NOSEWORTHY, CHAIRMAN: Good morning, Mr.  
12 Browne. I wonder could I ask you or is it Mr. ...

13 MR. FITZGERALD: Yes. It'll be me this morning, Mr.  
14 Chairman.

15 MR. NOSEWORTHY, CHAIRMAN: Okay. Could I ask  
16 you, Mr. Fitzgerald, to begin, please?

17 MR. FITZGERALD: Thank you. Good morning, Mr.  
18 Brushett.

19 MR. BRUSHETT: Good morning.

20 MR. FITZGERALD: Mr. Brushett, you'll be relieved to  
21 know I won't be too long. Most of the points have been  
22 addressed with you. Just a couple of areas. Your terms of  
23 reference that are included in the introduction in your  
24 August 15th report ...

25 MR. BRUSHETT: Yes.

26 MR. FITZGERALD: ... I'm just interested in the mechanics  
27 as to how you undertake this massive task, I guess, to  
28 create this document that you have. In the introduction  
29 you refer to the fact that, "This document represents our  
30 observations, findings and recommendations with respect  
31 to our financial analysis of the pre-filed evidence of  
32 Newfoundland and Labrador Hydro," which was submitted  
33 to the Board. Now, can you indicate to us when it was that  
34 you received the pre-filed evidence of Newfoundland and  
35 Labrador Hydro in this matter, approximately?

36 MR. BRUSHETT: We received the pre-filed evidence, I  
37 can't give you the exact date, but it was very shortly after  
38 it was filed in the end of May.

39 MR. FITZGERALD: At the end of May. When you receive  
40 a document, are you then in contact, not with the Board,  
41 but are you in contact with staff members of the Board  
42 regarding the terms or regarding the evidence that's been  
43 disclosed?

44 MR. BRUSHETT: There certainly would not have been a  
45 lot of contact early on, prior to the pre-hearing conference.  
46 There would have been some discussions and certainly

47 regarding the scope of the work and drafting up the terms  
48 of reference, but with respect to the evidence itself, that  
49 discussion probably, those discussions would have been  
50 more or less around the time, after we were engaged,  
51 around the time of the pre-hearing conference.

52 MR. FITZGERALD: Okay. So do you take instructions  
53 from the staff of the Board regarding the creation of your  
54 report?

55 MR. BRUSHETT: Not the report itself. Regarding the  
56 establishment of the terms of reference, there would be  
57 discussions around that, and obviously we would have to  
58 work very closely with them to make sure they were  
59 comfortable with the terms of reference, but in regards to  
60 the report, no, only if staff, and certainly the staff reviewed  
61 all of that evidence, only if there were certain areas or  
62 issues that they saw that they thought we should be  
63 exploring in more detail, then they would alert us to that,  
64 but other than that there wouldn't have been a lot of  
65 involvement of the staff in terms of the conduct of our  
66 review and the writing of the report.

67 MR. FITZGERALD: Were there areas that they alerted you  
68 to?

69 MR. BRUSHETT: There were certainly areas that we  
70 discussed, nothing that I would suggest would not have  
71 already been covered under the terms of reference, things  
72 like, of course, obviously, the impacts related to RSP, the  
73 price of fuel and those sorts of things would have been  
74 front and centre in their minds but they're also in  
75 everyone's mind at that time, once the evidence came in, so.

76 MR. FITZGERALD: Prior to the 15th of August had you  
77 prepared a draft of your report?

78 MR. BRUSHETT: Well, there were drafts, yes, but there  
79 was no draft that was reviewed with Board staff, so ...

80 MR. FITZGERALD: Okay. So the draft wasn't circulated  
81 among third parties outside Grant Thornton.

82 MR. BRUSHETT: I'm trying to recall now exactly the  
83 process. I believe at one point we did discuss some of the  
84 issues with Board counsel and staff were there, yes.

85 MR. FITZGERALD: And did the ...

86 MR. BRUSHETT: But, you know, the report wasn't given  
87 to them in draft to review or critique or anything like that,  
88 but we would have been reviewing some of the issues with  
89 them that we were, had found, and sort of given them  
90 advance warning of what was likely to be in our report.

91 MR. FITZGERALD: Okay. So the final document, which is  
92 the document that's been filed, that is solely a creation of  
93 Grant Thornton.

94 MR. BRUSHETT: Oh, absolutely.

1 MR. FITZGERALD: Yeah.

2 MR. BRUSHETT: Yes, yeah. No, they would not have had  
3 any involvement in the conclusions, the writing of the  
4 report and weren't involved in conducting the review.

5 MR. FITZGERALD: And would that hold true as well for  
6 the document that I would call the supplementary evidence  
7 that was filed on the 13th of December?

8 MR. BRUSHETT: That would also hold true for that.  
9 There would have been discussions around what the  
10 issues were that we would be including in the  
11 supplementary evidence with Board counsel and, but other  
12 than that, you know, it was our analysis, our conclusions,  
13 our recommendations that are included in that  
14 supplementary evidence.

15 MR. FITZGERALD: Okay, thank you. Turning then briefly  
16 to your supplementary evidence of December 13th, one  
17 issue that was discussed yesterday, and that was the  
18 concept of the productivity allowance that's referred to at  
19 page four of your report.

20 MR. BRUSHETT: Yes.

21 MR. FITZGERALD: And I guess when we reviewed it, the  
22 question that arose is to ask you, I guess, is what  
23 background you can give us as to why you selected the  
24 figure of one percent or 1.5 percent as a productivity  
25 allowance as opposed to ... I mean, you did disclose that  
26 Newfoundland Power at one point had received a four  
27 percent or had been imposed a four percent productivity  
28 allowance. What was the justification in your mind to ...

29 MR. BRUSHETT: Okay. Maybe I can clarify, I guess.  
30 Newfoundland Power ... and go back to ... my recollection  
31 of it, and I certainly reviewed the orders when we were  
32 preparing our supplementary. The four percent, I believe,  
33 is just the way it was calculated, the way the Board order ...  
34 the Board order specifically stated a \$1 million productivity  
35 allowance and the way they came up with that is they made  
36 a reference to the operating expenses. In that case I think  
37 it was operating expenses, less salaries, which came up  
38 with a figure that was around \$25 million and one percent,  
39 or at four percent it came out to \$1 million. So I'm not ... I  
40 can't give you, I guess, the complete rationale as to how,  
41 why the Board in its order on Newfoundland Power used  
42 that percentage and those, that level of expenses, but that  
43 is the difference between what, I guess, I am recommending  
44 and the Board used in '96 for Newfoundland Power. It was  
45 calculated in reference to operating expenses, less salaries,  
46 and apply the figure of four percent to come up with \$1  
47 million allowance. In our particular case, looked at the level  
48 of expenditures in total from, total controllable expenses,  
49 the operating expenses, other costs, and applied what we  
50 felt would be a reasonable level of productivity allowance

51 that would still provide, I guess, the opportunity to seek  
52 out any efficiencies that might still be there in terms of the  
53 forecast with the potential, I guess, in terms of what risk  
54 that would put Hydro at in terms of being able to meet its  
55 targets and so on, and, you know, it's a very general  
56 approach, Mr. Fitzgerald, but as you can imagine if the  
57 productivity allowance equalled the forecast net income, I  
58 mean, there's much higher risk for the utility in that regard  
59 than if you're somewhere less than that, and you have to  
60 balance that off with the objective of trying to seek out  
61 what efficiencies are there. And, you know, it's also ... Ms.  
62 Greene questioned me on it yesterday. The point is that in  
63 applying our procedures and conducting our examination,  
64 there were no expenses that we could say were imprudent,  
65 yet you never get the comfort level that all the efficiencies  
66 have been incorporated into the forecast either, so, you  
67 know, I think this is a reasonable balance between seeking  
68 out the efficiencies and not putting the utility at too much  
69 risk.

70 (9:45 a.m.)

71 MR. FITZGERALD: Okay. Having said that, you've given  
72 the range of one to 1.5 percent as a general reasonable  
73 range. If we get up to two percent, does that raise any  
74 alarm bells or is two percent as viable in your opinion as 1.5  
75 percent?

76 MR. BRUSHETT: What I think you would have to do, and  
77 I would leave this to the Board, obviously, to decide what  
78 they felt was reasonable in the circumstances, you'd want  
79 to assess what the other impacts in terms of the, anything  
80 else the Board may consider appropriate to adjust or to  
81 order with respect to that revenue requirement for the test  
82 year, and I'm thinking of things like the efficiency factor, if  
83 they decided to change that, what other changes they  
84 propose to the utility's forecast revenue requirement, and  
85 they would need to look at the totality of all that in  
86 assessing what level of productivity allowance may or may  
87 not be appropriate.

88 MR. FITZGERALD: Okay. And that is, that what you just  
89 said would apply to the one to 1.5 percent exercise as well?

90 MR. BRUSHETT: As well, yes, it would.

91 MR. FITZGERALD: Okay, alright. So it could well, very  
92 well turn out to be that after the Board exercised that, or  
93 went through that exercise, that two percent could be  
94 appropriate.

95 MR. BRUSHETT: That's correct. The concept is that there  
96 is a, some basis and some precedent for setting a  
97 productivity allowance where, the Board having heard all  
98 of the evidence, feels that there's some efficiencies that can  
99 be gained in terms of the operating expenses, then this will  
100 be the approach to use.

1 MR. FITZGERALD: Just turn briefly now then to the Rate  
2 Stabilization Plan, and in particular, of course, to the  
3 recommendation at page 48 of your August 15th report.  
4 Okay. At the bottom of the page there, Mr. O'Rielly, I think.  
5 Yeah, the recommendation there. You indicate that, "Based  
6 on our analysis it would be very difficult for the Company  
7 to bring the retail portion of the plan below the 50 million  
8 without also implementing significant additional rate  
9 increases, therefore, the Board should consider increasing  
10 the current cap of \$50 million."

11 MR. BRUSHETT: Yes.

12 MR. FITZGERALD: And this advice you give to the Board  
13 as their financial advisors.

14 MR. BRUSHETT: Yes.

15 MR. FITZGERALD: Now, does this financial advice favour  
16 any particular party or intervenor here? Does it favour  
17 Hydro, does it favour the consumers? What ... who's to  
18 benefit from this advice?

19 MR. BRUSHETT: In terms of the recommendation that they  
20 consider increasing the cap?

21 MR. FITZGERALD: Yes.

22 MR. BRUSHETT: I don't know if it ... it's certainly not  
23 intended to favour anyone. It's based on a recognition of  
24 having done the analysis that the plan, as it exists, will  
25 have, and there's no ... as a matter, if you looked at the  
26 recent information request, the balance is already over \$50  
27 million, so it's just recognizing the reality and the facts that  
28 we are faced with today, that the balance will go over 50,  
29 there is certainly an order that exists today that says that  
30 has to be dealt, once it goes over 50 something has to be  
31 done. I think the Board can consider accelerated recoveries  
32 and all those sorts of options if it feels that it is not proper  
33 that it go to those levels, but the reality is that it is already  
34 over that level and they should adjust that cap to reflect  
35 that reality. At this point that doesn't say, mean they  
36 shouldn't, you know, that's an acceptance or an  
37 acknowledgement that it's okay to continue increasing the  
38 amount in the RSP, because I don't think that it is  
39 appropriate and it should be dealt with, but it reflects the  
40 reality that it is going over and ... but as you can see in our  
41 supplementary, we're not recommending they go to the  
42 \$100 million. Certainly it should reflect only the reality of  
43 what we're faced with today and then come up with some  
44 other alternatives as to deal with that.

45 MR. FITZGERALD: Okay. So when you characterize that  
46 as financial advice, really it's, like you say, it's a recognition  
47 of what's happened, it's not so much ... if the cap hadn't  
48 been at \$50 million, certainly you wouldn't suggest that it  
49 go over \$50 million. That wouldn't be sound financial  
50 advice.

