(9:30 a.m.)

MR. NOSEWORTHY, CHAIRMAN: Thank you and good Friday morning everybody, the 30th of November. There's an old Merle Haggard country and western song that says, "If I make it through December we'll be fine." *(laughter)* It may apply to more than one person in this room. Before we start, are there any preliminary matters, Mr. Kennedy?

MR. KENNEDY: I don't believe so, Chair, not this morning.

MR. NOSEWORTHY, CHAIRMAN: Thank you very much. Good morning ...

MR. ALTEEN: Mr. Chairman ...

MR. NOSEWORTHY, CHAIRMAN: ... Mr. Osler. Yes.

MR. ALTEEN: Sitting with Ms. Butler and I today is Kevin Fagan, who's a specialist employed by Newfoundland Power in cost of service and rate-related matters and with the leave of the Board I'm sure he can sit with us and assist us through the cross-examination of Mr. Osler.

MR. NOSEWORTHY, CHAIRMAN: Good morning, Mr. Fagan. It's good to see you again. You were on the, our public participation days. It was good to meet you then although it seems like decades ago, I must say. Good morning, Mr. Osler. How are you this morning?

MR. OSLER: Good morning, Chair.

MR. NOSEWORTHY, CHAIRMAN: Good morning, Mr. Young. I wonder could I ask you to begin your cross-examination?

MR. YOUNG: Yes, certainly. Thank you, Chair. Good morning, Mr. Osler. Mr. Osler, I'd like to start with a discussion of what's become the trendiest topic of recent days of the hearing, this is the 1-CP, 2-CP, 4-CP. We seem to have drifted away from hydrology for a while, a break for some of us, I guess. Mr. Osler, I presume that you're aware that Mr. Brockman has given pre-filed testimony to the effect that using a generation demand allocator that uses four coincident peaks is proper for Hydro's system. What is your view of his choice of 4-CP?

MR. OSLER: I don't agree with his choice of 4-CP for the purposes of demand allocation in this case.

MR. YOUNG: I'm wondering if you share all his concern about the predictability as to which month the peak will fall in? Is that an issue for you at all?

MR. OSLER: No. I think that Mr. Brickhill explained, and others have explained, that that isn't the central issue. I think the central issue is how many peaks does this system tend to have. It tends to have one peak a year. In fact there's no evidence to the contrary. If it had two peaks in a year at different time periods, I would be persuaded to start thinking about 2-CP. If it had four peaks for some reason or other, I might be persuaded to look at a 4-CP, but this system and others like it in Canada have one and when it occurs is not the key point, it's that it will occur.

MR. YOUNG: You seem to indicate there that 1-CP is the preference. You're aware of course that Hydro did study it, the Board's request, and looked into this issue, and that study, according to Mr. Brickhill's testimony, supports both 1 and 2-CP. Do you agree with that position?

MR. OSLER: I think that there is not a lot of difference using the factors that Mr. Brickhill looked at between 1-CP and 2-CP. I believe you looked at his test relating to the stability. I think on balance it is better to stick with a 1-CP. It communicates the point of one peak and doesn't let us be tempted to start looking and debating whether it should be 2, 3 or 4.

MR. YOUNG: I'm just wondering if you could explain your view of the purpose of the generation demand allocator in this connection and ask you to respond to the point that it appears that its intent is to allocate the demand-related costs of the utility's generation plant, correct?

MR. OSLER: Correct.

MR. YOUNG: Using a CP allocator does this by looking at how much load its various customers are using at the time of the coincident peak.

MR. OSLER: Correct.

MR. YOUNG: Correct. And I suppose the assumption is that if some customers are always peaking at the time of the system coincident peak, then perhaps they should pay a larger portion or a large proportion of the demand-related generation costs compared with other customers who are not there on that peak to the same degree. Is that correct?

MR. OSLER: Yes. Essentially you're saying that there are costs related to designing and operating a system for its peak, they are capital-related capacity costs, and therefore those that contribute to the peak should pay proportionately towards its cost in terms of capability of the system.

MR. YOUNG: Looking at our system, we have a retailer, Newfoundland Power, that has a load factor typically, generally in the 50 percent range, and we have industrial customers who have higher load factors, both individually and as a class, correct?

MR. OSLER: Correct.

MR. YOUNG: And I suppose you would expect that at the time of the largest single peak in a year, Newfoundland Power, being the largest user of power and having a lower load factor, on the largest single peak of the year chances

are Newfoundland Power is also peaking. Is that correct, normally you would expect that?

MR. OSLER: One might expect that, yeah, given especially if their load tends to be weather sensitive.

MR. YOUNG: So the more that Newfoundland Power contributes to the peak, the more demand-related generation costs it would attract under the 1-CP method or 2-CP method I suppose for that matter.

MR. OSLER: I don't think there's a lot of difference between the two, yes.

MR. YOUNG: But if you look at more a month, different, or a greater number of peak, especially as you move away from particularly cold weather and away from the holiday season, as we've learned, the likelihood that Newfoundland Power's proportion of the peak in those other times, it's likely their proportion of peak will be smaller, is that right ...

MR. OSLER: One would ...

MR. YOUNG: ... if you move away from the highest peak?

MR. OSLER: One would expect that normally.

MR. YOUNG: But as you've mentioned, the generation plant is designed to meet peak loads.

MR. OSLER: Correct.

MR. YOUNG: So the methods that are used by regulators to track cost causality target the peaks that the system planners of utilities see because they're the ones that the planners look at when they're making plant choices, generation plant choices.

MR. OSLER: Correct. I mean, in doing this type of work, this cost of service work, we're supposed to try and reflect the intentions of the planners of the system and that's why in Canadian hydro systems this is the way it's typically done, in Manitoba or places like that where we have a lot of hydroelectricity and we're worried about taking that portion of the generation costs, not all of them, that have been determined by a classification to relate to demand and assigning them and allocating them based on the system peak, coincident peak allocation.

MR. YOUNG: Now you mentioned an issue just then that brings me to my next point, which is determining which costs of which assets relate to demand and energy. There was another issue which has come up in this hearing and that is the classification of transmission plant as energy or how much of it I suppose you put to energy. Hydro's method is, I'll try to briefly explain this so as not to waste time dealing with things that we're all fairly familiar with, but is generally the transmission is determined to be demand related unless it relates strictly to bringing generation from a point where there's a hydro plant or another source of generation, and in that case, I gather, the transmission is allocated according to the load factor of that plant.

MR. OSLER: That's my understanding, yes.

MR. YOUNG: **Mr. Wilson on page 15** ... perhaps, Mr. O'Rielly, we can go to that, please. I think there's a report and there's a ... yeah, that's it, thank you.

MR. OSLER: Okay.

MR. YOUNG: I'm wondering if you could ... it starts on page 15 and runs to page 16, and the fourth, it's not numbered but on the fourth line from the bottom there's a few sentences there that start with the words, "A cost minimizing utility." I wonder if you could read that, please?

MR. OSLER: We're talking about Hydro's classification of transmission costs here and this sentence starts, "A cost of minimizing utility maintains a mix of generating resources in order to meet the varying demands placed on its system. This mix allows the utility to reduce overall production costs plus lowering the cost of energy. In order to be successful at this, the utility uses its transmission grid to achieve optimal dispatch, hence the transmission grid helps reduce energy costs and this should be recognized in the classification of transmission costs. This causality is not adequately recognized in Hydro's classification of transmission costs which attributes virtually all grid costs, i.e. with the exception of lines used exclusively to connect remote generation to peak demand."

MR. YOUNG: Okay. If I could stop you there. I'm just wondering what your views are of Mr. Wilson's assessment that Hydro does not classify enough transmission costs to energy.

MR. OSLER: I don't agree with him. I don't think his view would reflect the experience that I have with Canadian utility regulation. I think that the case that he notes in top of page 16 in the last line, the exceptional case, is the one that you've already identified to me as part of your practice. It's part of Manitoba Hydro's practice, it's part of BC Hydro's practice. In the case of Manitoba Hydro, our system has a great deal of its generation, 80 percent or so, coming from the north on long transmission lines that have obviously been built only for the purposes of bringing generation to the market.

MR. YOUNG: So those would be like or analogous at least to the transmission lines we have to Cat Arm, for example.

MR. OSLER: Yes. I don't know your system in terms of location, so I, but I'm assuming that if you have some lines that are exclusively bringing generation from a hydro plant, and that's typically the type of situation you get into because the plants aren't unfortunately located next door to the markets. They tend to be where the water is rather than

where the people are, and then you bring the line to the market. So when you're planning it and doing your cost benefit, you have to think of the line as well as the plant or you've got yourself nowhere. The costing and the efficiency of developing that facility requires you to think about the transmission concurrently with the generation or you've got nothing, so you, as a planner, you do it that way, as a cost of service person, you come along later and you say how did you guys do this, why did you do it. Oh, you did it that way. I should therefore consider the transmission to be classified and treated the same way as the generation because it is there for that purpose, and we have a lot of transmission in Manitoba that's treated that way. If I'm dealing with my colleagues from Alberta who tend to have a more thermal system and who worked with us in the Yukon, they classify rather rigorously a lot of things to demand, so that the tendency is to take a transmission line and look at it and say it's classified to demand. The exception is when somebody comes along and says I've got, this very particular case I was just describing, and ...

MR. YOUNG: So I take it that the thermal, predominantly thermal circumstance in Alberta, puts more of the plant closer to the load centres in any event ...

MR. OSLER: Yes.

MR. YOUNG: ... is that right?

MR. OSLER: Tend to move the plant around a little bit more than you do with a thermal, with a hydro, sorry.

MR. YOUNG: So the transmission that links in there would be essentially all grid transmission, if I can put it that way.

MR. OSLER: Right, but in the Yukon, for example, the Whitehorse Asia Farrell (phonetic) Grid is all classified to demand, reflecting, if you like, the Alberta influence and the fact that nobody could make a clear determination that any of the line was necessarily exclusively only for the bringing of the generation to the market. So, I mean, there's a lot of Canadian experiences I'm familiar with in at least the western part of the country and it would not support what Mr. Wilson is getting at. I think you have already addressed the issue to the best of my knowledge when it arises and you've done it in a manner that's consistent with other practice that I'm familiar with.

(9:45 a.m.)

MR. YOUNG: Thank you. Mr. Osler, you've challenged two aspects of the GNP, as we've been referring to, but of course what we're really referring to is the interconnection of the Great Northern Peninsula, at least the part on the eastern, northeastern side of it, the St. Anthony and Roddickton area. You've challenged both the allocation of the line, but first I guess in your presentation yesterday, first you asked the Board to consider the prudence of the interconnection itself. I'm wondering if I could start by referring you to **page 46 of your first supplemental testimony**, please? At the top of the page there, at lines, or it starts on two and four, there's a sentence here I guess I can read. It says, "There is ample evidence to conclude that this project in fact is likely to have a significant adverse impact on overall revenue requirement in 2002." Mr. Osler, this sentence seems to suggest to me that you're proposing that a test for prudence of a project like an interconnection, like this one, is the effect that it has on the revenue requirement in a given year. Is that your point?

MR. OSLER: No.

MR. YOUNG: So it's just an observation, is it?

MR. OSLER: In this context, yes.

MR. YOUNG: So I take it in that case that ... well, perhaps I shouldn't take too much. I'll ask you whether you agree with Hydro's position on the approach it ought to take on the interconnection project, whether you should do those projects which reduced the lowest or result in the lowest overall revenue requirement.

MR. OSLER: Not necessarily. There are, I think, a few more tests that should be thought about and the overall, lowest overall revenue requirement in the Hydro test sense is along present value context. It's not one year, it's not even 15 years necessarily. It's ...

MR. YOUNG: The life of the project that ...

MR. OSLER: The life of the project, and ...

MR. YOUNG: That's what Mr. Budgell said, I think, yeah.

MR. OSLER: And generally speaking, if you're going to select projects to meet requirements, if you have a load growth and you're trying to develop (inaudible) generation, you should be picking the development sequence that will minimize long-term costs, no question about that, but there are some extra risks that come to bear here and some extra issues, so my testimony has been that I think one should look at a number of things, not just the estimate of the net present value over the life of the project relative to some alternatives. We should look at, among other things, rate impacts and how long they'd be adverse (phonetic).

MR. YOUNG: The concern you raised about the full life of the project, I think you may be aware Mr. Budgell gave some testimony that there is a policy in Hydro when considering projects like this to look at a 15-year horizon, and that's really a risk determination as opposed to strictly an economic determination.

MR. OSLER: That was my understanding of what he was saying, yes.

MR. YOUNG: Yesterday when you gave your presentation you mentioned another circumstance where there was, and I'm not sure exactly, I didn't really pick up the reference, but I think you mentioned there would be a five-year horizon in the gas industry on some occasions but, and I'm not sure if that related strictly speaking to rate impacts or to the overall costs.

MR. OSLER: There were two different contexts that I made some remarks in, so we'd better keep them very separate. In the gas industry example, it would be more to do with the net impact on the system, is there a benefit to the system and can it be realized within five years from expanding into this particular rural area. That type of an approach was adopted, to the best of my understanding of the circumstances, in order to prevent utility companies from just expanding and putting the cost on the backs of all the other ratepayers, so it's not directly analogous to electrical generation but it does bring the point home that when we do certain types of activities we have a legitimate reason to be worried about the effect it has on the rest of the system, customers. The second example I was using was more to do with experience, let's say, in the Yukon, where people do look at the rate impacts, different development options, and there's a transmission development being done as we sit here between Mayo and Dawson, and they look at it to see whether or not it has an adverse effect on ratepayers and for how long, because if you substitute operating costs, capital for operating costs, you're typically going to increase the cost in the near term and create some issues, so in that sense my experience has been people start to get jittery when it goes more than about five years because they expect they're going to run into some opposition about asking current ratepayers to pay more for five years in order to support some long-term project, and they start looking for ways to shift the cost into the future.

MR. YOUNG: There are some difficult concerns, I suppose, for utility planners when you're looking at projects, because, I mean, I think the nature, and I think you'd agree with me here, the nature of an electrical utility is that most of the projects it undertakes have a fairly long life and therefore you would look at the life of those projects for the most part to see whether they are prudent. If you did those things, only those things which paid off, if I can use those, term loosely for the point I'm making here now at the present, just within a few years there are very few projects you'd undertake, would you agree with that? You wouldn't do many hydro projects, for example.

MR. OSLER: Well, let's talk about transmission and generation, and I would agree with you, and that's, for example, evidence of that in northern Canada and again in Yukon. I mean, this transmission line I'm talking about is taking a Mayo hydro plant that has no longer got a market because the mine closed and connecting it to Dawson City which has conventionally been run on diesel, and (inaudible) the mine has been closed since the late '80s. People have been talking about developing this transmission line since the middle '80s at least. It's taken a long time to get around to doing it and part of the technique needed to get around to doing it was to find a way to solve the problem you and I are talking about. It was for the utility's owner to step in and put in place a method of making sure that the ratepayers in the near term would not be adversely affected in order to develop this project. It put its money where its mouth was, if you like, in saying we will absorb the short-term costs and charge them out later in order to make this project for sure something that isn't asking today's ratepayers to pay for something that's only going to be good in the very long run. So I agree with you, private sector utilities, absent Crown or other development assistance, would have great difficulty developing hydro projects or even major transmission facilities which have long-term paybacks without taking special measures.

MR. YOUNG: Why is it different for a transmission line? I mean, you're talking about (inaudible) I think here, trying to deliver power and energy to customers at the lowest possible costs over a period of time and that you see as some proper measure of the expenses that you're incurring on the capital costs you're incurring. I mean, the same principles apply, do they not?

MR. OSLER: That's my point, is that this is just a transmission line I'm referring to.

MR. YOUNG: Yeah.

MR. OSLER: It's taking what we would (inaudible) call free hydroelectricity because it's a plant that's been built, it's just spilling the water, it's got no market, and it's taking it over to replace diesel which everybody that I know of and, you know, you can almost win an election in Yukon by talking about getting people off diesel, so ...

MR. YOUNG: But if I can stop you for a moment, I guess I've gotten ahead of myself a little bit, I would assume in the Yukon, and I could be wrong here, but I would assume that that transmission line, if you were going to look at the nature of the way it's allocated, you'd almost call that like a generation facility. I mean, it would probably be allocated based on the load factor or the same way as the hydro plant.

MR. OSLER: It probably won't be, but anyway ... because it's being built for, to help the market end of it, but I don't know how they'll end up. We haven't debated how they'll allocate it. They haven't built yet, they're building it. But the point is that it's, to do the economics, before you even worry about how to allocate it, the economic assessment of

it has been known for some time to have a good possibility of being positively (phonetic) present value, to take the point you started me with. It's taken a long time to get around to having a green light to build it because of the concerns that the ratepayers in Yukon, one way or the other, might end up having to pay too much for too long in order to satisfy some long-term ambition and some possible pay-off in the long run, and we've lived through a lot of cycles in diesel prices that made the thing go up and down, so it took a long time to get to the point of making a decision and I'm just saying from that experience I've observed a great deal of sensitivity beyond net present value over the life of the project in terms of ratepayer impacts in the first five years or so.

MR. YOUNG: The other thing you mentioned on this issue was the concern that the rate revenue Hydro would receive from the customers in the St. Anthony/Roddickton area would be lower in the interconnected scenario than they would have been had it remained an isolated system, and I gather this is a factor which has caused you concern as to the prudence also. I'm just wondering if you think that that's normally something Hydro would be expected to consider in all cases or is it just a test, one of the other tests we might consider in relation to a project of this sort? Should it be the very test or how do you feel, how do they rate, rank?

MR. OSLER: Well, let's deal with this bit by bit. I'm not saying for sure that it's the only test. My test point is that once you've had more tests rather than less tests or replace what you're doing with something else, if I can put it very clearly, it's in addition to doing, over the life of the project, compared to its alternatives, a net present value cost benefit assessment, one should look at the distributional impacts through rates over time on the customers that would be affected, so you can see what type of issues you're inviting everyone to get into before you've built the thing, and that would be my, in a nutshell what I'm trying to get at. In that context, if you're going to reduce the rates for a bunch of customers by $3 million a year on a project that's marginal, you've got to anticipate you're going to increase costs somewhere else in the system, asking some other people to pick up some costs for a while, and you're going to have trouble, so why not get that on the table at the beginning?