51 MR. BRUSHETT: If the balance wasn't at \$50 million, you  
52 mean? If the balance wasn't at \$50 million, wasn't projected  
53 to go over \$50 million, absolutely, wouldn't be  
54 recommending any increase in the cap.

55 MR. FITZGERALD: You were present for the evidence of  
56 the Board's cost of service expert, Dr. Wilson, were you?

57 MR. BRUSHETT: Yes.

58 MR. FITZGERALD: Yeah. If I could just refer now briefly  
59 to the **transcript of December 6th, 2001**, Mr. O'Rielly.  
60 Scroll down here. Is that December 6th?

61 MR. O'RIELLY: Yes, it is. What page?

62 MR. FITZGERALD: Page 46, I'm sorry. And just scroll  
63 down a bit more. It's line 31 on the hard copy. Okay, Mr.  
64 Brushett, I'm just referring now to Mr. Wilson's oral  
65 testimony at line 48 and his statement in response to a  
66 question from Mr. Browne, a portion of it. He says that,  
67 "The prospect of a growing, increasing deferred revenue  
68 item that's large in relation to the utility company's total  
69 revenue requirement can become a financial problem for the  
70 utility, and, as I have testified, can seriously distort price  
71 signals." Would you agree with that?

72 MR. BRUSHETT: I would agree with that. The issue of  
73 distorting price signals, obviously I'm not a cost of service  
74 expert but ...

75 MR. FITZGERALD: Sure.

76 MR. BRUSHETT: ... from my perspective, and I would  
77 suggest from a layman's perspective, yes, it can distort  
78 price signals when you're deferring almost a third of your  
79 revenue requirement.

80 MR. FITZGERALD: Okay. Leaving aside the distorting of  
81 price signals since you're not a cost of service expert, Dr.  
82 Wilson has identified the prospect of a growing, increasing  
83 deferred revenue as a financial problem. I guess that was  
84 the portion of the statement ...

85 MR. BRUSHETT: Yes, and I'm not sure what Dr. Wilson  
86 was, might have been thinking when he said that, but I can  
87 guess that he probably suggested any deferral of costs  
88 creates uncertainty with respect to the financial position of  
89 any company if you've got costs that you've got to recover  
90 from future revenues as opposed to being able to recover  
91 them over a shorter timeframe or recover them when they're  
92 incurred, and, you know, there's a certain level of  
93 uncertainty that's associated with any deferral, so the larger  
94 the deferral, the greater the uncertainty, the greater the risk,  
95 so that can create financial problems. Now, as we've heard,  
96 it hasn't to date caused any problems for Hydro and we've  
97 heard from other experts saying that they didn't anticipate  
98 it would cause any financial problems for Hydro in terms of  
99 raising capital, raising debt, but in theory it certainly can.

1 MR. FITZGERALD: Okay. The projected amount that  
2 you've included in your supplementary evidence regarding  
3 the size of the RSP, projected size, with that amount of  
4 deferred cost, would that in your expert opinion create a  
5 financial problem for Hydro?

6 MR. BRUSHETT: Considering also the testimony of some  
7 of the experts throughout this hearing, I don't think that  
8 would cause a problem. Today, with the most recent  
9 revisions in fuel prices, I guess that figure in terms of the  
10 total deferred costs that are represented in the balance of  
11 the RSP is lower than what it was when we saw the original  
12 filing, and there was no indication that that was going to  
13 cause a problem, so I wouldn't think the balance will cause  
14 financial problems for Hydro in the near future but I don't  
15 think it should be allowed to continue or allowed to grow  
16 and should probably be addressed in the near term.

17 MR. FITZGERALD: Now, it is projected the total plan, I  
18 think, to be about \$92 million, the RSP at the end of 2002.

19 MR. BRUSHETT: I can check that. I believe that's in PUB-  
20 81.

21 MR. FITZGERALD: That's in your supplementary  
22 evidence, I believe. You've testified that the ...

23 MR. BRUSHETT: Maybe I can just clarify that. In my  
24 evidence, we did not have the ... it was filed subsequent to  
25 hearing the, receiving the evidence from Mr. Henderson on  
26 realized fuel prices, and we did not have sufficient  
27 information to recalculate what the balances would be at  
28 the end of 2002. We knew they were going to be less. The  
29 evidence that was filed in response to PUB-81 indicates  
30 that the revised balance will be about \$65 million in the  
31 retail and 21.4 in the industrial component of the plan, for  
32 a total of about \$86.3 million.

33 MR. FITZGERALD: At the end of 2002.

34 MR. BRUSHETT: At the end of 2002, yes.

35 MR. FITZGERALD: And that represents roughly, I  
36 suppose, almost a third of Hydro's annual revenue  
37 requirement.

38 MR. BRUSHETT: Well, with that reduced number it's not  
39 quite a third, I guess. It's \$86.3 million over three, \$30  
40 million, so it's ...

41 MR. FITZGERALD: Less than a third.

42 MR. BRUSHETT: I can't do that math in my head either.  
43 Less than a third.

44 MR. FITZGERALD: Would you agree that that is a  
45 substantial, you know, in relation to ... if it's not a third ...

46 MR. BRUSHETT: Yeah. It's still a substantial deferral of  
47 costs, I would agree with that.

48 MR. FITZGERALD: And Dr. Wilson has testified that if  
49 you have a sizeable deferred cost like that, that could cause  
50 problems for ...

51 MR. BRUSHETT: It could cause problems for Hydro or for  
52 any utility really when you have that level of cost deferral,  
53 that you have to depend on future revenues to recover.

54 MR. FITZGERALD: And when you recommend that the  
55 cap be increased, you concur with Dr. Wilson's evidence,  
56 but do I understand it that you're saying, well, it's, I could  
57 use a colloquialism that if the horses are out of the barn in  
58 any event, so let's just say that that happened.

59 MR. BRUSHETT: Well, it does recognize the reality that  
60 that is the facts that we are faced with and that we have to,  
61 to ignore the fact that you're over \$50 million when you  
62 have an order that says, you know, \$50 million is the cap,  
63 is, wouldn't be appropriate, I don't think.

64 MR. FITZGERALD: Okay. Turning again also now to your  
65 **supplementary evidence of December 13th**, wherein you  
66 have presented some alternatives to recovering the balance  
67 in the plan.

68 MR. BRUSHETT: Yes.

69 MR. FITZGERALD: Yes. At **Exhibit 4** you've illustrated  
70 the difference, the percentage of an additional increase, and  
71 that's in the mill rate, I ...

72 MR. BRUSHETT: Yes.

73 MR. FITZGERALD: Yeah.

74 MR. BRUSHETT: In the mill rate as, compared to what it  
75 would be under the current recovery method.

76 MR. FITZGERALD: Okay. And Option "A," as you've  
77 explained, is straight-line basis over a two-year period,  
78 Option "B" is recovered ...

79 MR. BRUSHETT: Is similar except that the current balance  
80 should be on a straight-line basis also.

81 MR. FITZGERALD: Now, how much difficulty was it for  
82 your firm to generate this chart?

83 MR. BRUSHETT: This is not a ... I should, I guess, clarify  
84 and make sure everyone understands. This exhibit is a  
85 hypothetical example. It was ... the numbers are similar  
86 because we tried to make it comparable to what, the  
87 information in the application, but, as you can see, I think  
88 the comment is back in our, in the body of our  
89 supplementary evidence, we didn't have the detail, the  
90 necessary detail to calculate what the balances would be at  
91 the end of 2001 and 2002 at the time we filed this, therefore,  
92 we assume that the balances would be \$65 million and \$70  
93 million respectively in the retail plan portion of the plan and  
94 the industrial balances were to be 20 and 25. If you went to

1 PUB, or response to **PUB-81**, you would see that Hydro  
2 has now provided some information as to what the  
3 balances would be, so this is not accurate in that respect.  
4 It's a hypothetical.

5 MR. FITZGERALD: Sure.

6 MR. BRUSHETT: But the calculations are relatively, on the  
7 recovery are relatively straightforward. You would take the  
8 balance at the certain period, it's December 31st for the  
9 retail and September 30th for the industrial, calculate the  
10 recoveries based on the formula and divide it by the, as  
11 Ms. Greene pointed out, based on Hydro's application  
12 you'd calculate it based on the forecast energy sales in the  
13 year, in the year that you're calculating the recovery for.

14 MR. FITZGERALD: Okay. Could you undertake then to  
15 provide a similar table that would give us the same  
16 conclusions or the same sort of information, percentage of  
17 additional increase, for, going out for a five, a ten and a  
18 fifteen-year period? Is that possible? How much work  
19 would that involve?

20 MR. BRUSHETT: Five ... well, we don't have balances for  
21 the RSP over a five and a ten-year period. Oh, if we ...

22 MR. FITZGERALD: If we took \$50 million.

23 MR. BRUSHETT: \$50 million over a five, ten and fifteen-  
24 year period?

25 MR. FITZGERALD: Yes.

26 MR. BRUSHETT: Yes, I'm sure, based on the balances that  
27 are in PUB-81?

28 MR. FITZGERALD: Uh hum.

29 MR. BRUSHETT: Yeah. Five, ten and fifteen-year period?

30 MR. FITZGERALD: Yeah. And the reason I ask that  
31 question, I suppose, is getting to the point of what could  
32 be done if in fact the \$50 million amount in the RSP was  
33 actually frozen as of December 31st, 2001, and was  
34 recovered over a more extensive period of time. As a  
35 financial advisor do you see anything wrong with that  
36 concept, with freezing the balance?

37 MR. BRUSHETT: Freezing the balance? My  
38 understanding of the way the RSP certainly was  
39 established and the intent was that those costs would be  
40 recovered over a much shorter period of time. I don't like  
41 the idea of deferring costs out to ... you know, I can see  
42 that the major benefit here would be, obviously, to  
43 ratepayers in terms of controlling and keeping to a lowest  
44 level possible the increases that they may otherwise see in  
45 their electricity rates as a result of the RSP adjustments, but  
46 it would be really deferring these costs out to quite a  
47 distance into the future, and you have the ... you know,  
48 although I can't say I've reviewed this in any detail or

49 anything, but, you know, we'd have to look back to the  
50 principle of intergenerational equity and those sorts of  
51 things, if you're talking about rate setting and the impact  
52 that has in terms of mill rate adjustments and so on, that 15  
53 years from now someone is going to be paying for fuel that  
54 was burned in 2000, 2001, doesn't seem ...

55 MR. FITZGERALD: Yeah. I'm just wondering if it's  
56 comparable though from your perspective to the foreign  
57 exchange loss that was amortized ten years ago now, I  
58 suppose. I mean, it's the same thing. Some people today  
59 are paying for an (inaudible) exchange loss. You know, it's  
60 similar and it's been done.

61 MR. BRUSHETT: It's similar in the sense of that is, was a  
62 cost that was incurred by the utility that, rather than being  
63 recovered from ratepayers at the time, was, and this was  
64 more part of the, not more, it was written into the legislation  
65 that it was considered a prudent expenditure and that it  
66 would be recovered over a period of 40 years. You know,  
67 again, you have the same problem I just explained with  
68 respect to deferring the RSP but that was legislated that  
69 that be recovered over a 40-year period, so you're right, 40  
70 years from now someone will be recovering foreign  
71 exchange losses that were incurred on, I think it was Swiss  
72 franc and Japanese yen debt back in the '70s or '80s,  
73 whenever it was.

74 MR. FITZGERALD: Turning now, Mr. Brushett, to the  
75 issue of a duplication, if ... I guess if you've been present  
76 for the past four months, you may have heard this issue  
77 being raised as to the possible duplication of expenditures  
78 between the two utilities. In your financial review of Hydro  
79 this year, of last year, was this an issue? In particular now  
80 I'm thinking about the VHF expense that appears in the  
81 capital budget. Does that raise any concerns to you as a  
82 financial advisor to the Board?