MR. YOUNG: Just wondering what the response might be from Hydro ... I'm going to give you a hypothetical situation but I don't think it's one that's all far-fetched because Hydro has done a number of interconnections, as you're probably aware, and this is one of the larger ones but it's by no means the first one and it probably won't be the last. Suppose that Hydro received a call from a mayor of a community, an isolated community, and the mayor has learned that the rates in his community, which are of course at a higher rate, perhaps need not be, and he's telling Hydro that he's aware that Hydro has undertaken a study and that the costs of owning and maintaining a transmission line over a reasonable period of time are in fact lower than the costs of maintaining and owning the diesel system which supports the town, so he says, you know, people in my town pay higher rates, Hydro can save money, why doesn't it do the interconnection? And your response is because there may be a period of time when others pay somewhat higher rates, is that the response? I think that's it, is it not?

MR. OSLER: Well, we have to find someone to pay for this, okay. We can't just go out and do this. We're a regulated utility, we have to go before a board and you have to explain it and have to make sense on behalf of all the ratepayers that actually we're serving, so my advice would be the mayor's got a point, let's see what we can do but let's make sure we got an argument for all the other ratepayers who are ending up going to pay for this, otherwise we would have done it a long time ago. I mean, that's all we're really talking about. We have to go and explain this today before the Board, not just our Board of Directors, not just the Government, but a board in a public hearing context and we better make sure we've got, we've looked at it from all points of view. I think the mayor would understand.

MR. YOUNG: He may or may not or she may or may not. We've heard some different things from mayors, I can assure you. *(laughter)*

MR. OSLER: Might understand, probably won't agree.

MR. YOUNG: I wonder, I mean, you've given some attention to the legislation that's binding upon this Board and upon the power producers and retailers in the province. I'm wondering if I could refer you to a minute to **Section 3 of The Electrical Power Control Act 1994**, and specifically it's subparagraph 3(b)(iii). You might find it easier, Mr. O'Rielly, if you just scroll down three or four notches. Okay. You can go down just a little bit further. Okay, if you could stop there for a second. I can read out some of the parts that sort of apply to all of it. It says, "It is declared to be the policy of the province that," and then if you can scroll down to the bottom of the screen there, it says, "All sources and facilities for the production of transmission and distribution of power in the province should be managed and operated in a manner," sorry, "that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service." Did you consider this power policy in your evidence?

MR. OSLER: Yes.

(10:00 a.m.)

MR. YOUNG: It doesn't say that would result in the lowest rates to consumers over a period of time or anything of that sort. It talks about it in much broader terms, does it not? It talks about the lowest cost power to consumers in the province consistent with reliable service, would you agree?

MR. OSLER: That's what it says, yes.

MR. YOUNG: So when ...

MR. OSLER: But I don't see anything there that takes anything away from what I've been talking about.

MR. YOUNG: Okay. I'm just ... I won't dwell on the legislation because that's probably something for another day and we'll all have a chance, but the ... if you don't see, I mean, anything there, what is it you see there that suggests that there should be a rates test before a particular project is undertaken?

MR. OSLER: Well, I'm trying to provide you with ... my job is to try and provide with the experience and practice that I know of elsewhere and I can tell you with the same basic objectives that most utilities would have, to try and deliver power to its customers in the long run at the lowest possible cost, particularly regulated utilities. People have been using rate tests to try and come to grips with the issues I'm talking about. They don't override the point of economic tests but they supplement them, and because in practical terms they've had to appear before boards and explain this and they have to make ... you know, it's not much good for the other ratepayers if you say, well, I've got a long run saving for the whole system. Yeah, but you just put up my rates. So, I mean, these are practical problems that regulation principles and practice seem to come to grips with without taking anything away from ... we're all trying to get the lowest possible cost in the long run.

MR. YOUNG: It just occurred to me when you said that last thing, that, you know, there's another kind of an issue that utility planners run into. Well, we don't have to think too hypothetically here. We could imagine that one group of our customers, or perhaps Newfoundland Power, could have some steep load growth in a particular period of time. Haven't seen that and I think the evidence is very clear, we haven't seen that in recent years, but there were times when it certainly was the case. If the planners of Hydro and the generation planning side of it said, you know, this steep load growth is bringing us very close and very quickly to the need for new capacity for, you know, the demand problems or the energy problems, so we need some new generating capacity or capability, and therefore, you know, it must be built, would you believe that it should be, those costs of that should be then allocated to just one group of customers or all the customers on the basis that, for example, industrials might say our load hasn't grown?

MR. OSLER: The answer to the question is I think it should be allocated to all of the customers in the context of how you're allocating costs. If it's in that system, it'll be in that system, if it's over the whole system, it'd be over the whole system, depending what jurisdiction I'm in, but I don't believe you should be trying to penalize those who happen to be the ones that are growing or shrinking or, you know, the individual customer basis or individual class basis. So, I mean, that's a broad point, but I can tell you if you're building a new generation facility and you went before your, before some regulators anyway, and you said this is a great idea, it's going to pay off but we're going to have much higher costs for several years, five or ten years, you might find that people would be asking you to phase in your costs to minimize near-term rate shock and to transfer some of those costs to future generations of ratepayers, so I think the context in which we are discussing what I'm getting at is much more analogous to that than, you know, taking aim at one rate class versus another. Short-term penalties versus long-term gains is an issue between people living at different time periods.

MR. YOUNG: Or perhaps people living in different areas. I mean, I'm wondering if the people in the St. Anthony/Roddickton area would ... I mean, you're talking here about the issue of prudence of doing this line, which I think goes back at root to the question of whether Hydro ought to have done the line or not. I mean, you can quibble about different ways of dealing with it after it's done if you wish, but, I mean, that's really the issue. So are the people in St. Anthony to be penalized even if Hydro can demonstrate that this project was least cost, because some other people in the province might have arguably slightly higher rates for a period of time?

MR. OSLER: If Hydro can demonstrate that the project makes sense and is prudent, then Hydro can presumably tolerate or adapt ways to make sure that all the different interest groups, including different time periods when people are living ... I'm trying to use, avoid using the word "generations of people" because I find in electrical hearings that gets too confusing ... intergenerational equity ...

MR. YOUNG: Yeah. People tend to be rather imprecise with the term. I've noticed that, yeah.

MR. OSLER: That's what I'm talking about. I'm trying to avoid using that phrase just to not get too confusing, but you can ... if you had a prudent project, you could pay it off in five years, ten years easily, you would find ways to sit down and talk about how you could shift the cost if necessary from a near term to a long run, because it would all come out in the wash in the end quite easily if it's a prudent and doable project. So things I'm talking about, if you have a strongly viable project, a robust project, you

can deal with. If you don't and you've got a marginal project, you don't want to talk about these things because you might find you get in trouble.

MR. YOUNG: I wonder if I could refer you to **page A-6 of your first supplementary evidence** for a moment, please? A-6. I'm going to read something from your evidence and ask you to respond to it when I find my reference here on the screen. The nice thing about ... spacing might have been a problem but I think the line references always match up, which is nice, which is not always the case when you scan it in and deal with Adobe. It says in line 21, it says, "However, the analysis Hydro conducted in '93 and 1994, as provided in IC-2036 revised, shows no consideration of the impact of the project on the rural deficit. More importantly the analysis shows no consideration of the impact of the project on Hydro's revenues at all." I wonder if I could refer you, before I ask you to answer the question, could I also refer you to a hard copy of Mr. Budgell's supplementary evidence? Now I know from recent experience it's hard to dig this one out too so I've taken the liberty of taking some copies. I hope I have enough. I may not. Let's have a look at this. In any event, this is ... the reference is to **pages nine and ten of the attachment** which is the proposal for federal funding, and it's **attached to Mr. Budgell's supplementary evidence**.

MR. OSLER: So is it Attachment D-1 (phonetic) in Mr. Budgell's evidence, supplementary evidence?

MR. YOUNG: You got me there.

MR. OSLER: It seems to be.

MR. YOUNG: I'm not sure because I chose not to dig it out.

MR. OSLER: It seems to be.

MR. YOUNG: It ends up I have more copies than I originally thought I did. You have it? Okay. There's a section there on page nine underneath the heading, "Reduction in isolated diesel subsidy." This puts us in context, I think you'll agree with. This report was the second of two, and this one was done in a sense for a special purpose, but we filed it nonetheless because it was part of the documentation that Hydro relied upon. Perhaps I could read this out. I could ask ... you can read it out. It really makes no difference, it's on the record. "The cost of providing service on the isolated diesel systems is presently cross-subsidized by Hydro's other customers, namely Newfoundland Power, island industrial customers and the Labrador interconnected customers." Just as an editorial point, that's not quite the case now. "Interconnection of (phonetic) the St. Anthony/Roddickton system to the main transmission grid with the assistance of $12.8 million in funding from the Federal Government infrastructure program will facilitate a cumulative reduction of 65.8 million, 10.1 million 94 dollars in the isolated diesel subsidy over the period 1994, 2022. As a result, Hydro's other customers will have to pay less in the future than would otherwise be the case under a continued isolated operation." Now, given you've, I read a moment ago the pages from your evidence and given that Hydro does appear to have considered the impact on the rural deficit, I'm just wondering if you can sort of reconcile those comments.

MR. OSLER: First of all, obviously we hadn't seen the supplementary evidence of Mr. Budgell ...

MR. YOUNG: At the time, you're right.

MR. OSLER: ... at the time I read this, okay, so just to start this ...

MR. YOUNG: I didn't mean to suggest that you were being unfair. I'm just wondering, now that you've seen it, can you reconcile them or ...

MR. OSLER: I just didn't want the transcript to have any suggestion ...

MR. YOUNG: Yes. No, and I should have made that point.

MR. OSLER: And I think the point is that it's relevant and you've provided subsequently two pieces of evidence in Mr. Budgell's material. This is one of them and the other one, I think, was Attachment 7, which you'd filed in the 1985 hearing it seems, with a somewhat quite different estimate of the same thing we're talking about, so ...

MR. YOUNG: '95 hearing?

MR. OSLER: '85 ... '95.

MR. YOUNG: Yes, yeah.

MR. OSLER: Did I say '85?

MR. YOUNG: Yeah, okay.

MR. OSLER: Excuse me.

MR. YOUNG: That's okay.

MR. OSLER: So you've established now that your corporation did look at this material and you too agreed it was relevant and you made it a fundamental point in your sales pitch to the Federal Government. Now, we get down to which numbers that you filed in various locations at various times, which should we (phonetic) run with today, and, you know, I think the ones you've given us in the 1995 hearing indicate a sizeable time period after this project developed when the ratepayers would be worse off rather than better off in terms of this deficit issue. So, I mean, I'm not going to come from Winnipeg and try and sort out which numbers you want to use or which number should

be used. I think you have to sort it out and file with the Board a package, would be my submission, that cleanly and clearly says what you thought then at the time you made the decision and what's happened now.

MR. YOUNG: Well, I don't know if perhaps I can clarify some of those points at this point. You're aware, I believe, I assume, that Hydro didn't receive the $12.8 million in funding. It received $5 million, correct?

MR. OSLER: Correct.

MR. YOUNG: That's one change. And the other change, I think, is in the actual cost.

MR. OSLER: Right. It came in at 31 rather than 36 or 37.

MR. YOUNG: That's right. So, and if you look at, just looking at these pages ...

MR. OSLER: Again, that was filed in, I think, a response somewhere in the hearing but it was very much clearly put out into supplementary evidence. It wasn't as though you put together a package for the purpose of this hearing that clearly simplified this for us. Anyway, keep going.

MR. YOUNG: I can appreciate that some of the questions that came later may have clarified some of these points to your ...

MR. OSLER: Yeah.

MR. YOUNG: ... understanding to a greater degree, but I guess the record is the record and that's the way these things work. You put out what there is and if people have questions, they ask them, and before the gavel finally falls you hope you have all the evidence before the Board. I just wanted to clarify on that point though that the number you had just recited shows a, roughly a $26 million cost, correct, I think, or something in that range. I'm just doing the math, 31 minus the ...

MR. OSLER: Well, my understanding is that the 94, just to, so you can correct me if I haven't understood this correctly, from Mr. Budgell's evidence I understand that the project came in at a capital cost of around $31 million, and you take away from that the $5 million worth of federal subsidies, so I presume there is a net capital cost to the utility of about $26 million.

MR. YOUNG: That's right, and that's ...

(10:15 a.m.)

MR. OSLER: And my understanding is that when you did your '94 work, then that cost that you were assuming if you'd had a $5 million federal subsidy would have been about 31 million at that time.

MR. YOUNG: If we had a 5, but we asked for 12 and I think ... I guess my point is you would come up with about the same answer, 12.8 off the full versus the ...

MR. OSLER: If that's how I should understand it, that's one possible way. If the net result is in the end you're about where you thought you would be through different routes, then there's nothing much has changed in the bottom line since about 1994.

MR. YOUNG: Yeah, that is the point. Yeah, that's the point, yeah.

MR. OSLER: But, I mean, assuming that your capital costs in the end then are the same as where you were looking at it in your view in '94, then the issue of ratepayer impacts can be sort of looked at, I guess, looking at information you have in front of you in '94 and '95. I don't think I can take as given the information in the submission to the Federal Government as being your best evidence that you want to rely on as to the deficit, because you gave evidence in '95 to this Board on your other projections of what the deficit would be and they're quite different. I think the overall cumulative total not (phonetic) in a present value sense is about $11 million and there's a long string of years where the deficit goes up rather than down, so.

MR. YOUNG: Yeah. I suggest to you that the way the deficit changes is not the first and primary test we use but it is an indication, I think you'd agree with me, that we had considered the point ...

MR. OSLER: I take that, yes ...

MR. YOUNG: ... on customers ... yeah.

MR. OSLER: ... now that I've seen it. Thank you.

MR. YOUNG: Yeah. There's a few other things in Mr. Budgell's supplementary evidence we can ... I know it's not fair for you to go back to your evidence that you gave prior to reading that and expand on it, so I'll ask you if it's changing your position at all. I notice that your second volley of supplementary evidence we received last, just a few days ago, didn't include any of this. But if we accept for a moment or until you clarify otherwise, that your testimony on the issue of the prudence and the GNP means that somehow Hydro has misunderstood the principles that ought to be applied to carrying out projects like this or ought to be applied before it is determined that a project like this interconnection is carried out, I'm wondering whether it means that, you know, Mr. George Baker of (inaudible), who's been this Board's consultant for a number of years, and Quetta, the Board's engineering consultants more recently, are off base, because I think you'll agree, having read Mr. Budgell's evidence, that those entities have looked into Hydro's planning methodologies and are more than comfortable with them, and in fact also with this study.

MR. OSLER: I would agree that they looked into your reliability assessment approaches and your fundamental ground rules for, especially from an engineering perspective, of approaching these things, but that's not what I'm talking about. I'm talking about some ratepayer-related and rate-making principles' tests and how they might apply and become a factor when you're doing some major capital decision-making. I didn't notice any of that type of consideration in the material that I looked at quickly that you provided in Mr. Budgell's supplementary evidence that if these were factors or even things that people were thinking about. Seemed to me it was very much more the engineering and the very fundamental cost benefit type of assessments.

MR. YOUNG: And I don't wish to cause any bad feeling in the room so I'm not going to get into a debate about the economists and the planning engineers as to what issues are most important in going forward on projects but I guess we're hearing your position now at least. You're a bit of a new broom, I think, in making a clean sweep of some of these issues that we've felt were well established policies, which brings up another point. If we can look at your RSP recommendations for a moment, and I don't need, I don't think, to point to anything particular, I get the impression that it's your view that Hydro has been misinterpreting the Board's stated intentions as to the RSP since 1985. Is that your view?

MR. OSLER: My view is the result does things that I'm not sure could be considered to have been in the mind of the Board in 1985 and that when looked at in retrospect lead to serious problems that are quite separate from the problems that seemed to be on the mind of the Board in 1985.

MR. YOUNG: It puts I think everyone in a difficult spot because in a sense you're asking us to go back for, well, in one case ten years, but in a sense you have to go back to '85, and do a little bit of a revisionist approach to the history and decide what might else have changed or, you know, what were these people thinking when these decisions were made to approve the proposal or, I should say, when the Board finally approved its proposal on the Rate Stabilization Plan, wasn't strictly speaking Hydro's at that time, not exactly the same. **IC-284(E)**, I think you're familiar with Mr. Abery's letter. I wonder, Mr. O'Rielly, can you bring that up? And there's an attachment there which is a letter from Mr. Cyril Abery who ... that's it ... who was the Chief Executive Officer. Actually he was the Chairman and Chief Executive Officer, as I remember, of Hydro at the time. Mr. O'Rielly, could you get page, bring us to page four, please, the bottom of the page? And there's a reference there. It says, "Each month Hydro will re-calculate the 1986 cost of service by customer replacing estimated '86 costs with actual costs as they become available." I won't read the rest of it, but I put it to you that it was understood, I would suggest to you, from this, and at least by the Board, that the cost of service was going to be used for this process.

MR. OSLER: Now that we've seen a letter from 1985, '86, it would certainly appear that the Board received a detailed explanation that included the fact that the cost of service would be used to allocate.

MR. YOUNG: And the Board had approved the AED method of course, and the Board set that out as, to Hydro. It's a method of allocating demand, which of course is different than going forward. It's different than the one that they chose following the generic cost of service hearing. But having approved the cost of service method and having understood that the cost of service method was going to be used for these purposes, I find it a little strange that, you coming here in 2002 and suggesting that we've been doing wrong all along, but that is essentially your evidence, isn't it?

MR. OSLER: Certainly my evidence is that if I had been there in 1986 and I knew what I know now, I wouldn't recommend that you proceed with that. My focal point though frankly was more on the period of time since the Board decided that in the next rate application it would change its cost of service methodology, wouldn't use the AED, and yet I'm not sure that I have any firm evidence that anybody had it clearly on their mind that this particular AED technique would continue to be used month after month thereafter until such time as Hydro came forward with another rate application, so my attention, frankly, is focused on the time period since the Board reviewed its methodology and decided that it should be changed.

MR. YOUNG: I think if Hydro had deemed it proper to have changed the rules applying to the RSP it would have come to the Board, but I think it would probably have had to come to the Board, so, I mean, unless it was changed, it's, I think, presumed to have stayed the same, so I'm not sure I understand your point on that.

MR. OSLER: Well, this has been an odyssey to find out what really is underlying all this, but from the industrial customer group that I was asked to identify issues and deal with them, I don't believe this is referenced in their contract. I don't believe that they really have any basis for having that understanding that now it's had as to what's going on here or that they appreciated the extent to which this process would continue to use a technique and to allocate to them costs that have to be recovered from them in the future after the Board had made a decision in a hearing that those costs shouldn't be allocated this way, and frankly, on the face of it, without knowing this letter, without getting into the detail, you wouldn't see why this type of a scheme

should ever do this.