83 MR. BRUSHETT: I see the merit and it wasn't explored or  
84 reviewed in any detail by us in the past year. This is an  
85 item that's really coming forward, the expenditure itself, the  
86 capital expenditure in this budget, but ... this capital  
87 budget. But I do acknowledge and see that where there is  
88 opportunity to share resources that benefit ratepayers and  
89 there is no impediments, you know, whether it be legal or  
90 physical impediments to doing so, and I think it should be  
91 encouraged and should be, everyone should work to that  
92 objective.

93 MR. FITZGERALD: Okay, thank you, Mr. Brushett. Mr.  
94 Chairman, those are my questions.

95 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
96 Fitzgerald. Thank you, Mr. Brushett. We'll move now to  
97 redirect, Mr. Kennedy, please.

98 MR. KENNEDY: Thank you, Chair. Mr. Brushett, most of

1 the issues that I've been writing have already been taken  
2 care of by other, the cross-examination of other counsel.  
3 There was one very small matter and it relates to the  
4 spousal travel. There was some questions that I had  
5 regarding one of the Hydro witnesses concerning some,  
6 what I'd suggest, consistent comments made by Grant  
7 Thornton in its reviews of Hydro's finances concerning  
8 spousal travel and that you never felt, as I understood  
9 Grant Thornton's position as financial advisors, that this  
10 spousal travel was an appropriate regulated expense and  
11 you were making recommendation that it be non-regulated,  
12 and there was some follow-up questions by, I believe,  
13 under examination by counsel for Hydro, to again one of  
14 their own witnesses, concerning when that arises, and I'm  
15 wondering if you could just for edification purposes just  
16 provide some information concerning what specifically was  
17 it, was your concern regarding spousal travel and what  
18 specifically is your recommendation that you're making  
19 here?

20 MR. BRUSHETT: I think we've raised this in our report in  
21 prior years. It is a relatively small monetary amount, but I  
22 guess in principle it's an issue of should ratepayers be  
23 expected to pay such costs. I think some of the references  
24 might have been to spousal travel to accompany Hydro  
25 functions and so on, but we did throughout the years, and  
26 even in the most recent year, in our review identify  
27 instances of spousal travel being charged to regulatory  
28 expenses in attending, travelling to CEA conferences and  
29 conferences such as that, so that's really the references that  
30 we were making in our report, to that type of travel.

31 MR. KENNEDY: There was a question that you received,  
32 Mr. Brushett, under cross-examination by counsel for the  
33 Industrial Customers, I believe, concerning the calculation  
34 of the, relating to the guarantee fee and whether it was  
35 included in the notional adjustment for interest on the, I  
36 believe it was the net re-call revenue received by Hydro.  
37 Have you done the calculation as requested, and, if so, are  
38 you prepared to provide an answer at this moment or ...

39 MR. BRUSHETT: I haven't done a calculation or  
40 recalculated those amounts but I did check some of the  
41 other information. Actually it's information requests that  
42 were, responses to information requests, and based on  
43 those responses, and I think one would be, **NP-77** is in  
44 particular one that we looked at, and the guarantee fee with  
45 respect to the notional debt adjustment is included in  
46 regulated expense there. It is included in the calculation of  
47 the guarantee fee and (inaudible) regulated expense, and  
48 based on the information that we've reviewed, **NP-77** is on  
49 the screen, you see the amount of the guarantee fee has  
50 been revised for 2002 to 12,336 and I believe it's in **NP-3**  
51 that shows a figure of 12,085 and the difference is, I believe,  
52 the amount of the guarantee fee associated with the re-call

53 impact on the promissory notes.

54 MR. KENNEDY: And so in dollar amounts how much are  
55 we speaking about?

56 MR. BRUSHETT: It's ... I think it's \$251,000.

57 MR. KENNEDY: And so if I'm gathering you correctly, by  
58 virtue of the way that Hydro treated the guarantee fee and  
59 then the notional adjustment for the net re-call revenue, it  
60 means that there's \$250,000 worth of interest that's being  
61 included in ...

62 MR. BRUSHETT: Debt guarantee fee, yeah, it ...

63 MR. KENNEDY: Guarantee fee, sorry, that's being included  
64 in the regulated expense?

65 MR. BRUSHETT: Yes.

66 MR. KENNEDY: Okay. Which, if it was treated from a,  
67 similarly to the notional adjustment, would not be included  
68 in a regulated expense. You would exclude the portion of  
69 the guarantee fee relating to the ... am I gathering you  
70 correctly?

71 MR. BRUSHETT: No, no. It's ... the adjustment or notional  
72 adjustment for interest is based on the fact that promissory  
73 notes are lower than they otherwise would be because of  
74 the re-call cash flow and the guarantee fee is calculated on  
75 this notional increase in the promissory notes as well, so  
76 the guarantee fee is included and the notional interest of  
77 \$800,000 is included in the revenue ...

78 MR. KENNEDY: And that's all the questions I have, Mr.  
79 Brushett. Chair, there's just the undertaking that's been just  
80 requested of Mr. Brushett, and I guess, depending how  
81 long that might take, we might be in a position to file that as  
82 early as this afternoon or tomorrow once the table is  
83 produced, and certainly we'll be providing that to the  
84 parties as soon as we can.

85 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
86 Kennedy. We'll move now to Board questions.  
87 Commissioner Powell, would you begin, please?

88 COMMISSIONER POWELL: Thank you, Mr. Chair. Good  
89 morning, Mr. Brushett.

90 MR. BRUSHETT: Good morning.

91 COMMISSIONER POWELL: How are you this morning?

92 MR. BRUSHETT: Fine.

93 *(10:15 a.m.)*

94 COMMISSIONER POWELL: I just have a few questions.  
95 A number of notes I had made that have already been  
96 addressed so hopefully I won't repeat. Just looking at your  
97 terms of reference, and I'd just like to go down through  
98 rows and some questions I had made on my notes here.

1 The first ... the terms of reference ... it's on the Company's  
2 financial records, determine whether it complies with the  
3 system of accounts prescribed by the Board, and in your  
4 conclusions here you state that, "The current system of  
5 account provide adequate flexibility to allow the Company  
6 to meet its own and the Board's reporting requirements."  
7 So I take it that means you're saying that it does comply  
8 with the system of accounts prescribed by the Board.

9 MR. BRUSHETT: Yes.

10 COMMISSIONER POWELL: Okay. One of the things that  
11 came up when we were talking about system of accounts is  
12 the, Hydro's new accounting system. They've gone to the  
13 business unit method of accounts. Do you have any  
14 opinion on the effectiveness of that approach from the  
15 management of the facility?

16 MR. BRUSHETT: And this is in more general terms, I  
17 guess, in my experience as a chartered accountant, that  
18 using that approach is certainly from a budgeting and  
19 control point of view, provide them with the tools that they  
20 need to manage their operations, allows them to focus in on  
21 supposedly the critical aspects of their business on a unit,  
22 business unit by business unit basis, and it should give  
23 them the information and the tools they need to be able to  
24 manage that more effectively.

25 COMMISSIONER POWELL: When the, Hydro's cost of  
26 service expert was testifying, I had asked him if he had, or  
27 what was his opinion on the business units, and I don't  
28 want to put words in his mouth but he left me with the  
29 impression that if he had been consulted he wouldn't have  
30 done that, it made the, extracting information to do the cost  
31 of service study more difficult, and I assume more  
32 expensive. Did you, part of your review, do any analysis of  
33 any cost or difficulty associated with compiling the cost of  
34 service study?

35 MR. BRUSHETT: No, we did not. That ... you know ...  
36 reviewing the cost of service was not part of our, the scope  
37 of our review, and so I didn't do any specific procedures  
38 related to generating the cost of service data. I understand  
39 from his testimony he probably was, would have made his  
40 job easier, but I'm not sure he was suggesting that the  
41 whole system should be set up to meet a cost of service  
42 report as opposed to other financial reports, and there may  
43 be ways to incorporate the details in the reports that are  
44 generated within the existing system to extract the  
45 information, you know, relatively easily. I'm sure Hydro's  
46 staff would be looking at that in the future because it  
47 probably makes their job easier when the cost of service  
48 time comes around as well.

49 COMMISSIONER POWELL: In your ... in this review or in  
50 any previous review have you done any work for the Board  
51 as relates to extracting information from the financial

52 records to prepare the cost of service study?

53 MR. BRUSHETT: No, we haven't had any involvement  
54 with cost of service, preparation of cost of service reports.

55 COMMISSIONER POWELL: Are you aware of any internal  
56 mechanism within Hydro, they have to check to confirm  
57 that the information that's put in the cost of service study  
58 that are similar, that are exact information as in the financial  
59 records? I was left with the impression that there could be  
60 an awful lot of judgement used in compiling the cost of  
61 service study whereas the information is not an automatic  
62 transfer.

63 MR. BRUSHETT: I would ... I don't have enough detailed  
64 knowledge of the allocations and the detail that goes into  
65 the cost of service to be able to really provide, you know,  
66 a good opinion for you on that. I would expect that there  
67 is, as with any transfer of data, if it can't be transferred  
68 electronically and directly, then there is opportunity for  
69 maybe some error in terms of extracting data and then re-  
70 entering it into a different financial model, but I'm not sure.  
71 I was here present during that testimony with the, Hydro's  
72 witness on that and I'm not sure how great that risk of error  
73 is. I'd have to probably do a little more analysis myself  
74 before I could pass comment that ... I wouldn't expect with  
75 whatever checks and balances they may employ within  
76 their, manual checks and balances they might employ  
77 within their financial department and so on, or the rates  
78 department, that there would be a high risk of error, but I'd  
79 have to do an analysis before I could pass a comment or  
80 opinion.

81 COMMISSIONER POWELL: So you're not aware if they  
82 have any internal controls in their (inaudible) to ...

83 MR. BRUSHETT: Well, I don't know if there ... I suspect  
84 that those, what you're referring to as internal controls  
85 would be procedures and controls they will put in place but  
86 they would be more specific to generating the cost of  
87 service, which is not an every-day or a monthly reporting  
88 requirement for generating financial reports per se, so.

89 COMMISSIONER POWELL: Are you aware if management  
90 is aware of any weakness in this system or this approach?

91 MR. BRUSHETT: I'm sure management are aware of any  
92 weaknesses in the system, only on the basis that there is a  
93 fully functioning internal audit department as well as  
94 external auditors, you know, that review their systems on  
95 a regular basis, so I'm sure they'd be aware if there were any  
96 fundamental weaknesses in their system of controls.

97 COMMISSIONER POWELL: Okay. Well number two,  
98 conduct a review of the actual versus estimated capital  
99 expenditures, revenues, expenses, net earnings, return on  
100 rate base, etcetera, December 2000. On page four you start  
101 off, you forecast (inaudible) and assumptions and you

1 point out the fact that the budgeting process starts in the  
2 spring of 2000, is finalized in October, consequently no  
3 actual results for 2001 are incorporated in the forecast, and  
4 the 2002 test year revenue used, the 2001 budget, as a base  
5 of, and adjust for any known or planned change in  
6 operating (inaudible) plans and you say the 2002 forecast,  
7 based on certain assumptions, reflects Hydro's best  
8 estimates of future economic conditions. So the note I  
9 have here, have you reviewed any of the 2001? We're  
10 pretty well finished the 2001 year now. Do we have any  
11 updates to look at these, to fine tune these ...

12 MR. BRUSHETT: No, we haven't certainly undertaken a  
13 review subsequent to this to assess the 2001 results  
14 relative to the original forecast. Hydro did file on October  
15 31st a revised forecast, and my understanding is that they  
16 looked at their results to the end of the third quarter or to  
17 the end of August. I'm not sure which it was now but  
18 certainly year-to-date data that was available at the time,  
19 determining whether there were any adjustments that were  
20 required to the 2001 forecast, and there were, as you recall.  
21 In the revised revenue requirement scheduled, there were  
22 some changes to 2001 and I think that reflected some of the  
23 significant changes that they saw in terms of the 2001  
24 results on a year-to-date basis, but we haven't reviewed  
25 that.

26 COMMISSIONER POWELL: There have been a lot of  
27 questions about the budgeting process and whether over-  
28 budgeting, both on operating and capital. We haven't ...  
29 you haven't done any analysis to see how they've done.

30 MR. BRUSHETT: In 2001?

31 COMMISSIONER POWELL: Yes.

32 MR. BRUSHETT: No. Well, in the course of reviewing the  
33 2001 we did look in certain situations at what the 2001  
34 actuals were, but they were, it was relatively early in the  
35 year, I guess, we had some actual results, up in the first  
36 part of the year, but it was, would be hard based on just six  
37 months or less than six months of data to really get a good  
38 handle on the full year at that time, but we did look where  
39 we felt it was appropriate at the actual results.

40 COMMISSIONER POWELL: Would they have done  
41 everything ... now they have their nine-month report ...

42 MR. BRUSHETT: Certainly, yes. Well, I would expect  
43 even later than that.

44 COMMISSIONER POWELL: Yes. Excuse me for a second.  
45 I'm just going through my notes here to ... number eight,  
46 review the changed proposal, Company's depreciation  
47 policy. One of the things that we're being asked is to  
48 approve the ... I'm trying to find a schedule on it ... the new  
49 depreciation policy been put in place as an up, as a result  
50 of an update, Peat Marwick's depreciation study. In the

51 end ... you go through it in detail on three pages, 39 to 42.

52 MR. BRUSHETT: Uh hum.

53 COMMISSIONER POWELL: And you say, "The end result  
54 of completing our procedure is no significant discrepancies  
55 were noted and therefore we report the depreciation  
56 expense for the forecast 2000, 2002, appear reasonable."  
57 Are you recommending that we adopt the policies of ...

58 MR. BRUSHETT: The changes ...

59 COMMISSIONER POWELL: Yes.

60 MR. BRUSHETT: ... or the new depreciation study?

61 COMMISSIONER POWELL: Yes.

62 MR. BRUSHETT: Yes, we've reviewed the changes and  
63 those that are implemented and we see no problem with  
64 those changes, and I believe that it is appropriate that this  
65 new depreciation study and the, with the changes that  
66 have been implemented, be approved.

67 COMMISSIONER POWELL: No reason to ...

68 MR. BRUSHETT: No, there's no concerns identified with  
69 respect to the new depreciation methodology.

70 COMMISSIONER POWELL: Number nine is review the  
71 Company's treatment of the realized foreign exchange loss.  
72 I made a note then when you were talking with Mr.  
73 Fitzgerald and he was doing a comparison on the  
74 amortization of the foreign exchange loss and the merits of  
75 treating possibly the Rate Stabilization Plan the same way,  
76 but wouldn't the ... the foreign exchange losses, those are  
77 losses incurred on debt used to finance the Hydro  
78 production, the long-term assets of the Company, probably  
79 ...

80 MR. BRUSHETT: I would imagine they would have been,  
81 yes, part of the normal financing program that was in place  
82 at the time.

83 COMMISSIONER POWELL: So the rationale of amortizing  
84 those over a 40-year period would be in fact being that if  
85 everybody had known at the time the losses would have  
86 been incurred, they probably would have been treated as  
87 a cost of building the facility as opposed to ...

88 MR. BRUSHETT: Not necessarily, I guess. Foreign  
89 exchange losses would have been considered a part of the  
90 cost of financing the asset and like interest would have  
91 been normally recorded over the period of which the debt  
92 was outstanding as opposed to the period over which the  
93 assets were, useful life of the assets.

94 COMMISSIONER POWELL: A lot of long-term assets like  
95 that usually gets financed over the expected life ...

96 MR. BRUSHETT: Well, that's true, but I believe the, you



1 know, the various series of bonds and the debt that's  
2 outstanding was, you know, it's usually generally 10 to 20  
3 year timeframes, and these losses would have been  
4 incurred predominantly back in the late, I'm going from  
5 memory now and I may not be 100 percent accurate, but  
6 back towards the late 1980s, before it was all refinanced,  
7 and ...

8 COMMISSIONER POWELL: But that was based on money  
9 borrowed in the '60s.

10 MR. BRUSHETT: I don't know if it was the '60s. I'm not  
11 sure. I don't think it was, but it goes back over some period  
12 of time, and so to take that and amortize it over, you know,  
13 40 years out from today is really pushing it a lot longer than  
14 maybe even the useful life of the assets, but that's the  
15 legislation and I think that's what was, the direction that  
16 was given when *The Hydro Act* was amended back in '95  
17 (phonetic).

18 COMMISSIONER POWELL: But the ... but it'd be more  
19 attuned to a long-term asset whereas the Rate Stabilization  
20 Plan is, would, from an accounting perspective ...

21 MR. BRUSHETT: Yes, okay, I ...

22 COMMISSIONER POWELL: ... would be looked upon as  
23 more of a ...

24 MR. BRUSHETT: Absolutely, yeah.

25 COMMISSIONER POWELL: ... short-term so therefore it's  
26 ... well, they're two costs but they're really ...

27 MR. BRUSHETT: In that sense that it can be more  
28 attributed or related to the asset or the long-term financing  
29 which is, as you say, a long-term, longer-term or longer  
30 useful life as opposed to fuel which was consumed today  
31 and benefitted today per se.

32 COMMISSIONER POWELL: So it would be fairly  
33 dangerous to start trying to look at amortizing consumable  
34 costs like the Rate Stabilization Plan in a long-term context.  
35 It ...

36 MR. BRUSHETT: I guess from a regulatory point of view  
37 you have to take all things into consideration including  
38 impact on ratepayers, but the principle of deferring costs  
39 from a financial perspective, yes, you wouldn't normally  
40 defer current costs over a long period of time unless there  
41 was a long-term benefit similar to what you're seeing with  
42 respect to capital assets.

43 (10:30 a.m.)

44 COMMISSIONER POWELL: Looking at some of the charts  
45 that you did to do some comparison to cost of energy and  
46 **Exhibit 5(B)** is one that struck me. While we're looking at,  
47 I was looking at some of the figures used to create the  
48 charts and ...

49 MR. BRUSHETT: Yes.

50 COMMISSIONER POWELL: And just looking at the  
51 figures in the top, it's six years and the various columns  
52 across. The first column there showed 1997, that Hydro  
53 sold and used 6,816,000 kilowatt electricity and it's forecast  
54 in the year 2000 that it's going to sell or use 7., 7,270,000,  
55 which is an increase of 454,000, which is a relatively modest  
56 amount really. To me it sort of, from a business  
57 perspective, sort of indicates a pretty mature operation in  
58 terms of really relatively modest growth over that past six  
59 years. Go along then to the fourth column called "Power  
60 Purchase." In 1997 it purchased \$5,692,000 worth of power  
61 and in the year 2002 it's going to purchase \$15,266,000, so  
62 it's going to spend about \$9 1/2 million more purchasing  
63 power. So the question that struck me was, where are you  
64 going to sell 454,000 kilowatts more. So how much power  
65 can I buy for \$9 1/2 million, how many kilowatts? And so  
66 the difference between what's purchased and what's sold is  
67 the amount of kilowatt that Hydro itself is going to  
68 produce.

69 MR. BRUSHETT: Going to generate, yes.

70 COMMISSIONER POWELL: Generate, yeah. So when I  
71 looked at that, and I'm trying to work out some numbers  
72 and I wasn't (phonetic) successful in terms of identifying,  
73 but looking at the other costs, in 1997 the other costs on  
74 6.8 million kilowatts is \$74,152,000. In the year 2002,  
75 projected or other costs is going to be \$89,762,000, an  
76 increase of \$15,610,000.

77 MR. BRUSHETT: Yes.

78 COMMISSIONER POWELL: Which is a 21 percent  
79 increase. Now we have a fairly mature industry in which it  
80 looks like the extra kilowatts we're going to sell, we're going  
81 to buy from somebody else, so it seems to be an extremely  
82 high increase in costs to produce a minimum amount of ...  
83 and to me that's the figure I find missing here. While the  
84 cost per kilowatt numbers down below seem to be going  
85 down, but that one particular cost relative to the amount of  
86 kilowatt ... can you do up a schedule that sort of  
87 rationalizes all that for me to ...

88 MR. BRUSHETT: I could try to rationalize all that. What  
89 is it ... maybe if you looked at ...

90 COMMISSIONER POWELL: Well what's it going to ...

91 MR. BRUSHETT: ... Schedule 5(D), that might provide  
92 some, 5(D).1.

93 COMMISSIONER POWELL: Yeah, I looked at that and  
94 that more confused me than helped, you know.

95 MR. BRUSHETT: That tracks on a category-by-category  
96 basis the changes from the '97 to 2002 period in terms of  
97 which of those cost categories are increasing and on a

1 kilowatt hour basis as well as in an absolute dollar basis.

2 COMMISSIONER POWELL: But really we're only selling  
3 454,000 more kilowatts than it would appear unless the cost  
4 of purchasing the existing kilowatts in '97 has gone up  
5 significantly. The amount we're going to produce is going  
6 to be relatively low compared to what we're going to sell ...

7 MR. BRUSHETT: Yes.

8 COMMISSIONER POWELL: ... the increase, and so ...

9 MR. BRUSHETT: I certainly could do some analysis for  
10 you, maybe ...

11 COMMISSIONER POWELL: It's almost, I get the  
12 impression of, I know there's other, there's other  
13 considerations here, but from a business perspective you  
14 look at that, that I would tell my client you couldn't afford  
15 to sell your extra amount of power, and that brings up the  
16 question we've talked about, there's been a number of  
17 comments about conservation, demand side management,  
18 and it's not affected, but, I mean, if our other costs have to  
19 increase that amount of money to sell that little power, you  
20 question sort of, you know ...

21 MR. BRUSHETT: You're right, and you'd have to look at  
22 them almost on an individual basis as well as overall and  
23 consider inflation and things like that to assess the  
24 reasonableness of those increases, and they have  
25 increased quite significantly in percentage terms. As you  
26 indicate, it's ...

27 COMMISSIONER POWELL: When I look at all the charts  
28 I don't get that impression. When I looked at those cold  
29 figures without ...

30 MR. BRUSHETT: The reason, I guess, when you looked  
31 at, well, the chart that's on the screen, is because it reflects  
32 the total cost of energy and as I think I indicated, I'm not  
33 sure who was questioning me yesterday, that if you look at  
34 the interest column and the margin column and you see the  
35 significant decreases there, that would be contributing to  
36 the decreasing cost per kilowatt hour and obviously  
37 contributing more to the decrease than other costs, the  
38 increase in other costs is contributing to increasing the  
39 cost per kilowatt hour and that ...

40 COMMISSIONER POWELL: Going back to week one  
41 though, we were told, again I don't want to put words, but  
42 I was left with the impression that Hydro had three costs.  
43 We had our fuel costs, our interest costs and our other  
44 costs and we couldn't control the fuel costs and we, the  
45 interest costs are external, so we have only one we can  
46 control, so that's this, roughly this \$9, \$90 million, but while  
47 the other ones are going down this one seems to be going  
48 the wrong way. Now we spent a lot of money doing,  
49 putting efficiencies in, changing systems and things and

50 something seems to be amiss there. I don't seem ... it  
51 doesn't seem to show up on the charts.