MR. YOUNG: I guess I can accept that for what it is. Mr. Osler, you have evidence in your pre-filed concerning what you call dispatchable reductions in demand, and if I understand that correctly, you are treating, and not completely unreasonably either, I would add, you're treating the Abitibi Stephenville Interruptible B Contract in a similar fashion as Hydro would treat a peaking plant. I presume that's the case, or, but more to the point, in a similar fashion as Hydro would treat Newfoundland Power's generation that Hydro can call on when needed to hit, you know, a peak, a peak need. That's a fair characterization?

MR. OSLER: I think I would phrase it a little bit differently. I'd say that I'm trying to get the cost of service treatment of the Newfoundland Power credit to be done in a way similar and analogous to the way in which it is treating the Interruptible B Contract it has with Abitibi.

MR. YOUNG: I'm just wondering if you have any sense of, and there is an RFI on this, **IC-165**, which perhaps we can go to, see from that that the interruptible contract was used, I think you'll agree, on a few occasions over the years '93 to '94 and '9-, and these are of course winter periods, because of the way the contract works. I think it picks up December and runs on until the next winter for a few months, in '94, '95, but not since. You agree with that, I guess.

MR. OSLER: Yes, that's what the table shows.

MR. YOUNG: Yeah. I guess so, and I'm going to ask your comment on this point, if Hydro had made a determination back in '93 that the peaking requirement being met through this, and I use the term rather loosely, peaking requirement, but being met through this contract was required, it's not diminished by the fact that it wasn't needed for five or six years since then. The fact is it's there and makes it a valid thing for Hydro to have acquired. Would you agree with me on that one?

MR. OSLER: Yes, it's there to deal with contingency situations, not something you'd expect to be used all the time, and if you have a reserve requirement in your system, I presume it was acquired, this contract was acquired to help you meet that reserve requirement in the lowest possible cost method. This is not a very expensive method of getting some extra capacity in case you need it.

MR. YOUNG: Yes, and I think that, there's evidence on that point and Hydro could have gone out and bought a gas turbine. This was a cheaper alternative and one which was essentially a sensible solution to a problem that we were facing and one that our industrial customers could help us meet.

MR. OSLER: And also it might ... I think there is evidence in one of your answers, and I'm not sure which one it is, but as to the cost that you actually paid for it and how it was determined and it was determined by comparison to the gas turbine and you discounted it 50 percent or more, I think, so it certainly was well away from the avoided cost that you would have if you had to put a gas turbine in there, so ...

MR. YOUNG: Yeah, which means it was good for Hydro, but I suppose it's not quite the same. We don't have to walk through all the terms and conditions of the contract, could if you wish, but as you can see it's only there for a few months of the year, and you may be aware, and tell me if you're not, but you may be aware that there are restrictions in the contract as to how many times it can be used within a period of ... are you at all familiar with the term?

MR. OSLER: I'm familiar with them. I don't ... I couldn't rattle them off by memory, but they look to me like the types of terms and conditions that I would see in curtailable contracts, let's say, in Manitoba Hydro for industrial customers to supply the same type of interruptible service for, during the peak time periods of the year, during the peak amounts of time, certain number of hours, certain number of interruptions a year which the planners know is more than adequate to meet their needs to deal with a peak, so, yes.

(10:30 a.m.)

MR. YOUNG: Yeah, but it's a winter-driven thing. I mean, Hydro doesn't have the option under the contract, I think you'll agree with me, to push the button to start this gas turbine in a sense ...

MR. OSLER: Yeah.

MR. YOUNG: ... outside this time frame.

MR. OSLER: It doesn't at the moment. I don't know why it doesn't, if, whether it didn't ask for it or whether it just was focused on the winter months or what. In other cases we see interruptible contracts that are available for the year, so. I mean, I don't know what your background is there.

MR. YOUNG: Yeah, but the ... I understand your point, but I guess it is true though that the parties sat down and reached an agreement as to what each needed and what each can provide and fixed on a price on that.

MR. OSLER: I assume so, yes.

MR. YOUNG: Ms. Henley Andrews was asking questions of Mr. Brickhill concerning the use of the generation on the GNP, and I think she showed that the Hawke's Bay diesels were last used in '96. I don't know if you're familiar with that. I don't think we need to go to the transcript. I

wonder, Mr. O'Rielly, could you bring up **IC-147**, please, page two of four? If you can just bring down the page a little bit further. Okay. It says there in relation to the use of the Hawke's Bay, it says, "It helped meet the peak of 1,303 megawatts on that day," the day you referenced as January the 2nd, '96. Seems to be the only time it's been used since then. I wonder if I could now refer you, Mr. Osler ... perhaps I should ask you a question since I referred to the document. You do understand that that's what it says there and you recognize that?

MR. OSLER: I gather telling us that you used the Hawke *(sic)* Bay diesel, what, January 2nd, 1996 ...

MR. YOUNG: Yeah.

MR. OSLER: ... helped meet, it helped meet the peak, 1,303?

MR. YOUNG: That was my point, yes.

MR. OSLER: How many megawatts is the Hawke's Bay diesel, just for my ... I shouldn't ask you ...

MR. YOUNG: I'm not here to ...

MR. OSLER: I shouldn't ask you questions, sorry.

MR. YOUNG: Yeah.

MR. OSLER: Go ahead.

MR. YOUNG: Sometimes lawyers are dying to give evidence, you know, and sometimes they're not. Just assume that it's a small unit.

MR. OSLER: Okay.

MR. YOUNG: But nonetheless, you know, when you're running flat out, and I won't use the words that are, people in the control centre use to describe that because it's not, it's a little unsavoury, but when you're running flat out and things are at the end, I mean, you put on what you have. You can probably imagine that I'm correct in that assessment. Mr. O'Rielly, I wonder if I could refer you to **NP-157, page three of three**? Now I don't think we need to go through this table in detail, but I'm just wondering, and you can take as much time with this if you wish unless you're familiar with it ... perhaps you can come up with the answer pretty quickly ... that since 1993 the highest peak recorded in fact was in January of '96.

MR. OSLER: I'll take your ...

MR. YOUNG: Yeah, you take my word for that.

MR. OSLER: Take your word for that, okay.

MR. YOUNG: Others may have looked at this table more closer than I. I don't know about you but there's something about the graphics there that I find is a bit like a strobe light or something, the way it all fits together, so I've had some trouble reading it.

MR. OSLER: This excites you, you're telling me, or what?

MR. YOUNG: Well ... *(laughter)* I think if I looked at it too long it might induce a seizure. That's my concern. *(laughter)*

MR. OSLER: You can imagine what I feel like.

MR. YOUNG: But the point I was going to raise is that the, I don't think there are peaks here since then which have hit 1,300.

MR. OSLER: Again, I'll take your word for it.

MR. YOUNG: Yeah. Save us the pain. So I'm just wondering though, we can draw generally analogies to the interruptible contract not being used for a while and the fact that the Hawke's Bay diesels haven't been used for a while. I mean, both the interruptible contract and the Hawke's Bay diesels and the other generation that we have on the interconnected grid that we don't use regularly but are there just in case, I mean, they're all stand-by generation, correct?

MR. OSLER: We can use language that can get very confusing here. At one level, from the point of view of an engineer, somebody operating the system, it would be fair to say that they're all stand-by generation. At another level when we're trying to determine the proper and fair and appropriate way to allocate costs and deal with the issues we were talking about earlier, particularly with respect to the GNP, we have to be more careful with our use of language because there's other issues involved than just how the operator looks at operating the system, so if that's by any chance an issue that you're dealing with here, I'd be careful with the use of the words.

MR. YOUNG: It reminds me of something Dr. Sereekus (phonetic) used to say. He used to say that rate methods are not right or wrong, they're just proper or improper, depending on what you're trying to achieve. Sounds something like what you just said and I think I understand your point. The evidence is though from Mr. Budgell, and I think you probably are familiar with this, that the generating resources on the GNP, they can give generation to the main grid, and in particular he's looked at a scenario that he's chosen, the light load circumstance, as a test, and he's proposed that to the Board indicating that there is, and to be fair to Mr. Budgell, I think it's fair to say he said that there's a fair bit of a subjectivity here and you have to pick one and go with it. I don't know if you have any comments on that other than the point you just raised perhaps covers it off. I don't know.

MR. OSLER: Are you asking me if I have any comment?

MR. YOUNG: Yes, I am.

MR. OSLER: I heard his evidence or at least read it. I don't

... I think that that is indeed the test that he has used is that if at some load, even lower loads, there could be a possibility that you could use some of the generation from the great northern grid and use it elsewhere in the system, that therefore it has a substantial benefit to more than the customers in that areas, to some other customers. That seemed to be the thrust of his test, if I understood it correctly, and I would suggest, my opinion would be that isn't the appropriate test to use when trying to decide the issue, because from the perspective of the other customers that generation wasn't put there with knowing (phonetic) the view that it was going to provide an ability to help meet the peak down the road, you know, back on the main grid. It was put there originally to service the needs of the people on the great northern grid, Great Northern Peninsula, and latterly to maintain stability in that area, and with the additional loads that came with the Great Northern Peninsula expansion onto the system the net effect is it's what it is and it means that it can't be of any use during the peak and the time period when it could be of use, the system that it's trying to be of use to has lots of generation also, more than adequate generation to meet its own needs, thank you very much, so if the ... I don't ... it doesn't appeal to me as a test to deal with the issues we're trying to come to grips with, which is the fair allocation of the costs relating to a project in this circumstance, and it doesn't take anything away from the engineer who's trying to operate the system, given that he's not worrying about all these cost allocations. He's just trying to make sure everybody can put, turn their lights on.

MR. YOUNG: Yeah, and I guess that's was what was going on with the Hawke's Bay diesels in '96.

MR. OSLER: Presumably, yes.

MR. YOUNG: And I presume it could also occur in a similar way the next peak that we hit, probably all of it will be running flat out.

MR. OSLER: Yeah, but Mr. Budgell's evidence is that during the peak period there's no contribution from the generation that has been connected to the GNP. It's only during the low load period, so he wouldn't disagree with what we're talking about, I presume.

MR. YOUNG: You focused on a point a moment ago, or at least you mentioned a point a moment ago that causes perhaps another issue to arise, and that is when you talked about why the generation was installed and what role it serves and in the present situation which of course is changed because it's interconnected, and that gives rise to another issue which has come up generally speaking, I think, here in this hearing as to plant which has a different use than it was originally intended to do. For example, and you probably know I'm coming to this, the frequency converters, and they've always, and the evidence is and it's fairly clear, and I don't think this is controverted, the frequencies converters have been up until the present time been assigned common. You're aware of that, I take it.

MR. OSLER: I'm aware of that, yes.

MR. YOUNG: And you've said that, and this strikes me as a curious point, that the industrial customers as Abitibi Consolidated and Corner Brook Pulp and Paper do not get any more benefit from those converters than they ever did. That's one of the points you raised.

MR. OSLER: I believe that's one of the points I made, yes.

MR. YOUNG: When Mr. Brickhill was being questioned about this issue generally there was two issues that arose or two circumstances that arose that could give rise to a change in allocation, and as I understood it, and I'm going to ask you to respond to the point, one is that you would change their allocation if in fact an error was made the first time around, and that's a fairly obvious case. And the other is if the use of the plant were to change, if something were to occur that would cause a change in the use of the plant, do you agree with that assessment?

MR. OSLER: I thought it was useful as a, you know, two basic things to look for.

MR. YOUNG: So the point I just referred to about you looking to see if Abitibi or if Corner Brook Pulp and Paper get more of the benefit from those converters than they did before, is that in response or is that along the same wavelength as the change in the use? Are we looking at the customer, that particular customer's change in use or the system's change in use?

MR. OSLER: I was simply looking to see if there was some argument that somehow or other these people were getting some change in use, if you want to put it in Mr. Brickhill's perspective, that some incremental benefit all of a sudden out of this that they weren't getting before, and if that was underlying part of Hydro's argument and that's ... so if you put it in the context of what he was testifying, you could put it that way.

MR. YOUNG: I wonder if we can just consider the, what goes on with the frequency converters for a moment, and you're probably more than passingly familiar with them now. I think you'll probably agree with me that their function, whatever they may have been intended to do in the broad scheme of things before, the function at present is to convert 50 cycle generating capacity owned by the paper mills, they're physically located at the paper mills, and to convert that 50 cycle generating capacity into 60 cycle capacity for those mills. Do you agree with that assessment?

MR. OSLER: It's my understanding, yes.

MR. YOUNG: And so the question of whether or not they have a changed use for the customers where they're physically located, and, you know, who are actually receiving the energy that's being converted here, I mean, that's half of the equation, but if we're looking at whether or not something has changed which might cause an allocation, there's, I'm suggesting to you there's another half of the equation and perhaps that's what other benefits might have flown or stopped to flow to the other customers. Do you agree with that?

MR. OSLER: I understand that that's the essence of the applicant's submission, that there's been a change on that side of the ledger, if you like, that they believe justifies a change in the assignment.

MR. YOUNG: Yeah, and I think it's ... and there was no big bang here. This is something fairly evolutionary as the grid, you know, perhaps required these things for, to make a good robust system in the mid '60s. The grid has grown a lot since then, there's a lot more generation on, a lot more different points from which you can enter the system, so Hydro's evidence is, and I think you'll probably agree with me at least as to what Hydro's evidence is, is that the system no longer requires it for that reason. The other customers get no substantial benefit.

MR. OSLER: That seems to be their argument. There's no dispute, as I understand the evidence, that this was essential to a certain stage in the evolution of this system and that everybody benefitted but with passage of time, I gather the argument is one side isn't getting that much out of it so it should change the rules.

(10:45 a.m.)

MR. YOUNG: Were you aware that there used to be a customer of Newfoundland Power in Corner Brook who took the service at 50 hertz, and this is 50 cycles? I mean, obviously Corner Brook is Hydro's customer. Were you aware that until a few years ago there was a Newfoundland Power customer who took power ...

MR. OSLER: No, I wasn't.

MR. YOUNG: There was actually a hearing about that several years ago, several decades ago, and if you weren't aware that that was the case, I don't need to ask you anything further about that. Were you aware that there is now no other customers on the grid except for these two paper mills who take service at 50 cycles?

MR. OSLER: That's my understanding, yeah, and that one of them is in fact, my understanding from the evidence is that one of them is planning to not be in that circumstance soon, but I don't know any more about that than what I've read in the evidence.

MR. YOUNG: Right, okay. I wonder if we could look at sort of an obvious case on this point, just for some kind of showing on an extreme case, demonstrates a principle, and you can look towards the middle to see where it ought to go. Mr. O'Rielly, I wonder if you could bring us to **Schedule 13 of Mr. Budgell's pre-filed evidence**, please, and then you'll all be pleased to know this is a single line (phonetic) diagram. And that's probably not too bad like that, Mr. O'Rielly, thanks. On the bottom left you will see Hopebrook and Grandy Brook, and you'll see according to the chart, which is just to the right of Hopebrook and Grandy Brook, a key showing that the colour that they are assigned is Hydro rural. Now, Hopebrook is a name you're familiar with, I presume, and you'll probably recognize it to be a former industrial customer of Newfoundland and Labrador Hydro, is that right?

MR. OSLER: I recognize the name.

MR. YOUNG: And I apologize for the squinting and ...

MR. OSLER: I never really ... it's considered in the context of what you allege I'm reading. *(laughter)*

MR. YOUNG: I've got the advantage that I can't get too close to the screen. I would have to take my glasses off if I did, so I understand the dilemma you're facing. Now those two transmission lines there, 250 and 255, as I just mentioned they're now all coded in the same colour as Hydro rural, so that's the way they're assigned, I think. You'll agree with me that's what the diagram shows.

MR. OSLER: That's what it shows.

MR. YOUNG: Previously this was common. Were you aware of that, that because Hopebrook was an industrial customer and Grandy Brook and the customers (inaudible) from that were Hydro rural customers, that this line was assigned common?

MR. OSLER: I've read that. I haven't been following that particular discussion. Oh, thank you.

MR. YOUNG: That was a good idea. *(laughter)*

MR. OSLER: That's much better.

MR. YOUNG: Yeah. Just by the way of explanation, we used to have these on big road map size things and we decided not to do that because it took everyone ... like a road map, it took everyone five minutes to put them back together after you took them out so people got very reluctant to ask the questions that related to the system diagram. The allocation now to Hydro rural though has changed because Hopebrook is no longer an industrial customer, so that's a change, which is, as I mentioned a moment ago, that's a fairly obvious case ...

MR. OSLER: Yes.

MR. YOUNG: ... that ... I mean, that's the kind of change that, you know, that's a no-brainer, correct?

MR. OSLER: Well, it's certainly a very clear change without commenting on anything more than that.

MR. YOUNG: Yeah, okay. I guess what I'm suggesting to you though is that as that is a change to make that all specifically assigned to Hydro rural, if the Corner Brook and Grand Falls frequency converters don't provide any benefits any longer to the other customers on the grid, then even though it might not be quite as obvious from the point of view of a departure of a customer, but the benefit is no longer there. That's Hydro's evidence. So I'm just wondering what does the history matter as to who it was originally installed for and, you know, and how long should we keep something assigned one way just because 33 or 34 years ago it was assigned in a particular manner?

MR. OSLER: I suppose my answer is it depends. I think Mr. Brickhill noted that there are various rules that could be used and one of them would be its original use as planned, and another one would be its current use, and he under, his understanding was he thought, in certain circumstances anyway, the Board historically nodded in the direction of more current use than historical use but that he wouldn't find it objectionable, I don't know exactly which words he used, if somebody was to argue, you should use original intended use, so I think in the regulatory environment we are more than familiar with both concepts and the issues of trying to balance them, so it does depend in a sense. I think in the context of the frequency converters, let's not be terribly abstract here, the issue is probably one location. The issue is a fairly sizeable cost involved in changing it and the real issue that we're worrying about is long-term maintenance, not the current allocation.

MR. YOUNG: More replacement.

MR. OSLER: Yeah, because you've asked me a question on that with NLH-97. So, I mean, if those are the issues on the table, you don't want another Hopebrook, you do want to keep the customer, you do want to sort this out. It's not ... it isn't necessarily ... we don't necessarily have all the information sitting on the table as to what's really involved in debating this and there's a lot more to it than just an academic debate over cost allocation.

MR. YOUNG: Mr. Chair, I think it'd be a good time for me to break. I'm not sure if I'm going to have further cross afterwards, but if we could break here now for 15 minutes.

MR. NOSEWORTHY, CHAIRMAN: Sure. Thank you, Mr. Young. Thank you, Mr. Osler. We'll break until ten after.

(break)

(11:15)

MR. NOSEWORTHY, CHAIRMAN: Thank you. Are you concluded, Mr. Young, your cross-examination.

MR. YOUNG: Not quite, Chair. I just have a few more questions.

MR. NOSEWORTHY, CHAIRMAN: Okay. Please proceed.

MR. YOUNG: Thank you. Mr. Olser, this morning we were talking about the issues relating to common and specifically assigned plant, and I just wanted to clarify something about the way Hydro has proposed that these things be done and to get your reaction to it. I wonder, Mr. O'Rielly, if you could bring us to page 16 of Mr. Budgell's pre-filed evidence and the reference to common plant there at the bottom of the page? Thank you. Now, we were discussing this morning, Mr. Olser, about the fact that if you have an option of getting an interruptible contract or some other sort of capacity one could be used in place of another, and I think we're generally in agreement that they can, under certain circumstances, be used for those kinds of reasons, correct? I mean, you can replace an interruptible contract with a peaker, or etcetera, or somebody else's generation, if that's appropriate?

MR. OLSER: Yes, we had discussed that and we agreed on that.

MR. YOUNG: The point which, I guess, we didn't get into to any great detail though is whether or not one of the reasons that you can use one against the other is because really it displaces other options that you might have to consider. I mean, you're looking at, from a costing point of view, what is your next step to add something to the grid, and if something is there you can use, like an interruptible contract you can opt for, if something else is available like someone else's generation you can opt for it, correct?

MR. OLSER: That's underlying what we were talking about, yes.

MR. YOUNG: That's right. Now, the point in the bottom of page 16, I'll just read this out. It says, "The following facilities have been assigned as common plant." It says "All Hydro's production facilities, hydraulic, thermal, gas turbine and diesel." I think you'll agree with me what we're talking about here is that all plant which is on the interconnected grid of this category, it's Hydro's position that all should be assigned common. Is that your understanding of Hydro's position there?

MR. OLSER: Yes.

MR. YOUNG: And therefore, it is Hydro's position that, and I put this to you, that the production facilities, wherever they are on the interconnected grid, should be common and that one of the reasons of why that makes

sense, and this is what I'm asking you to respond to, is because in the event of peak or otherwise, they can displace investment that has to be made perhaps at a different location on the grid?

MR. OLSER: Well, first of all, it's Hydro's position that all of the ... I agree that's the case, that all of the generation plant on the grid should be treated as common, and I understand that their rationale for that is as you just said.

MR. YOUNG: Okay. Would you agree with me that once you do have a generating station located somewhere on the grid, on the interconnected grid, that it can all be used, as we've seen in Hawk's Bay, can all be used to meet a need (inaudible) peak or otherwise? The fact that it doesn't go far along a particular grid, and you can do load flow studies or something, but I mean, if it displaces the need, for example, in the peaking situation from a large hydraulic plant or Holyrood or something, then planners can rely upon the existence of that capacity to provide capacity and energy when needed?

MR. OLSER: I think from the point of view of somebody trying to operate a system rather than worrying about allocating a cost for rate making purposes, I can understand and be sympathetic and probably agree, but the issue we're grappling with is cost allocation and we, in my opinion, have to look further than that in this instance.

MR. YOUNG: The other point that we discussed this morning related to the allocation of transmission lines which can relate to generation in certain circumstances, and I wonder if I could turn your attention to page 17? And I wonder if you could respond to the point. I'll just read it in, it's in Mr. Budgell's evidence. "For the purposes of this" ... this is under D. It says "All of Hydro's transmission and terminal station plant connects a single customer and remote generation or voltage support equipment that is of substantial benefit to all customers on the grid. For the purposes of this guideline, if under any normal operating scenario the output of remote generation can be delivered to the 230 kV grid that is an excessive radial load, then the remote generation is considered to be of substantial benefit to all customers and, as such, a transmission and terminals plant connecting it to the grid would be assigned common." I think there has been some discussion, Mr. Olser, in relation to what normal operating scenarios are, etcetera, and Mr. Budgell has given us his evidence quite clearly on that. I'm wondering if you have a comment on this point?

MR. OLSER: My testimony at page 41 was trying to address this, and he was making the point that, given this type of a framework and given the issues with respect to the Great Northern Peninsula line, that one should be looking to make sure that when we're talking about capacity to deliver generation that we are talking about it, the capacity being in the key months of the system peak measured on LOA, loss of load hour probability issues or any other way you want to deal with it rather than just saying if we can get it to have some use under normal circumstances at some point during the year. That was, in essence, my suggested way to address this matter. I would point out though that in my testimony at page 48 and 49 of the ... in both cases I'm talking about the September testimonies, September, first supplementary. I ultimately am saying that the generation issue, I think, can be dealt with separately in terms of the costs from the transmission issue. And if I can just sort of summarize it ... I'm looking at page 48, Mr. O'Rielly, of the September, first supplementary testimony, so this section has been talking about the allocation of costs, and the first part on the previous page was allocation of GNP transmission with not getting into generation, and then going to this page was allocation of GNP generation assets. If I could just read it, if that's okay with you?

MR. YOUNG: Sure.

MR. OLSER: "In regards to the GNP generation assets, however, there are at least some factors that could support allocation to common. For example, all interconnected generation has in the past been allocated to common, including Hawk's Bay, even when related transmission was specifically assigned to specific customers or rate classes. Maintaining this principle results in an increase to the island interconnected revenue requirement in 2002 of $0.6 million compared to direct allocation to rural. Looking further at the GNP generation, Hydro has presented evidence in **IC-217** showing that in the absence of the GNP generation the LOLH for the island interconnected grid would be higher in 2002 than is the case with this generation in place. The application indicates a need to develop additional generation capacity in the near term. The Board has also ordered Hydro, at page 29 of **PU-5**, 2000/2001, to conduct a study which includes consideration of `the amount of emergency power that should be in place' in the GNP. Based on all of the above considerations it is reasonable to accept on a provisional basis for the time being, that the GNP generation be maintained and allocated to common. However, once the Granite Canal project has been placed in service and Hydro has completed the required, study consideration should be given as to whether the GNP generation continues to be useful overall and for the non GNP customers and whether it should be removed from the rate base or should be allocated solely to rural customers." And the point goes on to say that that, in my view, doesn't in any way take away from the need to allocate the GNP transmission without any recognition of it being of benefit to the main grid.

MR. YOUNG: So if I understand the dispute in that case simply ... have at least some common ground here on the generation, but the transmission issue follows to be decided based upon Mr. Budgell's test or one like it, if it's accepted, for the transmission?

MR. OLSER: Yes, and not on ... in my testimony it should be looked at from the point of view of two things. One of them is a test that relates to the capacity contribution of that system to the main grid, and I don't think there is any, according to the evidence. The best is it can get some generation there during low load periods. The second issue is that when we get down to what's really happening here the rural deficit that could not be allocated to the industrial customers absent the grid should not become allocated to the industrial customers in some new vein because it's called common cost for the grid, and that is, I think, an important issue the way the rules have evolved in Newfoundland. That has to be thought through, and if you didn't have that set of rules we might have a different framework. Let me explain that. From NP's point of view, Newfoundland Power's point of view, because they still pay the rural deficit, if you'll notice all the analysis that gets done, they don't end up much different one way or the other, whether you allocate this to common or not, okay, because they're going to pay one way or the other. The bottom line, it makes a big difference to the industrial customers, given the rules the legislature had enacted since this project was first thought about, and that, I think, is a very specific Newfoundland cost allocation issue that, given the act you referred me to earlier and other acts, we have to pay attention to and try to give effect to.

MR. YOUNG: Now, I won't dwell on this too far because it gets into the realm of legal argument very obviously, but if I understand what you're saying, it's that the intent of the legislature in dealing with the rural subsidy eventually not being paid by the industrial customers is a direction to the Public Utilities Board as to the line allocation and shouldn't that be done? I mean, I don't see that much depth in this issue about the rural subsidy as to which assignments that the Board makes based upon tried and true utility principles. It seems to be a bit of a leap of faith to me.

MR. OLSER: Well, I guess trying to learn about the specifics of this jurisdiction and in the context of broadly based utilities practices and principles in Canada, which is what I'm trying to do, I think the broadly based utility principles don't necessarily deal very often with situations like the Great Northern Peninsula to start with, and secondly, in every case we have to consider the broadly based principles in light of the specific directions and policies of the jurisdiction, particularly when they're enacted in the form of orders in councils as they are in Yukon or in directions in policy and then try and figure out what that means, and there's no question, in this instance, that there is an effect, a material effect, over $1 million a year to the industrial customer group, depending on whether this line is treated this way or that way, and if ...

MR. YOUNG: Now, we understand the point on that, but I think Mr. Budgell's evidence deals with the principles behind and he's took some pains to describe to the Board, both in direct and in cross-examination as to how it is he came to his positions as to understanding precisely what it was the Board was indicating as to the allocation principles, and he indicated the judgment that was required and the rule that he was proposing and as to why. I fail to see, in light of the process that he's gone through, how it is that this is not a normal sort of a utility principle that has to be applied, and I'm sure it must be applied elsewhere. I mean, you're talking about, you know, there is a radial line here. There are other radial lines in other jurisdictions in the country, and I'm sure there must be other radial lines with generation at the end of them and utility boards having to make judgments about the fact that they're interconnected to the grid, and therefore, you know, at base are there and of use because they allow the utility to take less generation from other sources or billed later, defer investment, so is it your suggestion that there's something physically about the GNP line which is removed from normal utility principles or is it just because of the fact that the allocation is changed now which happens to be an issue this Board also has to deal with?

(11:30 a.m.)

MR. OLSER: I think the Board, when it gave advice that Mr. Budgell is relying on, gave that advice in a context before the legislature had removed the rural deficit from being chargeable to the industrial customers. I believe the evidence at that time, when the Board was giving its thoughts, reflected that the net effect of whether we called the line common or not would not have a big impact on either the industrial customers or Newfoundland Power, so the Board, presumably, took all those thoughts into its mind, I presume. The world has changed since then. There's a lot riding on this now, and that is very specific to the ground rules you have in this jurisdiction, so my view is that you have to take it into account and deal with it, it's as simple as that.

MR. YOUNG: Okay, so it's a result oriented approach, to some extent. Those are all my questions. Thank you, Chair.

MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr. Young. Thank you, Mr. Olser. We'll move now to Newfoundland Power's cross, Ms. Butler, please?

MS. BUTLER, Q.C.: Thank you, Mr. Chair. Mr. Olser, on November 19th I reviewed the workings of the Rate

Stabilization Plan in some detail with Mr. Osmond. Did you have an opportunity to review the transcript of that?

MR. OLSER: I have read it, yes.

MS. BUTLER, Q.C.: And from my perspective, in any event, I think he did a very good job of explaining the mechanics of the plan, but clearly you've raised concern that there is something wrong with the mechanics of that plan, so I'd like to start there, if I could, with your second supplemental testimony, page 3. Yes. No, the second supplemental, Terry, sorry. Page 3, lines 14 to 19, please. I wonder if you'd be kind enough, Mr. Olser, to read in the paragraph for us?

MR. OLSER: "Hydro has now filed sufficient detail regarding the operation and allocation of the RSP for intervenors to be able to follow the process used in the monthly and annual calculations. Although there is not sufficient detail to follow the calculations made in each month, the available evidence now clarifies the approach and methods used by Hydro. Based on this clarification it is concluded that Hydro's process results in substantive balances and the fund being improperly allocated to NP, IC and rural interconnected customers based on reallocation of cost of service amounts that are not properly part of the RSP."

MS. BUTLER, Q.C.: The two portions of that paragraph that I wish to highlight, I guess, first of all, at line 18, "The result being substantive balances and the fund being improperly allocated." And secondly, at line 19, that this is "based on a reallocation of cost of service amounts that are not properly part of the RSP." Now, when an expert such as yourself makes a conclusion like that, improper allocations and reallocations that are not properly part of the Rate Stabilization Plan, I take that as very serious allegations. Would you agree?

MR. OLSER: In the context ... they are serious in terms of they raise serious issues. I would not intend them to be implying anything more than a serious concern about the implications of it. I'm not implying bad faith or anything of that nature.

MS. BUTLER, Q.C.: Thank you. Now, the RSP, of course, that you're addressing here, has been in place for 15 years?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: And the Board has approved annual rate changes to Newfoundland Power based on the balance in the retail RSP each year since 1986. You're aware of that?

MR. OLSER: I'm aware that the Board has reviewed it. I'm not sure what the process is of formally approving it. I know that they review it regularly.

MS. BUTLER, Q.C.: Okay, but this paragraph, in a holistic way, suggests that the approach or the methodology used since 1986 is inaccurate?

MR. OLSER: I guess it is improper would be more the focus of it.

MS. BUTLER, Q.C.: Okay, and that is the term you used?

MR. OLSER: Yeah, and I guess the focus of the concern is on the allocation between what you call the retail plan and the industrial plan, I guess, is what it really comes down to. That's the focus of my attention.

MS. BUTLER, Q.C.: You actually, in your conclusions, have two focuses, but I accept that that's one of them. I wonder if you might look at page 9 of your second supplemental, which is the same document you're in there, Mr. O'Rielly. Now, lines 1 and 2 at the top address, basically, the quantification of the substantive conclusions that you read a moment ago, and could you just read in lines 1 and 2 for us, please?

MR. OLSER: "There is insufficient information on the record to quantify the specific impact of these changes," which refers to what I just ... the previous pages, made some recommendations. "But for 2000 alone the impact is expected to be a credit to the IC RSP in the order of 1.5 million." There's a footnote that elaborates on that.

MS. BUTLER, Q.C.: Yes, and I wonder if we might actually go to that, 22 at the bottom, and just take your time now and read that one slowly because it deals with three different elements.

MR. OLSER: Do you want me to read it into the record?

MS. BUTLER, Q.C.: Please, yeah.

MR. OLSER: "The annual forecast sales to Albright and Wilson and Royal Oak Mines is included in the RSP at 21.5 gigawatt hours which would result in a revenue credit to IC of $415,810. The production demand related reallocation is shown in **IC-284**, Table 2, as $904,203. The transmission demand related reallocation is shown in **IC-284**, Table 3, as $273,208. The rural deficit allocation has already been removed from the IC RSP approved for 2000."

MS. BUTLER, Q.C.: Okay. Mr. O'Rielly, is it possible to get the footnote and the lines 1 and 2 on the same page, on the same screen, please? Okay, so what you're addressing here, Mr. Olser, as I understand it, is in terms of your ultimate recommendation to the Board and which is to go back, re-forecast and recalculate the RSP. You're suggesting that had they done that for the year 2000, based on your numbers ... and back down to footnote 22. Can we just scroll up slightly there? Thank you. If they did go back and reassess and recalculate the RSP the last two elements that are referred to in footnote 22 would be the results?

MR. OLSER: Well, let's be ... just to put everybody on the same page, why don't we go back to the previous page, 8?

MS. BUTLER, Q.C.: Sure.

MR. OLSER: And just look at the recommendations which I did, I think, read out last night. Everything we're looking at in those numbers relates to the recalculating and restating the RSP. At line 20, 21, the RSP back to 1992, making the following adjustments. One, do not reallocate production demand or transmission demand right across between the various customer groups.

MS. BUTLER, Q.C.: Okay, let's stop there, and in the first one, the reallocation of production demand, you've run a calculation on ... relying on industrial customers RFI, actually. You've had a calculation run which suggests that if that was done for 2000 the result would be $904,203, that's the figure in footnote 22?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay.

MR. OLSER: So we're ... and the transmission demand similarly in ...

MS. BUTLER, Q.C.: Mr. O'Rielly, can we just go back to page 8, please? Thanks a lot, and for the transmission demand there in line 1 the result, which again came from footnote 22, but you don't have to go to it, Mr. O'Rielly, is the ...

MR. OLSER: Yeah, there's a number there that ...

MS. BUTLER, Q.C.: ... $273,208?

MR. OLSER: And let's just take a few seconds to discuss this one. What we're really dealing with here is the result of using the AED or average in excess demand method, which was part of the cost of service methodology in the 1980s and was recommended when you did the generic hearing, recommended to be removed and replaced with another method such that this issue is not an issue on the go forward plan. Like, this whole supplementary evidence, number two, is dealing with the history. We do not have this issue with respect to the years 2002, going forward, because the company is no longer using the AED method, it's no longer using production demand or transmission demand to do anything with the RSP, so we don't have this problem in the future. That's, I'm not addressing it. You do not have this problem if you adopt the methodology recommended by the Board in the generic cost of service. Okay. This problem, in essence, means that the cost of service methodology used to reallocate the RSP on the month to month basis and an annual basis in particular, up until 2002, has relied upon the AED method, have used production demand and transmission demand as part of its calculations, even though these are not effected by the use of energy or the use of water, those types of things, and has lead to things that I think are problems, so thus, the whole rationale for removing them is that they are not part and parcel of the methodology that this Board had considered and said should be used in the future, as of roughly the mid 1990s, so that's the underlying perspective going into this issue. It's explained in the evidence that the result of using this leads to allocations that are completely different than what occur if you allocate on the basis of energy. I think the evidence that I give and I think others have given is it's a fair way to allocate it as on the basis of energy, so we got a problem here, and it became a serious problem during the 1990s, so that's number one.

MS. BUTLER, Q.C.: Number one, as we've just seen, relates to two figures from footnote 22, $904,203 and $273,208?

MR. OLSER: Right, and it comes to roughly $1.27, $1.3 million or the $1.5.

MS. BUTLER, Q.C.: For the year 2000 alone?

MR. OLSER: For the year 2000 alone, yeah.

MS. BUTLER, Q.C.: Alone. And number two, the removal of Albright and Wilson Americas and Royal Oak Mines from the load forecast for the months after they had disconnected, you've run a calculation, and in your footnote 22, you suggest that for the year 2000 that, in and of itself, would have resulted in $451,000 ... I'm sorry, $415,810?

MR. OLSER: That's correct, and the issue there is that the way the mechanics of the RSP worked, it's assumed, I presume, looking at it, that these people's load forecast, because it was there in the past, continue to be borne by the industrial customers. Whereas, if we had another rate hearing or something they'd be borne by all the customers and it wouldn't ... that should be fairly straightforward. Number three, assign the rural deficit based on the PUB approved rural deficit allocation ratios from the 1992 cost of service. Now, this matter doesn't arise on the page you referred me to because the rural deficit has been already removed, courtesy of a correction made since this hearing started, but, it would apply to the years before the year 2000, and the thrust here is that by using the deficit allocation ratios from the `92 cost of service at least everybody knows what we're doing. There are other approaches that might be possible, but it would seem to get into some complexities. Certainly, using one that relies on production demand and transmission demand, Albright and Wilson and Royal Oak Mines is causing a lot of trouble, and there's also problems, I think, with the deficit anyway in some of these RSP calculations historically, so ...