52 MR. BRUSHETT: And, no, and it doesn't, and maybe I can  
53 put it this way for you. Having ... in responding to  
54 questions from Ms. Greene yesterday, you know, it's clear  
55 as a part of our review, and we review individual cost  
56 categories during, in conducting our review, there's  
57 nothing that comes to, came to our attention to indicate  
58 that there was anything imprudent or unreasonable in  
59 there, but that doesn't mean that you can also state that,  
60 conclude from that that the operation is as efficient as it  
61 should be, and I guess I can only suggest that that was the  
62 rationale or certainly part of the rationale for the comments  
63 in our supplementary evidence that should the panel,  
64 having heard all this evidence, think that there are some  
65 inefficiencies there that aren't reflected in the revenue  
66 requirement, then my recommendation was that the  
67 approach would be to look at a productivity allowance as  
68 opposed to doing some more detailed analysis of these  
69 expenses and suggesting that certain costs are too high  
70 because we wouldn't have expected them to be this high,  
71 you know, considering there's no growth in the sale of  
72 electricity on a kilowatt hour basis, so that was the  
73 approach that we took in terms of preparing the  
74 supplementary evidence.

75 COMMISSIONER POWELL: Inflation in the last five years  
76 ...

77 MR. BRUSHETT: Yes.

78 COMMISSIONER POWELL: ... I hate talking about the  
79 figures you read in the paper because inflation is a very  
80 personal thing, but by and large across the board, you  
81 know, it's been fairly low, and most businesses, to improve  
82 the bottom line, have been able to, rather than costs  
83 increasing by inflation has been able to control their costs,  
84 absorb it, and been able to improve their bottom line that  
85 way as opposed to the inability to pass it on, which is by  
86 increasing their costs.

87 MR. BRUSHETT: Yes.

88 COMMISSIONER POWELL: That seems to be missing  
89 here. The productivity allowance you talked about, have  
90 you done, any thought or any analysis of the, Hydro, put  
91 in place a pilot, incentive plan for executives, have you  
92 done any analysis of that relative to your suggestion about  
93 productivity allowances? Is that two separate things or  
94 you think ...

95 MR. BRUSHETT: Well, you know, you could certainly link  
96 an incentive pay plan to improvements in efficiency, and as  
97 a matter of fact it probably should be linked to  
98 improvements in efficiency, improvements in operations or  
99 reliability, whatever the goals were in terms of the operation

1 of Hydro, but clearly if you, as an organization, wanted to  
2 deliver low cost energy, then tying in a management or an  
3 executive compensation plan to efficiency parameters is  
4 entirely appropriate and I would expect to see something  
5 like that in such a plan.

6 COMMISSIONER POWELL: Have you reviewed the pilot  
7 plan?

8 MR. BRUSHETT: No, we haven't conducted a review. It's  
9 relatively new and it's, as you indicated, a pilot plan, and  
10 we haven't ... certainly not a lot of cost associated with it  
11 within the revenue requirement. We haven't conducted a  
12 detailed review of it.

13 COMMISSIONER POWELL: Under the professional  
14 services you made a comment, I can find the actual ...  
15 essentially it said that one of the problems of tracking the  
16 cost, comparing it, is Hydro costs out, at least I was left  
17 with the impression, internally, professional services, cost  
18 of doing, is charged in professional services ...

19 MR. BRUSHETT: I'm not sure what you're referring to.

20 COMMISSIONER POWELL: I'll see if we can find that.  
21 You had some comment ...

22 MR. NOSEWORTHY, CHAIRMAN: Page 33,  
23 Commissioner Powell.

24 COMMISSIONER POWELL: 33?

25 MR. NOSEWORTHY, CHAIRMAN: Bottom of the page.

26 COMMISSIONER POWELL: Yeah, that's right, you said  
27 since all these studies involve the use of internal workforce  
28 as opposed to external consultants ...

29 MR. BRUSHETT: Some of the studies do involve the use  
30 of internal workforces as well as, and sometimes a  
31 combination of internal and external, so it's difficult to get  
32 a true picture of the total cost of some of these studies, I  
33 guess, and that's really what the reference is suggesting  
34 there. There's no, you know, internal department that  
35 charges other departments, if that's what you're thinking of.

36 COMMISSIONER POWELL: Well, I'm just wondering if the  
37 cost ... so you say the internal costs are not ... I was left  
38 with the impression that professional fee ...

39 MR. BRUSHETT: Internal costs, included internal costs?

40 COMMISSIONER POWELL: Yeah. Are costed out as  
41 professional ...

42 MR. BRUSHETT: No, I don't think so.

43 COMMISSIONER POWELL: Okay, that's not ...

44 MR. BRUSHETT: No, that's not the case.

45 COMMISSIONER POWELL: I was wondering if that would  
46 distort your salaries and wages if they were being charged  
47 ...

48 MR. BRUSHETT: Oh, no, no, no, no, no. Salaries and  
49 wages would be, of staff, would be charged into salaries  
50 and wages cost categories.

51 COMMISSIONER POWELL: So that's, is misinterpretation.

52 MR. BRUSHETT: Yeah.

53 COMMISSIONER POWELL: I think that's all my questions.  
54 Thank you, sir.

55 MR. BRUSHETT: You're welcome.

56 MR. NOSEWORTHY, CHAIRMAN: Thank you,  
57 Commissioner Powell. Commissioner Saunders?

58 COMMISSIONER SAUNDERS: Thank you, Mr. Chair. I  
59 just have one question, Mr. Brushett, and that's in relation  
60 to the RSP and in comments that have emanated from this  
61 hearing in respect of the balance that we have in the RSP  
62 and the obligation it places on the customers, numbers like  
63 \$100 million and \$60 million have been tossed around ...

64 MR. BRUSHETT: Yes.

65 COMMISSIONER SAUNDERS: And I'm not sure that  
66 consumers understand exactly what it is that the RSP  
67 obligates them to in terms of real dollars in their pocket, so  
68 I'm wondering if over the break probably, and that may be,  
69 say, too short a time, and if it is, that's fine, if it's possible  
70 that you could take the retail balance that's been projected,  
71 I think, for 2002 of somewhere around \$65 million ...

72 MR. BRUSHETT: Okay.

73 COMMISSIONER SAUNDERS: Along with the, and you  
74 can do this any way you want but this is the way I'd go  
75 about it I suppose, the number of kilowatt hours that are  
76 used and you have to consider, I suppose, as well, the  
77 period of time and that's the three year recovery and we  
78 have \$65 million over three years, the number of kilowatt  
79 hours, and to work out on a sheet of paper what the \$65  
80 million, if that's the number, means to the average non-  
81 electric customer of Newfoundland Hydro or  
82 Newfoundland Power because, of course, we're talking  
83 about both. What's the obligation placed on those  
84 customers, as well as the all electric customer, and I'm only  
85 concerned here with the retail balance. I think I started out  
86 saying that.

87 MR. BRUSHETT: Okay.

88 COMMISSIONER SAUNDERS: So that you can probably  
89 provide us at least for my benefit to put it in a perspective  
90 that my poor simple mind understands, if the, if the  
91 customers are required to pay up at the end of 2002 or 2001,  
92 whatever numbers you use, what is it they'd be required to

1 pay. Like we're all not due to pay the \$90 million or the \$100  
2 million or the \$65 million ... what is it that we're due to pay.

3 MR. BRUSHETT: In terms of the average non-electric and  
4 the average all-electric ...

5 COMMISSIONER SAUNDERS: Yes.

6 MR. BRUSHETT: Under what assumption with respect to  
7 recovery, as it is today?

8 COMMISSIONER SAUNDERS: Yes.

9 MR. BRUSHETT: A three year declining balance?

10 COMMISSIONER SAUNDERS: Yes, do you think you  
11 could provide a sheet of paper that shows that  
12 information?

13 MR. BRUSHETT: I think so, I would have to check on the  
14 ...

15 COMMISSIONER SAUNDERS: Okay, now the only  
16 number that might be difficult to get might be the average  
17 usage per non-electric or all-electric customer but there are,  
18 there is information available, if not in our records, certainly  
19 through, maybe through your own records, I'm sure you  
20 have it.

21 MR. BRUSHETT: I will try, I have seen that information  
22 and I can try and get something. It might not be the most  
23 current and accurate, but I'll see what I can do.

24 COMMISSIONER SAUNDERS: Fine, that's all I had, Mr.  
25 Chair, thank you.

26 MR. NOSEWORTHY, CHAIRMAN: Thank you,  
27 Commissioner Saunders. Commissioner Whalen?

28 COMMISSIONER WHALEN: No, I have no questions.  
29 Thank you, Mr. Brushett.

30 MR. NOSEWORTHY, CHAIRMAN: Thank you. I just  
31 have a couple of questions, fairly general, Mr. Brushett, if  
32 you don't mind. Mr. Wells when he started out, and I think  
33 you commented on this yesterday as well, and it gets to the  
34 whole issue of forecasting and I think Mr. Wells had a  
35 discussion the first day with Ms. Butler which talked about  
36 the, some of the problems in using five year financial plans  
37 and what have you based on forecasts, and certainly that's  
38 just what they are, forecasts and subject to change  
39 depending on economics, social circumstances, or what  
40 have you, and I think you as well commented yesterday in  
41 a similar discussion on forecasts in an exchange with Ms.  
42 Butler. I would not suggest that there is a specific range.  
43 It obviously would be acceptable to have variances around  
44 ranges that I would suggest would be different for different  
45 expenditure categories and so on and it's not something  
46 where you could say plus or minus five percent is  
47 reasonable. Most people would consider that somewhat

48 reasonable but in an area where you should be able to  
49 forecast a higher degree of precision, five percent variance  
50 may be very unusual, so it would have to depend on the  
51 individual expense category, or the individual, the nature of  
52 the individual item that you're looking at, and I think in  
53 your testimony and in your evidence you've done a good  
54 job in making precise comparisons around various  
55 categories of expenses. Could you make an observation,  
56 getting back to Mr. Wells', I think, comment on the five  
57 year financial planning approach of Hydro, if you can, in  
58 this area as to its, because I don't see it here particularly as  
59 to how good or otherwise that is. I'll put it simply.

60 MR. BRUSHETT: How good or otherwise ...

61 MR. NOSEWORTHY, CHAIRMAN: The five year financial  
62 planning ...

63 MR. BRUSHETT: The five year plan that is there or the  
64 process of ...

65 MR. NOSEWORTHY, CHAIRMAN: Yes, subject to the,  
66 obviously, you know, it is a forecasting plan, and the  
67 reason I ask that is simply because I suppose  
68 notwithstanding the test year there are, you know,  
69 considerable issues that this Board would be certainly  
70 concerned with, particularly in looking at the next couple of  
71 years where Hydro would be coming back with another  
72 application in 2003 of the quality of the financial forecasts  
73 and the quality of the financial forecasting that Hydro  
74 actually does.

75 MR. BRUSHETT: Just, I guess, as a general comment with  
76 respect to forecasting, obviously short-term forecasts can  
77 be fairly reasonably accurate and depending on the nature  
78 of the operations can be quite accurate. As you extend out  
79 beyond a year to two years, and once you're into a five  
80 year forecasting period, reliability is going to be  
81 significantly less, I would suggest to you, than a shorter  
82 term forecast, but it depends on the operation as well, you  
83 know, what are the operating parameters for, say, Hydro  
84 and to what degree are they subject to volatility in terms of  
85 external forces versus things under their control. Those are  
86 the factors that you would look at in determining how  
87 reliable a forecast could be out over a longer planning  
88 horizon and in Hydro's case, the fact that some of the  
89 variables which they don't have control which can fluctuate  
90 quite significantly, the RSP mitigates the risk and the  
91 fluctuations associated with that, so you would expect to  
92 be able to see some fairly reliable forecasting out over a  
93 near term and once you got into longer term, recognizing  
94 there is always higher risks associated with the reliability or  
95 the accuracy of long-term forecasting, just in general, but  
96 you should be able to forecast or generate a forecast that  
97 reflects the plan, and the plan, of course, is the (inaudible)  
98 for the operation over a five year planning horizon. I would

1 think you could and I'm sure Hydro could if they felt it was  
2 a priority, give, put some time and effort into generating a  
3 five year forecast that might be better than the one that we  
4 saw in the ... earlier during the hearing in terms of the five  
5 year plan. I'm not sure that was generated for the purpose  
6 of predicting what rates would be, for example, five years  
7 from now, four years from now, or even three years from  
8 now, so ... because that wasn't their objective maybe they  
9 didn't put the resources to that task to try and come up  
10 with a reliable and accurate forecast of where electricity  
11 rates were going, for example, but you probably could,  
12 particularly in a relatively stable environment, as Mr. Powell  
13 pointed out. There's very little growth. It's not like you're  
14 concerned about expanding your system in any great  
15 extent, so you should be able to reasonably forecast out  
16 over a longer planning horizon. There's no accuracy  
17 associated with a six month forecast.