MS. BUTLER, Q.C.: Okay. Well, I will focus in my cross-

examination on the first two, and just so that we're clear though when you're talking about number one, and based on what you've just told me, is it still your recommendation to this Board that they recalculate and restate the RSP from `92 forward with those adjustments?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay. Mr. Olser, can I just ... and, Mr. O'Rielly, with your help, look at the transcript from yesterday so we can see what you said about these same two issues, please? I think it's page 44. Okay, and again, just to put this in focus for myself, if no one else.

MR. O'RIELLY: Which line number?

MS. BUTLER, Q.C.: I think you can start with 17. Thank you. You're saying here, "The basic recommendation on the final page," so we're talking about the final page of your second supplemental evidence, "In order to address the significant inconsistencies, and in my view, improper operation, for the reasons I've given you, of the RSP, since the Board last reviewed Hydro in `92, I suggest, this is number one, it's necessary to recalculate and restate the RSP back to `92, making certain adjustments. Namely, do not allocate production demand or transmission demand related costs between the various customer groups since they have nothing to do with energy and nothing to do with changes in the earnings of the company." Is that the first one?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay, and am I correct in saying that what you've addressed there in those lines is what we just saw on page 8 of your testimony as number one?

MR. OLSER: That's what I was trying to summarize, yes.

MS. BUTLER, Q.C.: Okay, and then your transcript goes on then, and you say, "Two, remove Albright and Wilson Americas and Royal Oak Mines from the load forecast for the months they've been disconnected." You're dealing with the second one, the second recommendation from page 8?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: And the third one, obviously, is the third recommendation?

MR. OLSER: Correct.

(11:45 a.m.)

MS. BUTLER, Q.C.: Okay. I'm finished with that transcript, thanks, Mr. O'Rielly. Mr. Olser, when you conclude with language as strong as you have, improper allocations, and I think the second phrase you used was allocations that are not properly part of the RSP, can I safely suggest that you have referred and reviewed in detail the document that you refer to in your second supplementary testimony which set out the history of the RSP?

MR. OLSER: Well, in the time period that has been available and the time when the documents become available I've reviewed them. A lot of this became available fairly recently, some indeed became available only the last week ago today, so in that context, the answer is yes.

MS. BUTLER, Q.C.: Okay, and specifically, at page 7 of this second supplemental testimony, line 30, you make reference to a letter Hydro sent to the Board March 26th, `86 in response to **IC-284(e)**, so clearly, you had that letter prior to drafting your second supplemental testimony which was provided to us all as a group on November 25th, 2001?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: I make that point, Mr. Olser, because, quite frankly, I thought I heard you say this morning, in answer to Mr. Young's question, that you didn't have the information in that letter prior to drafting this testimony. Did I misunderstand you?

MR. OLSER: I don't recall discussing that with Mr. Young, but we discussed a letter. I didn't have ... he was probably referring to ... my recollection is we were referring to some September evidence of mine, and I didn't have certain information at that time, but I'm not even sure it was really into this topic that we were talking about that. I may stand corrected. The point is, when I wrote this evidence it's clear I had the March 26th letter.

MS. BUTLER, Q.C.: Thank you, and another letter that you referred to, and because I've asked you now specifically whether you have reviewed in detail the documents that you received and are referred to in your testimony, is a letter from Hydro to Mr. Meldine (phonetic) who is, of course, with us and represents Abitibi. Page 8, lines 10 to 7 ... I'm sorry, 10 to 17. Where you say ...

MR. OLSER: Yes, that letter was also in our possession and I had looked at it.

MS. BUTLER, Q.C.: Okay, and were you also aware, Mr. Olser, or would it surprise you to learn that Newfoundland Power and Hydro would have met several times over the years between `86 and 2002 to discuss the workings of the RSP, or is that what you would expect?

MR. OLSER: I would assume that Newfoundland Power and Hydro would have discussed this from time to time. I have no knowledge of ... nothing that I've sort of reviewed that sort of pointed out how frequently this has taken place.

MS. BUTLER, Q.C.: No. One of those two letters though

I think, we'll see when we get into the details of it, suggests that there was a meeting between Hydro and Abitibi, I could be wrong. Well, maybe I'll stand corrected too, but we'll come to that in a moment. Can I turn now to the actual running of the cost of service for the Rate Stabilization Plan calculations and address, in a focused way, the first of the two recommendations that you made in your testimony yesterday at page 44? So we're talking here about your suggestion that Hydro has reallocated cost of service assets that are not part of the RSP. Is that a fair summary of the conclusion or recommendation?

MR. OLSER: Sorry, would you restate that again?

MS. BUTLER, Q.C.: Yeah. That Hydro has reallocated cost of service assets that are not part of the RSP?

MR. OLSER: I don't think I've ever used that way of stating it so I'm trying ... I'm not sure ...

MS. BUTLER, Q.C.: Okay. Well, let's just reword it the way you've actually stated it. That Hydro's process results in substantive balances and the fund being improperly allocated to NP and IC?

MR. OLSER: Okay.

MS. BUTLER, Q.C.: Okay. Now, page 7 of that second supplementary testimony, lines 10 to 12 starts with a reference to the Board's recommendation on the RSP, and could you indulge me, Mr. Olser, by reading in pages ... sorry, lines 9 to 12?

MR. OLSER: "This change is further described at page 90 where the Board states, the Board recommends that any earnings variation, because of a difference between the estimated load and the actual load be included in the Rate Stabilization Plan so that Hydro's earnings will not vary."

MS. BUTLER, Q.C.: Thank you, and do you accept that it is as a direct result of that recommendation that Hydro calculates the load variation component for the RSP?

MR. OLSER: It's my understanding that that recommendation lead to the utility introducing the load variation element of the RSP, that it wasn't part of its initial submission and it was ... in trying to deal with what the Board had raised here that it introduced that component of the plan.

MS. BUTLER, Q.C.: Okay. Now, can we scroll down to line 30, please? And that's where we see the reference again to **IC-284**, which is the March 26, 1986 letter. I wonder if you might read for us lines 31 to the end of the page, and it will, in fact, go on to the next page? Thank you. Starting with "This letter."

MR. OLSER: "This letter describes the practical methodology for implementation of the RSP, but provides no details to inform the Board that Hydro is proposing to reallocate demand related costs that are beyond the stated purpose and intent of the RSP, and which are not varied by operation of the RSP based on year end actuals. In fact, the letter clearly states, under the heading of the two Rate Stabilization Plans that separate plans for retail customers in IC will be established and each plan will reflect on a monthly basis the changes in Hydro's total cost related to variations in fuel price, hydraulic production and load, as recommended by the Board in it's report. This specific reference to changes in total costs would appear to exclude reallocations which are not related to changes in costs, including production demand related costs and transmission demand related costs."

MS. BUTLER, Q.C.: Okay. I'm fine with you stopping there unless you feel that you need to finish the thought with the words that follow.

MR. OLSER: Just let me ... the rest of it doesn't need to be read.

MS. BUTLER, Q.C.: Thank you. Alright, so just going back then to the bottom of page 7. Again, I considered it myself, as a fairly significant conclusion that you had drawn when you say, line 31, that, "The letter provides no details to inform the Board that Hydro is proposing to reallocate demand related costs that are beyond the stated purpose and intent of the RSP based on year end actuals." Do you agree that's a fairly focused and specific conclusion which you've drawn from the letter?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay, and the letter itself, if Mr. O'Rielly can help us to bring it up, it's **284(e), IC-284(e)**. Thank you. Thank you, Mr. O'Rielly. Go back to page 1? Thanks. You'll see on the top right-hand corner that this **IC-284(e)** letter is marked **JSH-4(i)**, 1989. Do you know why that is so?

MR. OLSER: No.

MS. BUTLER, Q.C.: Okay. I'm going to suggest to you, Mr. Olser, that it is so because this letter was provided to this Board in 1989 in response to an RFI from Joseph Hutchings, and we'll provide the handout now showing the question that was asked, which was question 4, and we'll just wait for that to be distributed before we get into the details of the letter.

MR. KENNEDY: That's NP No. 10, Counsel.

EXHIBIT NP-10 ENTERED

MS. BUTLER, Q.C.: And **JSH-4** from 1989 reads as follows. "Provide a statement of the rules governing the Rate Stabilization Plan and month to month results for the plan since implementation showing the amounts charged to

and against the plan in respect of variations in water, oil and load. Please provide two separate answers, one referring to the plan for retail customers and one referring to the plan for wholesale customers." Now, certainly our position, and I'm sure if there's any disagreement with it it'll be raised, that this letter was provided by Hydro in response to that request, and that, of course, Mr. Hutchings' question and the answer that was given by Hydro were ultimately intended to assist the Board through the RFI process back in 1989. You would agree, of course, that that's the purpose of the questions and answers that are posed by RFIs prior to the hearing, right?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: Okay. My point, Mr. Olser, is that the letter which had been written to the Board in 1986 then became the subject of evidence before the Board again in 1989. Were you aware of that?

MR. OLSER: No.

MS. BUTLER, Q.C.: But it is your evidence that this letter, which has now been directed to the Board in `86, placed before the Board again in 1989, provides insufficient detail to inform the Board of what Hydro is doing in 1986 and from 1986 to 1989 to calculate the load variation in the RSP, is that right?

MR. OLSER: On the matters that I'm relating to here in my recommendations, yes, and the impact that they have on trying to carry out what the Board had talked about in its initial order.

MS. BUTLER, Q.C.: And specifically, and we'll keep the letter on the screen for the moment, Mr. O'Rielly, but specifically at page 7, lines 31 to 34 of your second supplementary testimony, you are quarrelling with lack of detail to inform the Board of Hydro's proposal to reallocate demand related costs based on year end actuals, and which you say that the demand related costs are beyond the purpose and intent of the RSP?

MR. OLSER: That was what I said, yes.

(12:00 noon)

MS. BUTLER, Q.C.: What was the intent of the RSP, Mr. Olser?

MR. OLSER: The ultimate intent, as proposed, was to deal with rate stabilization relating to changes in the fuel costs and hydraulic capability. The Board introduced additional consideration, I gather, relating to earnings variation, and that lead to the load component being added. My understanding of those things, absent an AED methodology being in place, is that you would be dealing with variations in short-term costs of the system relating to fuel that are occasioned by water or generation, fuel price or load, but that you would not be attempting to get into long-term capacity related costs that are related to peak demands. That's essentially what we're talking about.

MS. BUTLER, Q.C.: And what is it that you rely upon in suggesting that?

MR. OLSER: What I've been able to review today.

MS. BUTLER, Q.C.: Yeah, and anything specifically, Mr. Olser, that you can point me to that you rely upon in making that conclusion on the interpretation of the purpose and intent of the RSP?

MR. OLSER: Well, our odyssey on this has been going from the application backwards and the stuff that we're now looking at is it fairly recent, even if it was done a long time ago, and certainly the focus of the entire discussion today, I would suggest, has been along the lines I just laid out, and I didn't see anything in this document when I read it to contradict that.

MS. BUTLER, Q.C.: Okay, and specifically, are you saying that you didn't see anything in this document to contradict your suggestion that the Board did not intend to reallocate demand related costs based on year end actuals?

MR. OLSER: That the Board, dealing with the issues that the Board has raised, that we have read here on earnings variations and that matter, there's no evidence that I have that the Board is focused on that issue. I presume that the Board was properly advised back in the mid 1980s and it knows its using an AED methodology, then it would, if it's adopting the AED approach it would know it's going to have some effects here, but if the matter had been discussed in terms of the implications it would begin to show that we're going to have problems of the type we're now talking about. I've seen no evidence of those issues being talked about so that the Board would have in its mind the problems that I'm addressing that become front and centre in the 1990s, it was particularly after the time period the Board has discarded the AED for future applications.

MS. BUTLER, Q.C.: Back to the point that you were making though and which I will read to you from page 7 of your second supplemental testimony. You do suggest that this letter, which is before us on this screen, lacks detail to inform the Board of Hydro's proposal to reallocate demand related costs based on year end actuals?

MR. OLSER: It was not my understanding in reading the letter that the Board would have front and centre in its mind that we are adopting on a path that would lead to dealing with long-term capacity cost allocations rather than short-term energy cost allocations.

MS. BUTLER, Q.C.: Which you say are beyond the purpose and intent and the RSP?

MR. OLSER: As I understand it, yes.

MS. BUTLER, Q.C.: Now, Mr. Osmond, on November 19th, 2001, in his transcript at page 4 ... and we can go to that if you don't mind, Mr. O'Rielly, but we will go back to that letter. Line 83. In answer to my question "Is it fair to say that the three primary components of the RSP are the hydraulic production variation, the load variation and fuel cost variation calculations." It says "That's right, and there's one other minor one which is the rural rates alteration added by the Board in `92." So VP finance accepts that there are three primary components to the Rate Stabilization Plan. Do you accept that that is the case?

MR. OLSER: I do, but I suspect that we're talking at the moment, you and I, about two totally different things. This evidence that you're referring me to is not attacking the use of the load component. It's got nothing to do with my testimony in this supplementary evidence dated November 25th.

MS. BUTLER, Q.C.: But what you are suggesting is that the load component, which is one of the three primary components he identifies or agrees with me is in the plan is being applied in terms of mechanics in a manner which you feel is improper?

MR. OLSER: I never thought of it in the context of it being the load component necessarily that is to be held accountable for this problem. It may be that that's the case. I'm just simply saying that the result goes way beyond dealing with the effect of load variation on fuel requirements or costs, but goes to dealing with capacity issues to do with peak loads. That's the substance and thrust of what I'm talking about.

MS. BUTLER, Q.C.: Okay. Go back into the letter then **IC-284(e)** page 1, and I wonder if you could just read the last paragraph on the first page, "This new approach"?

MR. OLSER: "This new approach will allow us to establish segregated Rate Stabilization Plans for retail and industrial customers that will exactly reflect the revenue that would have been collected from each customer group had the actual results of load, hydro production and fuel price changes been known at the time of preparation of the 1986 final cost of service filed with the Board. We feel this will result in Hydro's retail and industrial customers being treated fairly and independently of each other, as it is based on the cost of service methodology approved by the Board."

MS. BUTLER, Q.C.: Okay, so the fourth line of that refers to "had the actual results of load," etcetera, etcetera, "been known at the time of preparation of the 1986 final cost of service." Now, what is load?

MR. OLSER: Well, load is talked about in two dimensions. One is the capacity or demand and the other one is energy. Both these two elements together are, in a layman's sense, referred to as load, but you measure or meter kilowatt hours which is energy or volume of consumption, and in the case of industrial customers, anyways you meter what capacity do they take, what's their peak requirement and you charge them accordingly, so that's called capacity or demand.

MS. BUTLER, Q.C.: Okay, so just to abbreviate, load, from your perspective, is demand and energy?

MR. OLSER: In a layman's sense and in the power business sense that's the way you could interpret it, so we'd have to start from there.

MS. BUTLER, Q.C.: Okay, and in fact, Hubert Budgell, I think when he testified, presented, of course, in his pre-filed, a load forecast which has demand and energy components in it. You would have seen that in preparation for your evidence?

MR. OLSER: I have certainly seen it, yes, and it's all the way through the cost of service study we have energy and we had demand, even back, I presume, in the 1980s, so at least the ones I've seen in the 1990s have all had ... pay attention to both these dimensions, yes.

MS. BUTLER, Q.C.: Okay.

MR. OLSER: So if you're going to fully apply the final cost of service, I presume but I don't know, that in the 1980s, 1986 you would have had to look at demand as well as energy and you would have to look at the revenues that are collected if you're going to do it the way you're implying, revenues that are collected from demand as well as the revenues that are collected from energy.

MS. BUTLER, Q.C.: Okay. Now, back to the letter which is on the screen, and this time page 2, the last full paragraph on the page which is, yeah, the one that starts with "The total cost change." Okay, so the letter from Hydro to the Board back in 1986 now suggests, "The total cost change due to load variation will be determined by comparing monthly the 1986 final cost of service sales, as presented by Hydro to the Board at the conclusion of its hearing on its August 6th, 1985 referral, with the 1986 actual sales and multiplying the gigawatt hour differential by the cost of fuel at Holyrood used in the `86 cost of service study as $30 per barrel, 50 mils. Total revenue received due to the load variation would be deducted to determine the adjustment to be made to the load variation provision." And I think we saw how that worked through Mr. Osmond when we lead him through an exhibit which is identified as **NP-8**. My point in reading that paragraph, Mr. Olser, is that this does set out the detail that Hydro intends to follow in terms of its methodology for the load variation component, doesn't it?

MR. OLSER: Yes, I certainly paid attention to this paragraph.

MS. BUTLER, Q.C.: And on page 4 ...

MR. OLSER: If I could ...

MS. BUTLER, Q.C.: Sure.

MR. OLSER: .. just highlight for your benefit on the previous one we were looking at.

MS. BUTLER, Q.C.: Page 2, yeah.

MR. OLSER: Yeah, thank you. The last sentence of the paragraph. "Total revenue received due to load variations." In the context of what we were just talking about where I said I would start off thinking about load being both demand and energy.

MS. BUTLER, Q.C.: Uh hum.

MR. OLSER: To the best of my knowledge, and I can be corrected because there's always new things surfacing in this process, I have never seen an RSP that takes account of the revenue collected from the industrial customers for demand, so I assume if that is sustained that the operative definition of the word load for the RSP is energy and not demand, and thus, begins my problem.

MS. BUTLER, Q.C.: Alright, so you were concentrating on the last sentence of the paragraph, but let's just take a careful look at it for the moment. "Total revenue received due to the load variation will be deducted to determine the adjustment to be made to the load variation provision."

MR. OLSER: Yes, and in the practical term of the plan the way it's been run, that's been energy only, and in terms of it, you know ... for your customer, your group, it doesn't matter because you only get charged in energy rate, but for the industrials it's quite interesting because it's a demand charged rate and there may well be variations from time to time on it, but anyway, it seems that when you look at the plan load is being talked about in the context of energy is what my point is, and that, I would assume if I was sitting on a board back then that that's what probably seems to be flowing from all this, if I really understood all the mechanics that you're talking about, which leads to some dilemmas.

MS. BUTLER, Q.C.: Despite the fact that load, as used in the industry, implies demand and energy?

MR. OLSER: Yeah, but when we're talking about short-term cost variations and talking about fuel related stuff it tends to be focused on the energy variable.

MS. BUTLER, Q.C.: Let's look at page 4 to see what other detail was provided, and this is under the title Calculation of Plan Balances. Okay. This is a fairly long section, Mr. Olser, but I think it is worthwhile reading, if you wouldn't mind?