18 MR. NOSEWORTHY, CHAIRMAN: No, I appreciate that.

19 MR. BRUSHETT: And as you get out further it's less  
20 accurate but you should be able to plan over that type of  
21 a timeframe.

22 MR. NOSEWORTHY, CHAIRMAN: What do you see is  
23 the benefit or the value of good five year financial  
24 forecasting in a regulatory environment given your  
25 experience and knowledge of the ...

26 MR. BRUSHETT: I don't know if there's a lot of benefit to  
27 having a five year forecast of revenue requirement over ...  
28 available at the time. If you felt there were some significant  
29 risks over that timeframe in terms of fluctuations in costs  
30 and so on you might want to have some idea of where it  
31 was going. Obviously, it's important though for Hydro to  
32 be doing system planning over longer periods of time but  
33 for the purposes of regulating and setting rates and  
34 revenue requirement, having long-term forecasts, there's no  
35 great benefit to it, I don't think.

36 MR. NOSEWORTHY, CHAIRMAN: Okay, thank you.  
37 With regard, I think you made a comparison of executive  
38 salaries in particular in your report and I know that Hydro,  
39 I think Mr. Osmond commented on the fact, have  
40 introduced a small scale, I think in fairness to him, it's a  
41 pilot project at this point in time, a performance based,  
42 incentive based system. Did you happen to have a look at  
43 that all in your review?

44 MR. BRUSHETT: No, we didn't get into the details of that  
45 incentive plan. As you indicated, it was a pilot project. It  
46 wasn't that significant in terms of the overall costs that  
47 were forecast there, so we didn't get into any detail in that  
48 plan.

49 MR. NOSEWORTHY, CHAIRMAN: Okay, the final item  
50 that I have here relates to professional services and I think

51 you commented on the significant upward trend and the  
52 escalation in that particular category over the last four  
53 years, '97 to 2002, of 65 percent, and you also went on to  
54 say, we believe additional information and justification  
55 should be obtained from the company in order to assess  
56 the reasonableness of the 2001 and 2002 forecast costs, and  
57 I know Hydro as well are, I think a couple of the items that  
58 I can recall again, this is through Mr. Osmond's testimony,  
59 certainly there is a substantial expenditure, a fair  
60 expenditure, I think, in terms of strategic planning exercise,  
61 and there may be more along those lines in future, I think  
62 there is a succession planning exercise, as I recall, the  
63 \$65,000 or something like that, and there may be more of  
64 those types of things. What kind of additional information  
65 and justification are you referring to there in that particular  
66 ...

67 MR. BRUSHETT: Well, I guess there was, the problem  
68 with this category is that there's no real baseline, and as  
69 you indicated with your examples, a lot of the types of  
70 costs in this category would be one-of type expenditures  
71 that would occur in one year and the next year there would  
72 be a study of something different, so it's very difficult on  
73 the outside looking at Hydro in this cost category, to get a  
74 real comfort level. The additional information would have  
75 been in terms of, and it was explored with some of the  
76 witnesses, questioning them as to the reasonableness and  
77 the necessity of undertaking and incurring all the costs that  
78 were forecast, recognizing that some would be annual costs  
79 and there would be some base level expenditure that would  
80 be required, and then there's the projects that are being  
81 approved and carried out on a year over year basis which  
82 are one-of projects that are a significant portion of some of  
83 the cost categories, or the departments within this cost  
84 category, so it's not a whole lot you can get in terms of  
85 specifics unless you were to ask for a list of projects and  
86 evaluate them individually, and I don't think that's the  
87 appropriate level of review for the purposes of conducting  
88 a hearing and setting revenue requirement. It's more  
89 justification and for the level of expenditures that are  
90 required to maintain the systems and, you know, I guess  
91 the record will speak for itself there. I know there was some  
92 questioning of some of the Hydro witnesses with respect  
93 to justifying the level of expenditures in this category.

94 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
95 Brushett, those are all the questions I have. It's five to  
96 11:00 now. We'll take a recess break for 15 minutes and  
97 we'll return with questions on matters arising, thank you.

98 (break)

99 MR. NOSEWORTHY, CHAIRMAN: Thank you. Okay,  
100 we'll move now to questions on matters arising. Ms.  
101 Greene, if you could start please?

1 MS. GREENE, Q.C.: Thank you, Mr. Chair. I have one  
2 question for you, Mr. Brushett, arising from questions of  
3 Commissioner Powell, and it relates to the information  
4 contained in your exhibits. For example, Exhibit 5B that he  
5 looked at, and I don't know if you need to turn to it, but my  
6 question to you was, have those numbers been adjusted or  
7 normalized in any way to take into account the impact of  
8 inflation over the period?

9 MR. BRUSHETT: No, no, those would not have been  
10 adjusted. They are the actual numbers in the years in  
11 question.

12 MS. GREENE, Q.C.: So there has been no adjustment to  
13 take into account inflationary factors or ...

14 MR. BRUSHETT: Not to any of the numbers in this table,  
15 no.

16 MS. GREENE, Q.C.: Okay, thank you, those are all the  
17 questions I have.

18 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
19 Greene. Ms. Butler, please?

20 MS. BUTLER, Q.C.: Thank you, Mr. Chairman. We have  
21 no questions arising.

22 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
23 Henley Andrews?

24 MS. HENLEY ANDREWS, Q.C.: No questions arising.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
26 Fitzgerald?

27 MR. FITZGERALD: One question, Mr. Chairman, and it  
28 relates to the question from Commissioner Powell on the  
29 foreign exchange and I have an excerpt here actually from  
30 the PUB's 1992 report and I'd like to circulate it to assist in  
31 the question. Mr. Brushett, I guess my question arises, as  
32 I said, from what Commissioner Powell asked you regarding  
33 the categorization of the RSP liability, if I could refer to it  
34 that way, versus the foreign exchange loss.

35 MR. BRUSHETT: Yes.

36 MR. FITZGERALD: Just to expand on that a bit, if you  
37 could correct me if I'm wrong here, the foreign exchange  
38 loss, or the original debt that Hydro accrued in relation to  
39 that amount, could you classify that as having three  
40 components, i.e., a principal amount to be repaid, interest  
41 of course, and loss on the exchange?

42 MR. BRUSHETT: Absolutely, yes.

43 MR. FITZGERALD: Okay, so ... and the amount that was  
44 amortized over four years to be paid back, that included, or  
45 could you tell me what component of that included the  
46 foreign exchange loss?

47 MR. BRUSHETT: The amount that is being amortized over  
48 the 40 years is the foreign exchange loss with respect to the  
49 principal balance that was borrowed and ultimately paid.

50 MR. FITZGERALD: Just the principal?

51 MR. BRUSHETT: Just the principal, just the loss on the  
52 principal. The principal of the debt itself is not ... the loans  
53 were repaid to the original lenders and however the  
54 principal amount repaid in Canadian dollars was much  
55 higher than the principal amount borrowed in Canadian  
56 dollars, and the difference being the, I guess, I'll use the  
57 word deterioration of the Canadian dollar versus the  
58 borrowing currencies over the period of time that they were  
59 outstanding, so it's the loss that's being deferred and  
60 amortized, not the principal and not the interest.

61 MR. FITZGERALD: Okay, so that loss is not necessarily  
62 related to the assets of Hydro.

63 MR. BRUSHETT: No, I think I tried to make that point  
64 when I was talking to Mr. Powell. It arises because of  
65 fluctuations in exchange rates subsequent to the initial  
66 borrowing, and it's not really tied to the capital program,  
67 whether a particular piece of equipment or a particular  
68 capital project was ... when that was initiated and  
69 completed has no bearing in terms of the amount of the  
70 exchange loss incurred because of changes in the foreign  
71 currency valuations.

72 MR. FITZGERALD: Okay, and if I could refer you now to  
73 what I've just handed out which is page 85 of the Board's  
74 report, the 1992 report, in the first paragraph, the last  
75 sentence, if you could just read that sentence into the  
76 record for us please?

77 MR. BRUSHETT: Starting with "The decision"?

78 MR. FITZGERALD: The decision.

79 MR. BRUSHETT: The decision to settle the loan does not  
80 create the loss. Rather the strength of the Swiss Franc over  
81 the years has created the loss.

82 MR. FITZGERALD: In light of this, would you then  
83 categorize the foreign exchange loss more similar to the  
84 type of debt that has arisen in the RSP than, say, long-term  
85 debt for the financing of assets?

86 MR. BRUSHETT: Well, they're not really alike. It's similar  
87 in the sense that they are losses or expenditures incurred as  
88 a result of the continuing operation of Hydro. One is  
89 related to, the exchange losses are related to the debt  
90 specifically which is generally repaid over a longer period  
91 of time. Fuel is something that's consumed today and gone  
92 today so in that sense they are not alike, but they are  
93 similar in the sense that they represent fairly significant  
94 costs or in the case of the exchange losses that have  
95 accumulated which have not been effectively incorporated

1 into rates, and therefore in that way they are similar. They  
2 are fairly significant financial obligations that Hydro has  
3 incurred that have to be recovered from ratepayers.

4 MR. FITZGERALD: Those are my questions, Mr.  
5 Chairman, thank you.

6 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
7 Fitzgerald. Any redirect, Mr. Kennedy?

8 MR. KENNEDY: No redirect, Chair.

9 MR. NOSEWORTHY, CHAIRMAN: Thank you very much.  
10 That concludes your testimony, Mr. Brushett. Thank you  
11 very much. I appreciate it. It was very well articulated, I  
12 must say, thank you.

13 MR. KENNEDY: There is one matter, Chair, which was the  
14 undertaking that Grant Thornton have been requested to  
15 provide through Mr. Brushett. I believe there was two  
16 undertakings, yes.

17 MR. BRUSHETT: Yes, and we will endeavour to have  
18 those before the end of the day.

19 MR. NOSEWORTHY, CHAIRMAN: Thank you very much.  
20 Would you be in a position now, Ms. Greene, to introduce,  
21 to bring back Mr. Henderson?

22 MS. GREENE, Q.C.: Yes, thank you, Mr. Chair. I mentioned  
23 it to other counsel that our intent would be now to proceed  
24 with Mr. Henderson, and hopefully we may finish by  
25 lunchtime. It would appear that that's a realistic timetable.

26 MR. NOSEWORTHY, CHAIRMAN: Thank you.

27 MS. GREENE, Q.C.: Mr. Henderson is available to be  
28 recalled.

29 MR. NOSEWORTHY, CHAIRMAN: Good morning, Mr.  
30 Henderson.

31 MR. HENDERSON: Good morning. You were sworn in in  
32 2001, although it seems like quite some time ago. I think the  
33 warranty holds for 2002. We won't put you through that  
34 again. I'll just ask Ms. Greene to proceed.

35 MS. GREENE, Q.C.: Thank you, Mr. Chairman. Mr.  
36 Henderson, supplementary evidence in your name was filed  
37 on December 12th, 2001, and it was entitled, "Second  
38 Supplementary Evidence". Do you accept this evidence as  
39 your evidence for the purpose of this hearing?

40 MR. HENDERSON: Yes, I do.

41 MS. GREENE, Q.C.: That evidence provided an updated  
42 forecast of fuel from the time of the filing, and the revised  
43 filing in October, to December. Now that we're into  
44 January, almost a month later from when you filed this  
45 evidence, have you had the opportunity to review the  
46 current forecast of No. 6 fuel?

47 MR. HENDERSON: Yes, there ... Perra provided a forecast  
48 that's very recent actually, and the prices are very similar to  
49 what we filed back in December. The forecast is pretty  
50 much identical. In 2002 there is a very small change in the  
51 early part of the year and the second half of the year  
52 doesn't change at all, and in future years, it's a very minor  
53 lowering actually.

54 MS. GREENE, Q.C.: So there's no significant change from  
55 what you filed?

56 MR. HENDERSON: No.

57 MS. GREENE, Q.C.: The last question that I have for you  
58 is have you had the opportunity to review, not the forecast,  
59 but what is the actual current price for No. 6 fuel?

60 MR. HENDERSON: Yes, we obtained the price for January  
61 7th, which was Monday of this week, and it's \$26.58  
62 Canadian. That's Hydro's price.

63 MS. GREENE, Q.C.: So that was as of Monday of this  
64 week?

65 MR. HENDERSON: That's right.

66 MS. GREENE, Q.C.: Thank you, that concludes the  
67 questions I have for Mr. Henderson.

68 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
69 Greene. Ms. Butler on redirect (sic), please?

70 MS. BUTLER, Q.C.: Thank you, Mr. Chairman. Thank you,  
71 Mr. Henderson. In your second supplementary evidence,  
72 and the table which appears on page one, when you refer  
73 above in the text to the manner in which the \$25.91 was  
74 calculated, I understand that to be a weighted average  
75 purchase price?

76 MR. HENDERSON: That's correct.

77 MS. BUTLER, Q.C.: Okay, and can you explain to me how  
78 you actually calculated the weighted average then because  
79 in fairness, when I added the figures, the \$25.91 came out,  
80 by my calculation, as the simple average.

81 MR. HENDERSON: It happened to work out that way.

82 MS. BUTLER, Q.C.: Okay, so just your explanation of how  
83 you weighted the years that were weighted then?

84 MR. HENDERSON: The way, the way that 2002 is  
85 weighted ... based on when we received shipments in our  
86 forecasts, so the January, February, March period, there's  
87 more shipments, there'd be a bit more weighting to those  
88 prices than there would be for the summer prices. The fall  
89 prices would get a little bit more weighting than the summer  
90 as well.

91 MS. BUTLER, Q.C.: Okay, and can you confirm, Mr.  
92 Henderson, please, whether the average, the weighted

1 average, or weighted annual average price that you've  
2 shown here for 2002 actually includes the December 2001  
3 purchase at \$22.70?

4 MR. HENDERSON: No, it shouldn't, no.

5 MS. BUTLER, Q.C.: Okay, and subsequent to the  
6 December 2001 purchase at \$22.70, has Hydro contracted  
7 for any further purchases of No. 6 fuel?

8 MR. HENDERSON: I'm not sure what you mean by  
9 contracted.

10 MS. BUTLER, Q.C.: Entered into a contract for the supply  
11 since December 2001.

12 MR. HENDERSON: No, no.

13 MS. BUTLER, Q.C.: Or purchased any?

14 MR. HENDERSON: No, we're still working on the existing  
15 contract.

16 MS. BUTLER, Q.C.: Okay, or purchased any additional fuel  
17 since the purchase that's reflected on the table on the  
18 screen?

19 MR. HENDERSON: On the screen the December price, it  
20 was a forecast price, it wasn't an actual. We did purchase  
21 fuel in December and our actual purchase price was \$24.10.  
22 That was through two shipments actually.

23 MS. BUTLER, Q.C.: Okay, thank you very much. Thank  
24 you, Mr. Chairman.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
26 Butler. Ms. Henley Andrews please?

27 MS. BUTLER, Q.C.: Oh, I'm sorry, Mr. Chairman, if I might,  
28 I did forget a point that my learned co-counsel pointed out  
29 to me. Mr. Henderson, the figures that are included in your  
30 supplemental evidence, page three, lines 1 to 3 ... yeah, I'm  
31 sorry, there is a subsequent filing by Mr. Roberts, JCR-1A,  
32 which I believe adjusts the figure for inclusion in your  
33 supplementary evidence. Can we look, Mr. O'Rielly, please,  
34 at JCR-1A, page 1 of 4, column F, line 11. Yeah. Can you  
35 tell me, Mr. Henderson, how this revised figure from Mr.  
36 Roberts, yeah, Mr. Roberts' schedule, affects the  
37 supplementary evidence that you've filed?

38 MR. HENDERSON: Mr. Roberts' figures are for the October  
39 filing, so they're an earlier time period, but on line 11 in that  
40 table is diesel fuel, and that's all of Hydro's diesel fuel so it  
41 includes both the isolated system diesel fuel and the  
42 interconnected system's diesel fuel, so they're not an  
43 apples to apples comparison to the number that I'm  
44 providing there in my supplementary evidence. Also in my  
45 supplementary evidence I'm talking about the energy  
46 supply costs, so there is some power purchase cost in that  
47 number as well.

48 MS. BUTLER, Q.C.: Yes, so the revised figure for diesel  
49 fuel that we're looking at on the screen, should that now be  
50 reduced?

51 MR. HENDERSON: Yes, there is a decrease in the vicinity  
52 of \$300,000.

53 MS. BUTLER, Q.C.: Right, so for 2002 the revised diesel  
54 fuel figure that we're showing on JCR Schedule 1A should  
55 be approximately \$6.5 million?

56 MR. HENDERSON: Yes.

57 MS. BUTLER, Q.C.: Thank you very much, Mr. Chairman.

58 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
59 Butler. Ms. Henley Andrews please?

60 MS. HENLEY ANDREWS, Q.C.: No questions.

61 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
62 Browne or Mr. Fitzgerald please?

63 MR. BROWNE, Q.C.: A few questions. In reference to  
64 your table, Mr. Henderson, you have fuel in 2003 at \$26.55,  
65 2004 at \$26.50, and 2005 at \$27.50. Is that, would you call  
66 that an upward trend?

67 MR. HENDERSON: It would be, I guess, a modest upward  
68 trend.

69 MR. BROWNE, Q.C.: And the prices there that you have,  
70 the weighted average, they come from Perra, do they?

71 MR. HENDERSON: All of the prices, except for that  
72 weighted average figure, came from Perra. The weighted  
73 average was a calculation we made on the Perra number.

74 MR. BROWNE, Q.C.: The number that you have for 2003  
75 of \$26.55, how is the exchange on the Canadian dollar  
76 factored into that?

77 MR. HENDERSON: That is calculated based on the latest  
78 exchange rate forecast that we have for 2003 applied to the  
79 Perra price.

80 MR. BROWNE, Q.C.: Do you know what the exchange was  
81 roughly? Was it 62 cents or ...

82 MR. HENDERSON: I think I have it here. In 2003 it was  
83 65.9.

84 MR. BROWNE, Q.C.: So you're expecting the Canadian  
85 dollar to rise to 65 cents in 2003?

86 MR. HENDERSON: That's what our advice has been, yes.

87 MR. BROWNE, Q.C.: And in 2004 what are you saying the  
88 Canadian dollar will be?

89 MR. HENDERSON: It's moderately higher, 66.4.

90 MR. BROWNE, Q.C.: Okay, good news, and 2005, we  
91 might be able to go to Florida yet, 2005?



1 MR. HENDERSON: Not much change, 66.4.

2 MR. BROWNE, Q.C.: 66.4, with the evidence that you're  
3 filing, is it still your intention to put fuel in at \$20.00 a barrel  
4 under your proposal?

5 MR. HENDERSON: Yes, it is.

6 MR. BROWNE, Q.C.: Are you familiar with press reports  
7 suggesting that OPEC is, there's an agreement among  
8 OPEC nations to reduce production?

9 MR. HENDERSON: Yes, I'm familiar with that.

10 MR. BROWNE, Q.C.: Is Perra aware of that? Do they make  
11 reference to that?

12 MR. HENDERSON: Yes, actually when this forecast that's  
13 in this table was prepared in early December, Perra prepared  
14 it with anticipation that there would be some agreement  
15 with the non-OPEC nations to reduce their production as  
16 well, so that was all taken into account.

17 MR. BROWNE, Q.C.: And in reference to hydrology, and  
18 do you have any new hydrology numbers? Over the last  
19 couple of months we seem to be getting a lot of rain. I  
20 don't know if we've had the benefit of it in central  
21 Newfoundland (inaudible) might be the case.

22 MR. HENDERSON: No, we didn't get enough in the last  
23 couple of months since I was last here to make our  
24 projections any better than they were at that time. Actually  
25 the end of the year we looked at our inflows and 2001 was  
26 our 7th lowest inflow year going back to 1950.

27 MR. BROWNE, Q.C.: The ... yeah, we won't get back into  
28 those figures. I think that we've all seen some problems.  
29 We won't revisit that one. In reference to your storage  
30 capacity at Holyrood, there's an adjoining capacitor there  
31 owned by Woodward's, I do believe, is that true?

32 MR. HENDERSON: I'm not familiar.

33 MR. BROWNE, Q.C.: You're not familiar with Woodward's  
34 storage there?

35 MR. HENDERSON: At Holyrood?

36 MR. BROWNE, Q.C.: Yeah, near your Holyrood facility?

37 MR. HENDERSON: No, I thought Ultramar had a storage  
38 facility down in Holyrood but I'm not sure that ...

39 MR. BROWNE, Q.C.: Yeah, I think Woodward's have it  
40 now.

41 MR. HENDERSON: Oh, okay.

42 MR. BROWNE, Q.C.: You haven't made, therefore made  
43 any contact to determine whether or not they would have  
44 additional storage capacity?

45 MR. HENDERSON: No.

46 MR. BROWNE, Q.C.: That you could lease or ... in  
47 reference to page two of your evidence, you make reference  
48 to the balance in the RSP at the end of 2002 will be reduced  
49 by \$12 million, bringing it down, I guess, to \$88 million, is  
50 that correct, from your earlier projections?

51 MR. HENDERSON: That was what our projection was at  
52 that time.

53 MR. BROWNE, Q.C.: The balance in the RSP for 2003, are  
54 you able to project that?

55 MR. HENDERSON: No, I haven't looked at that.

56 MR. BROWNE, Q.C.: So I think I made an information  
57 request asking what the interest would be and no one knew  
58 what the interest rates would be in 2003 which was  
59 problematic to that.

60 MR. HENDERSON: I don't know.

61 MR. BROWNE, Q.C.: You're not familiar with that.

62 MR. HENDERSON: I'm not real familiar with the RSP.

63 MR. BROWNE, Q.C.: Okay, in page three of your evidence  
64 you make reference to Brent crude oil future prices, should  
65 they be used for setting rates, and I gather you're making  
66 reference to the evidence of Mr. Brockman, is that correct?

67 MR. HENDERSON: That's correct.

68 MR. BROWNE, Q.C.: And you're taking exception to his  
69 evidence.

70 MR. HENDERSON: In respect to the suggestion that we  
71 should use Brent crude oil prices to predict where No. 6  
72 fuel prices were going, we would disagree with that  
73 approach.

74 MR. BROWNE, Q.C.: For the reasons you state here?

75 MR. HENDERSON: That's right.

76 MR. BROWNE, Q.C.: That's my questions, thank you very  
77 much, Mr. Henderson.

78 MR. HENDERSON: You're welcome.

79 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
80 Browne. Mr. Kennedy please?