MR. OLSER: "Each month Hydro will recalculate the 1986 cost of service by customer, replacing estimated 1986 costs with actual costs as they become available related to any changes which may occur in both firm and secondary loads, hydro production and/or fuel prices. The difference between Hydro's new total cost of service, thus derived, and the 1986 final total cost of service filed with the Board will indicate the argued adjustment which must be made in the balance of the two plans. The adjustment to be made to the balance of the retail customers' plan will be derived monthly by comparing the new cost of service for Hydro's retail customers as a group with the 1986 final cost of service filed with the Board for the same customers netted revenue received due to any changes in firm energy sales. A similar procedure will be employed to determine the adjustments to be made in the industrial customers plan. As the documentation involved in recalculating the 1986 cost of service is quite extensive, and the only cost of service analysis that will actually affect retail customer rates will be the analysis performed in June of 1987, it is not proposed to send this documentation to the Board each month. However, this information will be available to the Board and intervenors upon request and the June, 1987 cost of service analysis will be filed with the Board."

MS. BUTLER, Q.C.: Okay. Thank you. Now, looking back to page 4 there, in the first paragraph that started with, "Each month Hydro will recalculate the 1986 cost of service by customer," etcetera.

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Clearly, this tells the reader that Hydro intends to recalculate the cost of service every month by customer, replacing 1986 costs with actual, right?

MR. OLSER: Well, it says that. Of course, it doesn't do that except in the context of very specific elements of the cost of service. I don't believe it does what it was intended to replace all costs in the cost of service with all new actuals. That isn't ... so the sentence may mean different things to different people reading it, but if we know the plan it doesn't replace all costs with actual costs, to the best of my knowledge.

MS. BUTLER, Q.C.: Okay. Mr. Olser, let's just take our time now. The third line.

MR. OLSER: Okay.

MS. BUTLER, Q.C.: Okay. No, actually, just go to the second line. "Replacing estimated 1986 costs with actual costs as they become available related to any changes in loads."

MR. OLSER: Right, but with all due respect, we do not try

and change in the plan all costs that could be related to loads. We don't change costs for capital related items that could be related to load changes during this time period, so it doesn't mean we change all costs in the plan related to load. We change some costs, energy costs, to be specific. That's what, in practical terms if I look at the plan that you've been operating under, that's what it means. It doesn't even change all costs related to Hydro production. It changes the extent at which Hydro production affects fuel use and fuel costs. If you built some new hydro production during this time period it is not substituted into the RSP plan as a capital cost item. If you had a new NUG it isn't brought into the plan as a capital cost item or an operating cost item, so these words have to be interpreted in the light of what we're talking about, and I think ... well, I'll leave it at that.

(12:15 p.m.)

MS. BUTLER, Q.C.: Okay. Just look at the second paragraph now, "The adjustment to be made." This explicitly indicates that for the retail plan that concerns Newfoundland Power the adjustment will be derived from comparing the new cost of service to the 1986 final of forecast cost of service for the same customer, right?

MR. OLSER: Relating to firm energy sales, because that's all ... that's the only way you charge the retail customer, yes.

MS. BUTLER, Q.C.: And in the next paragraph it tells you that a similar procedure, that is, you know, explicitly adjusting for 1986 cost of service to actuals will be followed for the industrial customers' plan?

MR. OLSER: Right, and in the context there we do know that the plans that we've been shown do it only for energy, they don't bring in anything to do with demand or capacity sales, so that it literally is only energy in the case of industrials.

MS. BUTLER, Q.C.: So back to your first complaint, if I might, at page 7, line 31 of the second supplementary evidence? Okay. Reading it there, line 31, 32, "Provides no details to inform the Board that Hydro is proposing to reallocate demand related costs beyond the purpose and intent of the RSP." Clearly, from my perspective anyway, the letter is detailed, so I'll skip that part, and the way I have read those pages I feel that the Board is being informed of Hydro's proposal to reallocate demand related costs. Do we have a disagreement?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay, and can you tell me why?

MR. OLSER: Because in all the stuff you've referred me to from the letter I have not come across anything that would suggest that the Board would believe, if they looked at the actual mechanics of the plan as it's laid out and was advised accordingly, that you really are getting into reallocating demand related costs, capacity related costs. The letter read in the context of the plan is proposed and reviewed by the Board would be focusing on energy related matters.

MS. BUTLER, Q.C.: And you say that despite the fact that the term "load" which is used on page 1, page 2 and page 4 is demand and energy?

MR. OLSER: That would be an interpretation that could be read, but it has to be read in the context of the proposed plan and the way it's administered, and in that context you come to the conclusion that it means energy only in the context of an RSP, which makes sense, by the way. I mean, it's consistent with the intent of Rate Stabilization Plans.

MS. BUTLER, Q.C.: Okay. Well, I guess I'll make the point now that I was going to make a little later, Mr. Olser, you are the only expert of all the cost of service experts being called at this proceeding who is making this criticism of the RSP. Nobody else seems to have interpreted load in any other way, other than load equals demand and energy. Have I missed something or has somebody else got the same idea that you have?

MR. OLSER: Well, we just have two ships passing in the night. I mean, I don't interpret load generically to be any different than you're talking about, but in the specific case of applying the RSP and the letter and the concept of rate stabilization I would not ever envisage that someone would try and create a Rate Stabilization Plan to deal with capacity issues, because they're long run issues. You come before the Board and have them dealt with one by one there, so on top of that I would point out that the applicant has indeed gone away from this entirely in its proposed plan for the year 2002 going forward. There is no concept of a capacity or demand related element to the new plan as proposed for the Board or its adoption, so I think that I'm not alone in that as far as I understand the way it has evolved. It's quite clear that what I'm suggesting is indeed what you're proposing to do from 2002 onwards and the issue is, is the time period when the Board decided that the cost of service methodology should not be the AED to the time period when you're proposing a new plan, so ...

MS. BUTLER, Q.C.: Let's look back at **IC-284(e)** and the schedule that was attached to the letter, which is page 12, and despite what you have interpreted from the letter, page 12 is ... yeah, keep going. Have to enlarge it so we can get the heading there, Mr. O'Rielly.

MR. OLSER: I have to tell you that when I received this I could not read any of the attachment material, so I mean ...

MS. BUTLER, Q.C.: Okay. We don't need to read the numbers so much as to just look that what's attached is a monthly load forecast, correct?

MR. OLSER: If you tell me that's what it is. I can't read it.

MS. BUTLER, Q.C.: Okay, and that for every month what's been attached, for the benefit of the Board, is the demand and the energy components of load in megawatts and in gigawatt hours?

MR. OLSER: Uh hum.

MS. BUTLER, Q.C.: Right?

MR. OLSER: I gather that's what it does.

MS. BUTLER, Q.C.: Well ...

MR. OLSER: Really, literally, by the time it gets faxed to me at a distance it looks like this even on the screen.

MS. BUTLER, Q.C.: Okay, I accept that, but I guess what I'm putting to you is that this is inconsistent with the interpretation that you have made of the references to load throughout the letter?

MR. OLSER: I assume that people using the AED methodology would be used to seeing loads that have MWs and kilowatt hours in them, but the implications of the AED methodology in terms of a stabilization plan is my point is I don't think people put their minds to that or that the capacity related element of costs has, in fact, been consistently addressed in the plan or intended to be addressed in the plan. It's a residual impact of an AED method is the thrust of what I keep getting at. It may well be that in 1985 everybody understood that the AED method would have all these implications. I don't know that, but I do know from the path of trying find out what this was all about, that a lot of people didn't know about it recently, and that it has serious implications since the Board decided not to use the AED method.

MS. BUTLER, Q.C.: So you were recommending to this Board that demand should not be built into the load component of the RSP?

MR. OLSER: Clearly, yes. It's not consistent with a rate stabilization concept, but that it never was is more my point. The capacity related costs are not part of the costs that are adjusted annually or otherwise, in the RSP as it's been run to date since the mid 1980s. The only cost adjustments that have been reflected have been those that relate to short-term energy costs, to the best of my knowledge.

MS. BUTLER, Q.C.: Okay, and it is also your evidence that as it relates to the RSP the term "load" does not include demand?

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay, and yesterday I think you went even further, when I look at your transcript for November 29th, page 44, lines 22 to 27, perhaps. No, I'm sorry, I've given you the wrong reference. We'll see. Yeah, uh hum, 44, and just scroll up, Mr. O'Rielly, please, to line 3? Thanks. Yeah, this is the point I was looking for, that beyond saying what you've already confirmed for me now this afternoon, you also say that you don't think it was necessarily understood the extent to which the RSP would, in fact, deal with load variations. It had nothing to do with the earnings of the company, namely, demand and capacity, I don't think, and you go on to say "The `85 decision and the framework, as far as I can determine, were working with a mechanism put together then and not substantively reassessed until now, and I'm not sure that anybody understood that it would be as un-transparent or as difficult to deal with when you have to go back and look at it so many years later." So you're not only saying that there's mistakes there, but you're saying that the issue was misunderstood back in 1986, and perhaps again in 1989?

MR. OLSER: Well, nobody understood then that if you tried to go back and look at this now that we'd all have the difficulties we've been having, because it has been difficult to get a clear explanation as to how this process works.

MS. BUTLER, Q.C.: Alright. Let's see if we can recap this. In 1985 the Board makes a recommendation. 1986 Hydro comes to the Board with a letter setting out their methodology. The Board consistently applies it, Hydro consistently applies it from 1986 to the present time. 1993, we'll see a little later, a letter went specifically to Abitibi concerning the workings of the RSP. You're aware of that too because that's referred to in your evidence later, right?

MR. OLSER: Right.

MS. BUTLER, Q.C.: And now you alone, without the support of any of the other experts, suggests that this has been wrong for all these years, is that right?

MR. OLSER: Yes. In the sense that it is not dealing with capacity related issues, that's not the intent, and it causes significant problems, particularly in the 1990s after the Board has dealt with the ADE methodology.

MS. BUTLER, Q.C.: With your indulgence, Mr. Chair, I wonder could I just continue the point? That might go a little past the 12:30.

MR. NOSEWORTHY, CHAIRMAN: Sure.

MS. BUTLER, Q.C.: Thanks. Do I also understand your second supplemental evidence, Mr. Olser, to suggest that the industrial customers did not know that the load component adjusted for variations in both demand and

energy?

MR. OLSER: In the sense of informed understanding as to how the plans allocations work, my understanding is the industrial customers did not know. Whether or not they were ... they should have known or something else, I won't get into, but certainly, they have not been able to inform me as to the allocation methods and what it meant independently of my attempts to get it through the IR process.

MS. BUTLER, Q.C.: Okay. Can we just look back at page 8 of your second supplementary? And here I think you're referring to another letter. Let's see. Line 10, page 8, line 10, scroll up there. Thank you. "Hydro has filed, in response to **IC-286** a copy of the `93 letter to Meldine."

MR. OLSER: Yes.

MS. BUTLER, Q.C.: Okay. Now, can we just read that paragraph, please?

MR. OLSER: "Finally, Hydro has filed, in response to **IC-286(e),** a copy of a 1993 letter to Meldine, of Abitibi Price, showing the calculation of the January, 1993 RSP allocations. In this case, Hydro's specifically acknowledges that the increased energy use by each class for that month is consistent with the relative cost of service forecasts. In other words, there is no reallocation in that month required related to energy use. However, the letter states that the industrial customers can allocate $361,000 in that month, more than half the total RSP charge in that month, entirely on the basis of an increase of peak megawatts. That calculates to over $90 per kilowatt charged to the IC class of 361,000 divided by the extra 4000 KW or well over ten times the demand charge that existed at that time."

MS. BUTLER, Q.C.: Can we just look at **IC-286(e)**, please, which is the July 27th, `93 letter from Derek Sturge to Hydro of Hydro to Meldine? It's behind the letter from Stan Marshall. It's behind that one, please, Mr. O'Rielly. Thank you. You'll agree, Mr. Olser, clearly this letter concerns the Rate Stabilization Plan?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: And page 2 at the top, can you read the paragraph on cost sharing ratios, please?

MR. OLSER: It's referring to the attached table, it's something called cost sharing ratios. "Cost sharing ratios. This component reflects the changes in energy in NCP," which is non-coincident peak, "during the month compared to the test year forecast. In January the increase energy for both NP and industrials did not cause any significant change in the energy ratios as both customer classes increased by proportionately similar quantities. The major factor resulting in the shift of 361,000 to the industrial class with a four megawatt increase in NCP."

MS. BUTLER, Q.C.: Okay. Now, when Hydro told Mr. Dean, in January of 1993, that the component reflects the changes in energy, clearly we're talking about energy, but when they talk about changes in NCP, non-coincident peak, they're talking about demand, right?

MR. OLSER: No question.

MS. BUTLER, Q.C.: Okay.

MR. OLSER: Although not coincident peak demand, but anyway, it's dealing with demand function of load.

MS. BUTLER, Q.C.: And the schedule which is attached to the letter under cost sharing ratios refers to the energy adjustment in gigawatt hours and the non-coincident peak adjustment, which is demand in megawatts?

MR. OLSER: Right.

MS. BUTLER, Q.C.: So in this particular case the letter from Hydro to your clients, the industrial customers, is suggesting that the workings of the RSP when it comes to the load variation component have adjustments in both energy and demand? Am I right?

MR. OLSER: Correct.

MS. BUTLER, Q.C.: Back to the critique that you were making in the second supplementary testimony. It appears that by 1993 there was no confusion from the industrial customers as to how the load variation component was working because Hydro had written to Mr. Dean specifically on the workings of the RSP?

MR. OLSER: And that is acknowledged in my evidence, but it doesn't mean that there's no confusion in the minds of industrial customers. It just means that a letter was written, Mr. Dean got it, but if you think that that means Mr. Dean understands how the cost of service and the RSP works, I'll let him deal with you.

MS. BUTLER, Q.C.: No, that's fine, but I guess in looking at what Mr. O'Rielly has on the screen for us at lines 10 to 17 of the second supplemental.

MR. OLSER: Right.

MS. BUTLER, Q.C.: What is the point that you were making in the paragraph?

MR. OLSER: The point I'm making in the paragraph is that Hydro has revealed that its dealing with NCP, if you like, and that it is driving the result of a cost allocation rather than anything to do with energy, and that this is completely contrary to the intent of a valid rate stabilization program. My point is that the fact that it's revealed to Mr. Dean, who wouldn't have familiarity with the issues we're

debating is not, to my mind, at stake. I certainly had not seen this letter or been made aware of this letter until it was provided in evidence by Hydro, and so I'd have to assume that it didn't have a lot of importance historically in Mr. Deane's mind or he would have showed it to me if it had been such an all mighty revelation, but the point is not what Mr. Dean per se knows, it's a question of what was intended by the plan and all the things we talked about earlier, and this, to my mind, shows the impact of a cost allocation process that is entirely related to capacity and nothing to do with energy.

MS. BUTLER, Q.C.: Well, tell me, Mr. Olser, by running the actual cost of service and adjusting for differences in load from the forecast, how is it that Hydro is not complying with the Board's 1985 recommendation?

MR. OLSER: It's not affecting something that affects the earnings of the company. The whole purpose of bringing load into the picture was to deal with that, so this is going way beyond that, so the mechanism as proposed by Hydro to deal with the issue the Board raised goes way beyond the issue and introduces the problems we're talking about. I'm not accusing anyone of deliberately trying to do anything. It's just those are the implications and they become very important in the 1990s after the Board has moved away from the AED.

MS. BUTLER, Q.C.: And by the same methodology how is it that Hydro has not complied with the terms of its own letter to the Board?

MR. OLSER: I think the essence of the issue is that in good faith Hydro has complied with what it said it was going to do. What it said it was going to do had implications with respect to capacity related costs that I don't think the parties had fully thought about, and they become very important in the 1990s after the AED methodology is set to one side.

MS. BUTLER, Q.C.: But isn't the practical effect of what Hydro had done to ensure that if the retail forecast of demand and energy was wrong the retail RSP balance was adjusted?

MR. OLSER: The issue we're dealing with is allocation of these balances between the retail and the industrial plans, not so much to do with the issue of how you calculate the hydraulic or the fuel or the load, per se, load components.

MS. BUTLER, Q.C.: Okay, but the effect of what they've done is to ensure that the results of the forecast error are borne by the class of customers who caused the forecast error, right?

MR. OLSER: In terms of energy the intent is to do that. In terms of capacity I don't think it gets into that at all.

MS. BUTLER, Q.C.: Okay, so you do disagree with me that when I suggest that the result of the method followed by Hydro is that forecast error is ultimately borne by the class of customers that caused the forecast error? You don't accept that?

MR. OLSER: I said the plan seems to be based on the premise that energy related forecast is borne by the class, industrial or wholesaler, but I don't see it trying to grapple with the capacity related costs of the system or the implications of forecast error there. If the system required a whole new turbine to be installed to meet a load that had not been forecast there's no way the RSP attempts to grapple with that.

MS. BUTLER, Q.C.: With that?

MR. OLSER: Yeah.

MS. BUTLER, Q.C.: And you think that was intended?

MR. OLSER: No, I don't think it was intended. I don't think it had anything to do with capacity related load, that's my point.

MS. BUTLER, Q.C.: Mr. Chairman, we can stop there. Thank you, very much.

MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms. Butler. Thank you, Mr. Olser. We'll reconvene at 2:00.

(break)

(2:15 p.m.)

MR. NOSEWORTHY, CHAIRMAN: Good afternoon. Could I ask Ms. Butler if you could continue, or are you finished with your cross?

MS. BUTLER, Q.C.: Thank you, I'm ready. No, no, I'm not finished.

MR. NOSEWORTHY, CHAIRMAN: Thank you.

MS. BUTLER, Q.C.: But thank you, Mr. Chairman, for indulging me during the lunch hour.

MR. NOSEWORTHY, CHAIRMAN: No problem.

MS. BUTLER, Q.C.: Sometimes you get to a point where you can't stop. Okay, Mr. Osler, if I can move on now to your second complaint with the RSP and this is addressed in **yesterday's transcript, page 44,** lines 27 to 29 this time. The recommendation you were addressing was the removal of Albright & Wilson Americas, and Royal Oak Mines from the load forecast for the months that they've been disconnected. I want to deal with that if I can. There was an exhibit which is known as NP-8, and which was attached as part of industrial customers 73, that's IC-73, but this separate portion of it is the January 2001 Rate Stabilization Plan, and it became the focus of an exhibit that I led Mr.

Osmond through on November 19th. Are you familiar with these RSP summaries by month that were provided in response to a question posed by the Industrial Customers?

MR. OSLER: I'm familiar with them in the sense that I've gone through them from time to time, yeah.

MS. BUTLER, Q.C.: Now item four on page one of the **NP-8**, you see the Holyrood mill rate of 20.35 mills per kilowatt hour based on an oil price of $12.31 per barrel, and as I understand it, Mr. Osler, correct me if I'm wrong, but that is item two, the $12.31 per barrel, divided by item three, the 605 kilowatt hours per barrel?

MR. OSLER: That's my understanding, yes.

MS. BUTLER, Q.C.: Okay, and item six on this summary is the large industrial energy mill rate, that's your client's mill rate which for this particular month was 19.34 mills per kilowatt hour effective January 1st, 2000.

MR. OSLER: Correct.

MS. BUTLER, Q.C.: And that is, of course, before the RSP adjustment.

MR. OSLER: That's the, I understand that that's the rate that's distinct from anything to do with the RSP mill rate that's assigned year by year.

MS. BUTLER, Q.C.: Now in this particular month that we're looking at, the Holyrood mill rate exceeded the large industrial energy mill rate. 20.35 was higher than 19.34, right?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: So in other words, the cost at Holyrood was higher than the price charged by Hydro to the industrial customers?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay, so if the industrial customers used more kilowatt hours than forecast in that month, January 2000, in the test year, the cost of Hydro supplying those additional kilowatt hours exceeds the revenue Hydro receives from your clients for the kilowatt hour sales, right?

MR. OSLER: Correct.

MS. BUTLER, Q.C.: Okay, so can we turn to page six for the actual calculation. This is the calculation of the load variation component. In Section B there, shown on the far left hand side of the page, there you go, the portion of the load variation component for the large industrial clients, and you'd be familiar with this calculation if you reviewed, as you say, the RSP reports that were attached to IC-73, so are you familiar in a general way with the calculation that follows?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay, now the 1992 cost of service for the industrial customers, that's the sales to the industrial customers in January 2001 was 107 million kilowatt hours?

MR. OSLER: The energy portion of this forecast for that year is shown here as 107 gigawatt hours or million kilowatt hours.

MS. BUTLER, Q.C.: Right.

MR. OSLER: Broken into various company accounts, one of which, some of which are Albright & Wilson, some of which are Royal Oak.

MS. BUTLER, Q.C.: Right, right, and that's important to see because that's, of course, the point you're making, Albright & Wilson Americas have 1.5 million and Royal Oak had 600,000, right?

MR. OSLER: That's the forecast, I understand, for the year 1992.

MS. BUTLER, Q.C.: Right, and in the column that's marked "actual", the next column over, you'll see that there's zeros assigned to Albright & Wilson and Royal Oak Mines.

MR. OSLER: Correct.

MS. BUTLER, Q.C.: So the actual sales of kilowatt hours that month of that year.

MR. OSLER: Right.

MS. BUTLER, Q.C.: The actual sales, nevertheless, exceeded the forecast sales by 215,277 kilowatt hours, right?

MR. OSLER: Correct.

MS. BUTLER, Q.C.: Okay, now what happens next, according to Mr. Osmond, is that the 215,277 variance is multiplied by the mill rate of 101, which is at the bottom of Column D.

MR. OSLER: Right, which is the difference between the cost at Holyrood and the energy mill rate applicable to those customers.

MS. BUTLER, Q.C.: Yeah, the difference between the cost at Holyrood and the price being paid by the industrial customers.

MR. OSLER: Right.

MS. BUTLER, Q.C.: And then the amount, which forms the credit or debit, is in column, the last column to the right. In this case it amounted to $217.43.

MR. OSLER: Correct.

MS. BUTLER, Q.C.: So the load variation component of the

RSP is adjusting for the difference between the price the industrial customers pay and the cost at Holyrood.

MR. OSLER: Yeah, the load component does that in the end. They break it into two components, the revenue and the cost components, but yeah, in the end, that's what you said.

MS. BUTLER, Q.C.: Okay, it doesn't adjust for the revenue, it adjusts for the earnings which is the difference between the revenue and the cost.

MR. OSLER: It adjusts for the revenue related to energy, the 19 mills, and the cost relating to oil at Holyrood, and it keeps track of both in the whole formula, because they deal with them differently, but yes.

MS. BUTLER, Q.C.: But the actual adjustment is the 215,277 times 1.01, which is $217.43, so what we're, the actual adjustment here is on the basis of the earnings and not on the basis of revenue.

MR. OSLER: Earnings as they relate to the items here, not some other items that will affect the overall earnings of the company with respect to these sales.

MS. BUTLER, Q.C.: Okay, now back to **your second supplemental testimony** at page 3, and I think it's line 29. Thank you. You say the specific mechanics of the various components of the RSP have been reviewed. The hydraulic and fuel price components are operated as one would expect, and the rural rate alteration component is similarly simple. The load variation component, however, is the exception. In order to determine the revenue variation due to variation in loads, Hydro is required to track sales by customers and to apply a somewhat coarse assumption that any incremental load changes from forecast result in either extra costs for No. 6 fuel, or savings in No. 6 fuel, so there's really two points being made in this paragraph. The first one I'd like to deal with is the one that starts with, "In order to determine the revenue variation", which is at line 33. The load variation component of the RSP, as we just saw on page 6, does not adjust for the revenue variation. It adjusts for the earnings variation, right.

MR. OSLER: The diagram, the table is showing it does that, but the whole use of the RSP keeps track of the revenue variation separately from the cost variation. The revenue variation is allocated directly and only without any formulas to the class. The cost variation is allocated using the formulas we've been debating, so they keep them separate in the way in which they carry through the mechanics of the RSP, so I have that in my mind when I'm writing here. I don't have that particular format or demonstration that you just led me to. The one you led me to, it just has earnings, but they do other things with it elsewhere in the mechanics.

MS. BUTLER, Q.C.: Let's look, if we can, at page 4 of your **pre-filed, the second supplementary**, line 2. Okay, Hydro then tracks separately the revenue variation component for Newfoundland Power and industrial customers, which are specifically assigned to each of these customers. Hydro is also, I'm sorry ... yeah, the RSP is also tracking the earnings variation component, right, in terms of the difference between the revenue and the cost, it tracks that 1.01, which was in the example that we saw from page 6 of the January 2001 report.

(2:30 p.m.)

MR. OSLER: They seem to be talking at cross purposes. What I've written here, what I just said a few minutes ago, is that they track the revenue variation and they assign it the way I'm talking about here, regardless of what that shows in the table you've referenced me to, and the fuel cost variation, which is the Holyrood cost, is added to other variations, hydraulic, fuel, etcetera, and assigned using the methodology that we were discussing earlier. That's my understanding of how it all works its way through.

MS. BUTLER, Q.C.: Well, at first glance it may appear that we're splitting hairs in the sense that you are referring to the revenue variation.

MR. OSLER: Right.

MS. BUTLER, Q.C.: And I'm referring to the earnings variation, but I think it's a significant point because at page 4, lines 19 to 22, perhaps you might just read in that paragraph and then we can understand what you're saying here.

MR. OSLER: There does not appear to be any basis to operate the RSP using Albright & Wilson and Royal Oak loads when these customers have closed. The net effect of including these customers is to collect from the remaining industrial customers all lost revenue from the two now closed operations, approximately $500,000 per year, so Hydro is kept (inaudible) from revenue impacts due to their closer. It is not apparent that there is any basis for assigning such costs specifically to the remaining industrial customers as distinct from assigning these costs to either the shareholder (inaudible) customers of the system, and let me say that I can see, you know, where that would be confusing. I'm focusing there on revenue and I would accept that in that context it's ultimately dealing with earnings.

MS. BUTLER, Q.C.: Okay, now in that paragraph you do refer to the lost revenue being $500,000 per year. Can I just switch back now to your page 9, footnote 22, the same second supplemental testimony, down at the bottom, thank you. Is that the same as the ... is that estimate the same as

what you're talking about there as the revenue credit $415,810?

MR. OSLER: I believe so. I mean now I'm ...

MS. BUTLER, Q.C.: You're lost?

MR. OSLER: No, I'm not lost, but I believe it would be. I mean we're talking the same year.

MS. BUTLER, Q.C.: Did you want to go back and have a look at that other page then, page four?

MR. OSLER: Yeah, we're doing 2001, so it should be in that order of magnitude but I ... anyway, keep going.

MS. BUTLER, Q.C.: Well, if we're talking apples and apples then really what you've done on page four is you gave a rough estimate and on page nine you gave a precise calculation.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay, let's look back on page eight then for the recommendation on this which was number two, and you're asking Hydro, I'm sorry, the Board, to recalculate and restate the RSP back to '92, with the adjustment of removing Albright & Wilson Americas, and Royal Oak Mines, from the load forecast for all months after they discontinued as primary industrial customers, and that's because, of course, you've estimated that for the year 2000 alone, that cost the industrial customers $500,000 or $415,800 by keeping them in right?

MR. OSLER: Well, it's not because that is the result, it's because in principle the loads of Albright & Wilson and Royal Oak Mines, if we were to redo the entire cost of service, would be borne by the system and not by the industrial customers in terms of the risk. That's the underlying point, whether the answer comes out one way or the other in terms of who benefits from it.

MR. OSLER: Okay, but it is the result based on your calculations that removing them does save the industrial customers $415,800 odd dollars for the year 2000.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay.

MR. OSLER: Yes, that's what we came to doing that one example.

MS. BUTLER, Q.C.: I'm sorry?

MR. OSLER: That's what we came to using that year, yeah, if we did it right.

MS. BUTLER, Q.C.: Now since we've established that the revenue adjustment, and maybe we could just go back to that page four so we can see how you worded it, yeah, line 19 there, thank you. The net effect of including these customers is to collect from the remaining industrials all lost revenue, etcetera, etcetera. Since we've established that the Rate Stabilization Plan load variation component adjusts for earnings and not revenue, that calculation which we know as now, more precisely, $415,000, is really not relevant, is it?

MR. OSLER: I don't know, sitting here, without the calculation sheets, how the whole year ... I mean we're looking at January, the numbers we are talking about are for the year. I think that note included what the totals for the year were, but in principle we should be looking at the total for Albright & Wilson and Royal Oak Mine loads for the year, and the adjustment to carry out the recommendation would be to look at the impact of removing those loads from the forecast side of the ledger, once they were disconnected, and that's the principle, however the mathematics work out, and it would be, the effect of it would be as we discussed. When we worked our way all the way through the exercise it would remove the revenue, and it would remove the costs as assigned by the operating, the mill rate costs.

MS. BUTLER, Q.C.: You don't have your back-up sheet for the $500,000, or the $415,000, and because it wasn't in the report, we attempted to calculate ourselves, so I'm just going to have a sheet circulated, and perhaps you can tell me whether our math worked out the same as your own. Mr. Osler, what I'm suggesting is that this sheet attempts to calculate the effect to the industrial customers' Rate Stabilization Plan for 2000 of Albright & Wilson and Royal Oak Mines being disconnected, which is what you're recommending.

MR. OSLER: Correct.

MS. BUTLER, Q.C.: Correct? In the first line we have Albright & Wilson and Royal Oak's kilowatt hour forecasts for the cost of service included in the test year 1992.

MR. OSLER: That's right, I accept that.

MS. BUTLER, Q.C.: And that's obtainable from **IC-73**, from each one's RSP load variation, page 6. Now the revenue mill rate is also from page one of the RSP reports, and we saw a moment ago that that was 19.34. Thank you, Mr. O'Rielly. Do you accept that as well?

MR. OSLER: No, I accept that.

MS. BUTLER, Q.C.: I'm sorry?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: The revenue loss column is the kilowatt hours times the revenue mill rate. It's the total kilowatt hours times the revenue mill rate?

MR. OSLER: Yeah, I accept that, and it comes to the same

number, so obviously the number used in the evidence is the revenue and not the net.

MS. BUTLER, Q.C.: And the load variations column, which is the second last column, contains a series of numbers which, of course, would represent the difference between the revenue mill rate, that's the industrial customers' rate, and the actual cost at Holyrood, and we have to take those individually from each monthly report for the RSP for the year 2000, which we did, and it happens that the January 2000 one is 1.01, which is actually on the screen.

MR. OSLER: Right.

MS. BUTLER, Q.C.: But because all those numbers in that column are positive, we know that the cost to Hydro of supplying the industrial customers was always higher than the revenue mill rate charged to the industrial customers every month for the full year of 2000, right?

MR. OSLER: Right.

MS. BUTLER, Q.C.: And then the savings column takes the load variations mill rate, for example, the 1.01, and multiplies it by the total kilowatt hours.

MR. OSLER: Yeah.

MS. BUTLER, Q.C.: To calculate the savings to the RSP.

MR. OSLER: What it effectively would be doing in the model is calculating the costs which will come out to $442,466 versus the revenues and it will be assigning those revenues and it will be assigning those costs using the formulas, so the net effect of removing Albright & Wilson would not be as I suggested on page nine. It will be something closer to the small number in terms of the positive. In this case, in this year, it will actually work to the benefit of the RSP, but you can't deduce that this is the number without running the full model.

MS. BUTLER, Q.C.: But just that we're clear, what you had concluded in your second supplemental evidence in relation to the effect of including Albright & Wilson and Royal Oak Mines energy in the load variation component of the RSP was that the industrial customers' balance was worse off to the tune of $415,810.

MR. OSLER: That was the number used for an example on page nine, and it appears to be incorrect. It doesn't go to the principal on page eight.

MS. BUTLER, Q.C.: And in fact, the effect, because what Hydro was able to charge the industrial customers for every month that year was actually less than what the industrial customers were paying ... I'm sorry, the cost to Hydro was higher than what the industrial customers were paying. The industrial Rate Stabilization Plan gets a credit as a result of Albright & Wilson and Royal Oak being disconnected?

MR. OSLER: Yes, and to the extent that you were dealing with the overall earnings of the utility and not dealing with a break out between the two plans, that would be what I would understand to be the intent of the 1985 thought process, is that the earnings of the company would be affected by the differences we're seeing here with respect to fuel, and in this particular year the company actually saved some money by not having Albright & Wilson and the other mine on the load, at least in respect to energy. The principle I'm dealing with is not going to that, the extent to which the company should be kept whole or not kept whole, is in my mind, a separate issue, but the bearing of the risks or the benefits of Albright & Wilson leaving the system does not belong to the other industrial customers is my point.

MS. BUTLER, Q.C.: Well, I think actually your pre-filed evidence makes two points and let me ask you this. Had Albright & Wilson and Royal Oak's energy been removed from the test year forecast, and you can see that on the screen for January 2001, what they were ... we'll go back to page ... yeah, that's it, that was $1.5 million and $600,000 for Royal Oak. Had they been removed from the test year forecast, the industrial RSP balance would have had a charge to it as opposed to a credit to it.

MR. OSLER: Yeah, in that particular ... yeah.

MS. BUTLER, Q.C.: So when you look at your pre-filed testimony, the second supplemental page four, lines 19 to 24, the statement that you have there in terms of the net effect of including these customers, is to collect from the remaining industrials all lost revenue, etcetera, is incorrect.

MR. OSLER: It has an effect of doing that, but it also has the effect of dealing with the operating costs and the example I'm using isn't appropriate. It gives a false impression. Obviously I had some numbers mixed up in my head doing it, but the point remains in terms of the principle, whether they get a credit or they get a debit, it will vary depending on which year we're looking at.

MS. BUTLER, Q.C.: Is your recommendation to the Board still the same?

MR. OSLER: Exactly, yes.

MS. BUTLER, Q.C.: Okay, and you're still recommending that the Board go back to 1992?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: And the effect if this holds true for any year beyond 2000, is that the industrial customers retail Rate Stabilization Plan balance will continue to increase instead of decreasing?

MR. OSLER: The effect will be what it is, the principle is that the other industrial customers are not bearing the risks for the loads that are represented by Albright & Wilson or Royal Oak loads, or the benefits thereof, they belong to the system.

MS. BUTLER, Q.C.: Okay, thank you. We'll have to get the exhibit marked, Mr. Kennedy?

MR. KENNEDY: NP No. 11.

EXHIBIT NP-11 ENTERED

MS. BUTLER, Q.C.: Before we leave that point then, Mr. Osler, can we just go to your footnote 22 again and see how this affects the total of $1.5 million that you're suggesting is the result for the year 2000? Is it correct to say that the first part of the footnote is no longer applicable?

MR. OSLER: Well the number isn't the ... the $415,000, well the revenue credit is effectively that much, but it should be extended to deal with the effect of removing them from the operating costs from the Holyrood costs. You'd have to run the model to know what that is, but the sentence should be expanded to do that.

MS. BUTLER, Q.C.: Okay, look up to the top of the page, line 1 and 2.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: But for 2000 alone, the impact is expected to be a credit of $1.5 million. You're now saying that you concede it's not ... it's $1.5 million less the $415,000?

MR. OSLER: Yeah, we can't tell. It's somewhere in the neighbourhood of a million plus, but we'd have to run (inaudible) to get you the exact number.

MS. BUTLER, Q.C.: Okay, and back to the bottom of the page again, to the footnote, the other two numbers there, they are completely unrelated to this point. They were related to the point we were making before lunch, and that is the suggestion that Hydro should not have allocated production or transmission demand related costs because they have nothing to do with energy, right?

MR. OSLER: Right.

MS. BUTLER, Q.C.: Because you say though varied load as the term is used in the load variation component, is energy only, that's your interpretation of that.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay, and that's a matter that the Board will have to determine.

MR. OSLER: Obviously, yes.

MS. BUTLER, Q.C.: Is the ultimate effect, not only of the first element of this $1.5 million that you were making, which we now know you've corrected, but the other two as well, of benefit to the industrial customers at the cost of Newfoundland Power and its customers.

MR. OSLER: Is the net effect of implementing this recommendation to transfer costs from industrial to Newfoundland Power, is that the question?

MS. BUTLER, Q.C.: Yes.

MR. OSLER: Yes. The net effect of not implementing it is to do the reverse.

MS. BUTLER, Q.C.: Okay, I want to turn now very quickly to the demand energy rate for Newfoundland Power. Mr. Osler, both Mr. Brockman and Mr. Brickhill have presented evidence pre-filed, and in the case of Mr. Brickhill, oral evidence as well, that they have no problems with the existing wholesale rate structure from Newfoundland Hydro to Newfoundland Power, but you don't agree that the existing wholesale rate structure currently is appropriate, right?

MR. OSLER: Correct.

MS. BUTLER, Q.C.: And you deal with this, I think, at page 29 of your first supplementary evidence?

MR. OSLER: I thought the second would be where you would find it.

MS. BUTLER, Q.C.: Well, let's have a look at the first supplementary, page 29, line 11.

MR. OSLER: Page?

MS. BUTLER, Q.C.: 29, I thought.

MR. OSLER: I'm having trouble finding it. Okay. The first supplementary, sorry, I'm sorry. That's what I thought, they're all in the same rate class.

MS. BUTLER, Q.C.: Can you read what you've recorded there, please, at line 11?