81 MR. KENNEDY: No questions arising from the  
82 supplementary evidence, Chair.

83 MR. NOSEWORTHY, CHAIRMAN: Thank you, any  
84 redirect, Ms. Greene?

85 MS. GREENE, Q.C.: No, Mr. Chair, thank you.

86 MR. NOSEWORTHY, CHAIRMAN: Commissioner Powell,  
87 any questions?

88 COMMISSIONER POWELL: Just one question. Mr.

1 Browne mentioned, asked ... ventured into hydrology and  
2 you say it's the 7th lowest, or driest since the fifties. Is  
3 Hydro doing any spilling or anything at this point in time,  
4 I mean do they have excess water in any of their reservoirs?

5 MR. HENDERSON: The only place where they'd be any  
6 spilling would be at Paradise River. It's ... Paradise River is  
7 a small plant. It's a run of river plant, and there's very little  
8 storage there, and before Christmas we were spilling there  
9 because we had some heavy rainfalls in that, heavy rainfall  
10 in that area so that caused us to spill at that particular  
11 facility, but otherwise that's the only place where we would  
12 have spilled in 2001.

13 COMMISSIONER POWELL: What about 2002, as we  
14 speak?

15 MR. HENDERSON: Right now?

16 COMMISSIONER POWELL: Yeah.

17 MR. HENDERSON: I'm not aware that Paradise River is  
18 spilling right now, although I've been here the last couple  
19 of days and I wasn't paying close attention to that, but the  
20 way, the rain we had yesterday may have caused us to be  
21 starting spilling today for instance.

22 COMMISSIONER POWELL: There's no way we can  
23 increase capacity to take advantage of this extra water or is  
24 it going at its maximum efficiency?

25 MR. HENDERSON: At the time that the plant was  
26 designed we optimized the storage there to get the most  
27 value out of it and it wouldn't be cost effective to add more  
28 storage, so we wouldn't get enough energy from that ...

29 COMMISSIONER POWELL: So the flow of water going  
30 through it is pretty constant, like if you have (inaudible),  
31 you can't like ...

32 MR. HENDERSON: That's right.

33 COMMISSIONER POWELL: Okay, that's all I have.

34 MR. NOSEWORTHY, CHAIRMAN: Thank you,  
35 Commissioner Powell. Commissioner Saunders?

36 COMMISSIONER SAUNDERS: No questions.

37 MR. NOSEWORTHY, CHAIRMAN: Commissioner  
38 Whalen?

39 COMMISSIONER WHALEN: No questions, Mr. Chairman.

40 MR. NOSEWORTHY, CHAIRMAN: I have no questions,  
41 Mr. Henderson. Any redirect?

42 MS. GREENE, Q.C.: No, Mr. Chairman.

43 MR. NOSEWORTHY, CHAIRMAN: Thank you very much.  
44 I guess that concludes your testimony. Thank you once  
45 again, Mr. Henderson.

46 MR. HENDERSON: You're welcome.

47 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, before we  
48 break, I've got two issues to raise. Should I raise them  
49 now?

50 MR. NOSEWORTHY, CHAIRMAN: Sure.

51 MS. HENLEY ANDREWS, Q.C.: The first relates to the  
52 filing date for the written argument which I think you will  
53 recall is Friday, the 18th, at 4:00. That is really only a week  
54 from the conclusion of the evidence tomorrow, and given  
55 the length of the hearing, and given that we don't have a  
56 large team putting together our written argument, we were  
57 wondering if perhaps the deadline could be extended to the  
58 Monday at 4:00. It would give us the weekend and it would  
59 make a huge difference in terms of ability for proofreading  
60 and that type of thing. It would still give the parties a week  
61 to review everybody's argument before the oral argument,  
62 so that is the first issue, and perhaps we should deal with  
63 this issues one at a time, it will make it easier.

64 MR. NOSEWORTHY, CHAIRMAN: Okay, do you have  
65 any comment on that ...

66 MS. GREENE, Q.C.: No, Mr. Chair, I was just going to say  
67 that Hydro doesn't have a large team working on the final  
68 argument either. I think you're looking at it. *(laughter)* I  
69 wish I could give it ... anyway ... *(laughter)* ... no, I don't  
70 object to that, no, it's a reasonable request.

71 MR. NOSEWORTHY, CHAIRMAN: Ms. Butler?

72 MS. BUTLER, Q.C.: Mr. Chairman, ditto. You know,  
73 Newfoundland Power's position is that there can only be  
74 one person (inaudible) an argument, and that's me, and I  
75 don't really care one way or the other.

76 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne?

77 MR. BROWNE, Q.C.: That's a good idea, that's fine.

78 MR. NOSEWORTHY, CHAIRMAN: Mr. Kennedy?

79 MR. KENNEDY: Yes, presumably 4:00 p.m. on the 21st,  
80 Monday?

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

82 MR. NOSEWORTHY, CHAIRMAN: We would have no  
83 issue with that. I think it certainly doesn't extend the oral  
84 argument any further and that's fine. We'll proceed on that  
85 basis. Yes?

86 MS. HENLEY ANDREWS, Q.C.: Mr. Chairman, I guess I  
87 had three issues now that I think about it. The second one  
88 is just an update for the Board in terms of Mr. Mifflin's  
89 evidence. I sent him the draft last night and I've got his  
90 comments and I'm still hoping to have it filed by early this  
91 afternoon and he will be available tomorrow, and I guess if  
92 people have problems in terms of needing time to prepare

1 to cross-examine him, we'll have to deal with that at that  
2 time. It's very brief. The third issue is I think a bigger  
3 issue. At the end of the break ... when we received the  
4 order with respect to the filing of the final argument and the  
5 actual doing of the final argument, it refers to the parties  
6 will file their argument by such and such a date and we  
7 assumed from that that Counsel for the Board would not be  
8 making a final written submission or final argument with  
9 respect to the matter since obviously the Board is not a  
10 party, it's the adjudicator. For clarification purposes, at the  
11 break this morning I asked Mr. Kennedy whether he was  
12 planning to submit a written argument and make final  
13 argument to the Board and he has actually indicated to me  
14 that he does plan to do that. We have great difficulty with  
15 that from a procedural perspective. Having said that, and  
16 I can obviously get into that, but having said that,  
17 obviously if the Board has any questions of a legal nature  
18 that have arisen during the course of the hearing, it would  
19 be appropriate for the Board to pose those questions to  
20 Mr. Kennedy, and for Mr. Kennedy to submit his opinion  
21 so that we could all comment on any opinion that he was  
22 going to give with respect to legal issues. I was involved  
23 a number of years ago in a case involving the Royal  
24 Newfoundland Constabulary Complaints Commission  
25 where a Constable who had been complained about  
26 objected to the finding of the Commissioner because after  
27 the Commissioner had heard the argument from the  
28 Constable's lawyer, the Commissioner sought a legal  
29 opinion from Commission counsel and then based upon the  
30 legal opinion rendered a decision, and the Trial Division  
31 came to the conclusion that the decision should be  
32 overturned because procedural fairness had not been given  
33 to the Constable in question because he had not been  
34 given, and his lawyer had not been given an opportunity to  
35 comment on the accuracy of the legal opinion which had  
36 been provided by Commission counsel, so obviously  
37 based upon that case of which I have personal knowledge,  
38 I have no objection at all to Commission counsel providing,  
39 and I think he ought to provide his opinion with respect to  
40 any legal issues on which the Commission or any of the  
41 Commissioners feel that the need to have an opinion.  
42 Having made that qualification, the issue with respect to a  
43 written submission is a lot more difficult. In cases which  
44 your counsel could easily find for you involving the  
45 Workers' Compensation Commission, there are a number of  
46 decisions out of the Newfoundland Supreme Court and out  
47 of, and one out of the Court of Appeal, dealing with the  
48 role of Commission counsel, and the parties to this ...  
49 Commission counsel is not a party, he is an advisor to the  
50 Board and there, from a fairness perception perspective,  
51 there is a risk that the, that when the Commission's own  
52 counsel is making recommendations as to what the  
53 Commission ought to do, or the findings the Commission  
54 ought to make on the facts, that the Commission might give

55 more weight to the opinion of its own counsel than it would  
56 give to the opinions of the parties themselves. Courts have  
57 found that it is inappropriate for Commission counsel to  
58 make submissions in those circumstances, and while, you  
59 know, there is material that that was submitted months ago  
60 dealing with various articles that have been written, and  
61 with respect to the role of Commission counsel and those  
62 types of things, I think we should err on the side of caution  
63 because having been through a four month hearing, if one  
64 of the parties is dissatisfied with the outcome it would be  
65 a shame that the entire process might be overturned on a  
66 technicality which is the role of Commission counsel  
67 having made argument on the facts and arguing, the  
68 adjudicator, in effect, arguing to the adjudicator, so on that  
69 basis it would be my view that expect with respect to legal  
70 issues upon which the Commission wishes an opinion, that  
71 counsel to the Commission should not be making any final  
72 argument.

73 MR. NOSEWORTHY, CHAIRMAN: Thank you. I'll say it's  
74 the first I've heard of the issue. I'd ask Mr. Kennedy if he  
75 has any particular comments to make at this time.

76 MR. KENNEDY: Similarly, Chair, it was only just raised  
77 with myself moments ago, so I'm not really prepared to  
78 address counsel's comments at this point, sort of off the  
79 top of my head. I'd like to, if I could, formulate a position  
80 and perhaps we could address it tomorrow when we  
81 reconvene and that would also give the other parties an  
82 opportunity to think about it and as well, maybe some  
83 discussions among counsel might alleviate concerns, I  
84 don't know, but in any event, I think it would be premature  
85 to try to jump in now.

86 MR. NOSEWORTHY, CHAIRMAN: It seems to have some  
87 important implications, certainly some legal implications  
88 and it would require some thought likely by everybody. I'd  
89 ask if anybody, other counsels would have any particular  
90 comment at this point in time. Ms. Greene?

91 MS. GREENE, Q.C.: No, it's the first that I've heard of the  
92 issue as well. It's the first that I've heard that Board  
93 counsel was going to file final argument, and I would like  
94 the opportunity as well to consider it until tomorrow.

95 MR. NOSEWORTHY, CHAIRMAN: Sure, Ms. Butler?

96 MS. BUTLER, Q.C.: That's fine, Mr. Chair.

97 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne?

98 MR. BROWNE, Q.C.: Yeah, maybe Mr. Kennedy can  
99 clarify exactly what he plans to do and that might settle the  
100 issue, so let's wait until tomorrow.

101 MR. NOSEWORTHY, CHAIRMAN: Okay, we shall do  
102 that. That concludes our work for today. Just with a view  
103 to tomorrow, certainly as per the schedule we will hear

1 Abitibi witnesses at 9:30 in the morning. Ms. Henley  
2 Andrews, if you could just clarify, will it be Mr. Jean, Mr.  
3 Bachus, and Mr. Dean, or just ...

4 MS. HENLEY ANDREWS, Q.C.: Just Mr. Bachus and Mr.  
5 Dean.

6 MR. NOSEWORTHY, CHAIRMAN: Mr. Bachus and Mr.  
7 Dean, okay, thank you, and Mr. Mifflin will be following  
8 that, presenting evidence following that?

9 MS. HENLEY ANDREWS, Q.C.: That's certainly the plan.

10 MR. NOSEWORTHY, CHAIRMAN: And following that we  
11 will hear the matter in relation to the December 28th capital  
12 budget application, and the item which was just raised as  
13 well. Hopefully we'll be able to get through all that  
14 tomorrow if possible. Thank you very much, we'll adjourn  
15 now until 9:30 in the morning.

16 *(hearing adjourned to January 10, 2001)*