MR. OSLER: We agree that the NP rate structure appears to be inappropriate for this type of customer. It is clear that NP subjects Hydro to similar cost pressures as large general service and industrial customers and for simple cost causation reasons, should have a similar multi-part rate in place, which includes demand charges, including appropriate ratchets, energy charges, and fixed charges as necessary compared to the status quo energy charge which notionally includes the demand and fixed components of NP's cost of service.

MS. BUTLER, Q.C.: Okay, and a little further down on 37 to 39, you conclude that appropriate wholesale demand charges possibly with ratchets would serve to stabilize this

revenue closer to the costs incurred by Hydro.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Now I won't ask Mr. O'Rielly to put it on the screen, but Mr. Brickhill on page 8 of his first supplementary evidence said the use of energy only billing in conjunction with the RSP achieves a matching of revenue and cost. Do you agree that that's the effect of the rate from Hydro to Newfoundland Power with the effect of the RSP added?

MR. OSLER: Just read that to me again please?

MS. BUTLER, Q.C.: The use of energy only billing in conjunction with the RSP will achieve a matching of revenue and cost.

MR. OSLER: I think he was using that in the context of a mill rate of the magnitude it is and the oil cost where it is. It may or may not match those costs depending on where the oil price is, and it doesn't match all the other costs, it doesn't necessarily match other costs that may be affected as loads change or things.

MS. BUTLER, Q.C.: At the end of the day, Mr. Osler, isn't it true that Newfoundland Power pays its own way?

MR. OSLER: That's the intent. It depends on how much variation you can get between what was assumed in the cost of service and what the end result is as to whether that's actualized but that's certainly the intent.

MS. BUTLER, Q.C.: But the Rate Stabilization Plan takes care of the collection of that, so the intent is met by the terms of the Rate Stabilization Plan, right.

MR. OSLER: I don't believe it was. That was my evidence earlier with respect to historical plan, it will be met better with the new plan than it was in the past. But it still only deals with certain things. It deals with short-term energy cost issues.

MS. BUTLER, Q.C.: Well that's, again, your interpretation of it, but Newfoundland Power's rates are based on the cost of service.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: And with the effect of the Rate Stabilization Plan added, Newfoundland Power at the end of the day always covers its own costs, right?

MR. OSLER: Not necessarily in the context of what we're talking about. If we're talking about rate stabilization, we're talking about dealing with situations where there's a deviance or a variance between what was expected and what happens, so to put it very simply, the cost of service will keep track of two things, capacity and energy. If you consume a little bit more energy or a lot more energy, but you don't change the capacity of the requirements of the system, you have a different mill rate come out of the cost of service than the one you're going to be charged. If you consumed a lot less energy but didn't affect the capacity of the system, you'll get a different mill rate come out of the cost of service than the one you're charged. By rolling the whole thing together into one mill rate that deals with both capacity and energy, you do not track those variances when you deviate from the forecast, so without saying anything nasty, you don't do what you're asking me to agree with. You don't track the cost. That's why you have a two part rate, to try and do that better.

MS. BUTLER, Q.C.: Mr. Osler, the RSP has three primary components, according to Mr. Osmond's cross-examination, November 19th, one of which is the load variation component which we just addressed in some detail. Doesn't that component take care of the very issue you're describing?

MR. OSLER: No, not at all.

MS. BUTLER, Q.C.: Why?

MR. OSLER: Because it doesn't deal with capacity.

MS. BUTLER, Q.C.: Perhaps, Mr. Osler, we'll have to allow the debate to be held at a different level. You're again saying that load is energy only, are you?

MR. OSLER: Yes, I mean that's the substantive issue in a two part rate to do with Newfoundland Power. It's a melding, as all the expertise has agreed, of both energy and capacity into one simple rate, and the only issue is whether you should do it that way or should do it with a two part rate, like you charge industry, and the two part rate is justified by keeping separate capacity costs from the energy costs.

MS. BUTLER, Q.C.: Alright, well let me ask you this. Are you assuming or suggesting that the Rate Stabilization Plan should be abolished?

MR. OSLER: No, I have never suggested that.

MS. BUTLER, Q.C.: So you support the continued existence of the Rate Stabilization Plan.

MR. OSLER: As my testimony says, I support rate stabilization, I support the go-forward approach with respect to fuel and hydraulics. I think, recommend that the load component be removed, but not for the reasons that we're dealing with here.

MS. BUTLER, Q.C.: Okay, can we look at **Mr. Brickhill's first supplemental testimony**, page 9, and at lines 8 to 26, the author of the cost of service talks about the operational coordination between Hydro and Power, and concludes, I think actually, on the next page, but we can leave this to

discussion on the screen because I'm sure you've read it, that the ... there you go, at the bottom of the page, that he has no issue with the use of an energy only rate. Do you agree or disagree with the reasoning that's given by Mr. Brickhill here in support of the energy only rate?

MR. OSLER: Can I just ... the reference first?

MS. BUTLER, Q.C.: Supplemental, yes.

MR. OSLER: First supplemental?

MS. BUTLER, Q.C.: Yes.

MR. OSLER: What page are we on? Was it his first supplemental or was it his ...

MS. BUTLER, Q.C.: Or sorry, yes, the first supplemental.

MR. OSLER: Where does this start?

MS. BUTLER, Q.C.: Line 8, I think is the ... and feel free to go back to page seven, or yeah, page eight, if you wish, the discussions there as well.

MR. OSLER: So in this area I take the point to be that, it really starts from, as you say, the previous page, the concern that would lead to a two part rate in (inaudible) per use of capacity, and the recognition of a series of factors on page 9, line 18, that Mr. Brickhill's view mitigate against this in the circumstance of Newfoundland Power, and also give rise to concern which has been expressed on a few occasions, but if you gave Newfoundland Power a two part rate, they might behave inappropriately, or inefficiently from the point of view of the overall system. I think that that ...

MS. BUTLER, Q.C.: He's addressing operational coordination and the unique relationship, yeah.

MR. OSLER: Yeah, and I think it's an issue that should be raised and should be addressed, I'm not disputing that at all. There are many ways of addressing it. The Board has a lot of options open to it to ensure that the principles and directives of the legislation are carried out. Part of it is making sure that the price signals are such that Newfoundland Power wouldn't have the incentive to operate facilities that had a higher fuel cost than what can be operated elsewhere in the system, which is really when it gets silly. I assume Newfoundland Power already has the incentive to operate its hydraulic units as efficiently as possible in the middle of the winter peak, so I don't attach personally a great deal of importance to that issue, but it would be silly to have a two part rate structure that in the end gave an incentive to Newfoundland Power to spend money on running diesels when it could receive it more cheaply from the system point of view from Holyrood, and I would assume that paying attention to that you'd come up with a two part rate that wouldn't get you into that problem, and you'd also come up with understandings with this Board and with each other that you wouldn't get into that type of issue.

(3:00 p.m.)

MS. BUTLER, Q.C.: Well, I guess what I'm asking you is do you disagree with what Mr. Brickhill has written here on his justification for the continued use of an energy only rate, or do you continue to maintain that it should be a demand energy rate for Newfoundland Power?

MR. OSLER: I don't think it's unusual to have some of these issues involved. I don't think this by itself has compelled me to say that I wouldn't use a wholesale two part rate in this circumstance, but I'd pay attention to this and make sure the rate was designed so this concern was not one that you'd have after the rate was put in place, but I mean people in Newfoundland have been discussing this issue from a lot more local knowledge than I have, and this is not an idea that, to paraphrase you earlier, that suddenly came courtesy of me onto the scene.

MS. BUTLER, Q.C.: Can we look at what Mr. Brockman said in his supplemental ... I'm sorry, first of all, your first supplemental evidence, page 29 has a comment in here, lines 7 to 9, could you just read what ... or actually start at line 6, and read what you say about Mr. Brockman's recommendation please?

MR. OSLER: In contrast, Newfoundland Power's expert, Mr. Brockman, page 28, notes that at this time he is not recommending a demand energy rate for Newfoundland Power despite the fact that he has recommended one at times in the past. The reasoning given is that it would tend to increase the volatility in revenues for both Hydro and Newfoundland Power. However, he provides no substantiation as to how such a rate would increase volatility.

MS. BUTLER, Q.C.: Okay, now your first supplemental was filed before his first supplemental, so can we go to his ... I'm sorry, look to his first supplemental to see what he said in justification, and it's **Brockman first supplemental, page 8.** The other question that was put was in relation to Mr. Bowman's evidence, but it addresses the notion of foregoing a demand energy rate because it would tend to create earnings volatility, do you agree, and Mr. Brockman clearly says no. Now I presume you've had a chance to review Mr. Brockman's supplemental evidence. The explanation he gives here goes on for several pages, and on page 11, if I can refer you to that, lines 10 to 14. Mr. Osler, could you kindly read the concluding paragraph he gives there for lines 10 to 14 please?

MR. OSLER: With the existing energy only wholesale tariff, Newfoundland Power would incur no additional

purchased power expense in the scenario above. It is this potential revenue variability that has caused concern for Newfoundland Power in trying to negotiate an agreement with Newfoundland Hydro in the determination of a demand energy rate.

MS. BUTLER, Q.C.: Do you agree, Mr. Osler, that earnings volatility is a legitimate concern for Newfoundland Power?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: I'm going to turn back to another issue, and this is on your comments on the proposed relative rate increases from your **first supplemental evidence,** page 3, lines 25 to 27. Ms. Osler, when you're ready can you just read those three lines in please?

MR. OSLER: Our investigation does not readily indicate any similar substantive factors which would be expected at the outset to increase the rates for IC by a comparatively greater amount than for NP and rural customers..

MS. BUTLER, Q.C.: Okay, I'll come back to that point in a moment, and obviously I want to address what you're referring to as substantive factors which would be expected to increase the rates for the industrials by a comparatively greater amount than Newfoundland Power and the rurals, and your testimony yesterday, if we can see the transcript for November 29th, page 40, lines 4 to 24 actually ... sorry, it's lines 92 to 105, page 40. I wonder if you might just refresh our memories on this starting at line 92, and maybe you could just read what you said, starting you've reviewed with others the expected rate changes.

MR. OSLER: You have reviewed with others, Mr. Hamilton, I think the expected rate changes ... after we had gone through all of this, we did sit down to look at these numbers and say what, what would one have expected if you went back and looked at the situation. Is this what you would expect to have emerged, and the conclusion I came to was no, and the reasons for that are laid out on page 3 and the subsequent pages focusing on the factors that were there from 1992 versus the 2000 test year, the three key ones being the rural deficit as reflected in the NP rates would be a new change that would tend to put upward pressure on NP, Newfoundland Power. Secondly, the interest coverage and margin of equity to the extent of our knowledge, the rates that were in place reflected a higher interest coverage for the industrials than would be the case for the rates as proposed, and thirdly, the cost of service methodology in moving from what you'd call interim to what you'd call generic are proposed. As we read the evidence available to us, that would lead to a significant reduction in the order of a million and a half dollars in the test year in the industrial cost of service.

MS. BUTLER, Q.C.: So you say you'd sit back and you'd think about what factors would have caused the relative rate increase to be different and you point to, first of all, as you say, at line 101, the rural deficit which you would have expected to increase Newfoundland Power's rates, and secondly at line 103 the interest coverage and margin of equity, and thirdly the cost of service methodology moving from interim to generic. Now **Mr. Brockman, in his second supplemental testimony**, if we might go to that please, Mr. O'Rielly, on pages 6 to 8, Brockman, there you go, thank you, page 6. Okay, you see he's addressing here the question, what are your comments on the relative allocation of proposed increases as addressed by Mr. Osler, so you would have given this, I presume, a careful read, Mr. Osler

MR. OSLER: Since it came out, yes.

MS. BUTLER, Q.C.: Okay, and he has a table called exhibit LBB-5, page 1 of 1, and you'll see it referred to there at line 19, there you go, thank you, and can we get the whole table on the screen there, Mr. O'Rielly, is that possible? Okay, so Mr. Brockman is addressing your expectation that the relative rate increase to the industrial customers would have been different and what he's pointing out in this table is that the industrial customers have had three decreases in base rates since 1992; the first in 1993, a six percent decrease; a second in 1994, 2.3 percent decrease; and the third in 2000, a 10.7 percent decrease, and you were aware of those decreases, were you, historically?

MR. OSLER: Yes, they were referenced in my same testimony at page 5, lines 3, 4, 5.

MS. BUTLER, Q.C.: And the cumulative effect of these rate decreases is that the current base rate for the industrial customers which he shows in the third column there at the end of the year ... that's the fourth column, sorry Terry, thanks ... at the end of the year, 2001, just to move the hand up there, Terry, thanks ... 82 percent.

MR. OSLER: Right.

MS. BUTLER, Q.C.: So the current base rates for the industrials are 82 percent of base rates that were set in 1992.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: And by comparison, if you look at Newfoundland Power, there were no base rate decreases at all from '92 to 2001 .

MR. OSLER: Right.

MS. BUTLER, Q.C.: Okay, do you agree that, well do you agree that the historical information that he's provided first, is accurate?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: And because the proposed increase for 2002 for the industrial customers is 10 percent, you'll see

that there at the bottom of the page, yeah.

MR. OSLER: Yes.

MS. BUTLER, Q.C.: The base rates the industrial customers will pay in 2002 will still only be 90.2 percent of the base rate cost of service, 1992, right?

MR. OSLER: Yes.

MS. BUTLER, Q.C.: Okay, and Newfoundland Power by comparison with a rate increase of 6.4 percent will pay 106.4 percent of their rate in 1992.

MR. OSLER: That's right.

MS. BUTLER, Q.C.: Now does this historical information set out in this fashion offer another explanation for why the industrial customers relative rate increase is what it is compared to Newfoundland Power?

MR. OSLER: No, not in my view. It is a background factor that was known, but if by way of example both parties had a 6 percent increase then the increase that would have flowed, given the lower base that the industrial customers are starting from, the increase would be 7, just over 7 percent, 7.3 percent. It was substantively more than that, so the fact that we're starting from a lower base is well known but it didn't seem to be enough to come close to indicating the rationale for the much larger increase.

MS. BUTLER, Q.C.: Can we look back at **Mr. Brockman's second supplemental** this time ... thank you, oh, I'm sorry, yeah, thank you ... page 7, lines 10 to 14, and can you just read what Mr. Brockman said there please, Mr. Osler?

MR. OSLER: The relative spread between the base rates proposed to be charged by Newfoundland Power and the industrial ... charged to Newfoundland Power and the industrial customers has thus widened by 16.2 percent since 1992. Mr. Osler was correct that the spread between the rates for industrial customers and Newfoundland Power should have widened since 1992, and with the downward rate adjustments for industrial customers since 1992, this in fact ... this is in fact what has transpired.

MS. BUTLER, Q.C.: Do you agree with what he said in his second supplemental about the relative spread between the base rates?

MR. OSLER: I don't remember ever saying, suggesting that it should be, should have widened. I didn't think that was the thrust of my point, and I don't see how the downward rate adjustments frankly have much to do with what we're talking about. They were justified in each instance for specific reasons and I have them in my mind when I wrote what I wrote, so I don't agree with Mr. Brockman in terms of where he seems to be going on this point.

MS. BUTLER, Q.C.: Well let's take it in baby steps. Whether you said it in your pre-filed testimony or not, do you suggest that the spread between the rates for the industrial customers and Newfoundland Power should have widened since 1992?

MR. OSLER: Given the fact that the rates went down for one and not the other, it will widen (inaudible) widen, okay.

MS. BUTLER, Q.C.: And that is, in fact, what has transpired since 1992.

MR. OSLER: Correct.

MS. BUTLER, Q.C.: Right, now also on page 7 of his second supplemental testimony, Mr. Brockman gives an additional reason to help explain the relative increases proposed, and page 7, line 16, there you go. Could you read the question and answer there please?

MR. OSLER: Are there any other significant items to help explain the relative allocation of proposed increases, and the answer is yes.

MS. BUTLER, Q.C.: And can you just continue on, it will go onto the next page as well.

MR. OSLER: Okay, and the cost of No. 6 fuel which is classified as an energy cost in the cost of service study has increased significantly since the last cost of service study was approved for setting rates in 1992. Because they have a higher load factor, the industrial customers are allocated a higher percentage of system energy costs and of system demand costs, approximately 23 percent and 15 percent respectively, while Newfoundland Power is allocated a higher proportion of demand costs than of energy costs, it's approximately 78 percent and 71 percent respectively. These percentages are taken from Exhibit JAB-1 revised revision two, pages 38 of 94.

(3:15 p.m.)

MS. BUTLER, Q.C.: Now can I ask you, Mr. Osler, do you agree with Mr. Brockman's observation here in relation to ... just scroll up slightly, Mr. O'Rielly please? Okay, the price of No. 6 fuel, and the industrial customers having a higher load factor?

MR. OSLER: Yes, these are correct statements, yes.

MS. BUTLER, Q.C.: And going back to where we started in relation to your problem with this area, it's the November 29th transcript, page 41, lines 10 and 11. Okay, up at the top there. I had you read a moment ago what you had said here and that was that the factors that you had indicated would tend to lead to a different result than what was emerging, and you go on to say, I just, I thought it would be a useful question to pose which I don't have any better answer for frankly than the time I wrote this as to why it came out differently, and what I want to ask you, Mr. Osler,

is whether you accept that the reasons that have been given by Mr. Brockman in relation to the decreases in base rates which have been granted to the industrials three times since 1992, as well as the increase in fuel and higher load factor for the industrials are, in fact, answers for the relative price increase that you see, at least in part?

MR. OSLER: They would contribute to an overall assessment, but I don't see them as explaining the fundamental question for the magnitude of the difference in the two rate increases given the factors cited in my evidence which were offsetting the things that Mr. Brockman has pointed out.

MS. BUTLER, Q.C.: Sorry, can you just repeat that again?

MR. OSLER: I do not see ... I'll start again. The factors that Mr. Brockman identifies are things that would be considered in trying to understand the situation. I do not personally see them, or his evidence helping me to see how those factors would have been sufficient to come close to offsetting the other ones in my evidence, and then come up with a result that has such a big difference in the two rate increases. So in the end they're factors, but I don't see them solving the problem I posed.

MS. BUTLER, Q.C.: Well, I guess that begs the question as to whether you've done the calculations.

MR. OSLER: I just did one of them for you a few minutes ago, the impact of just a lower base doesn't have that big an impact. The energy calculation, I haven't gone through, but it has to offset these other factors that we talked about. I haven't gone at it in great detail since writing it. I think it's an important question but I don't, I'm not sure how we would begin to answer it in more detail than we've tried so far.

MS. BUTLER, Q.C.: Just bear with me a moment. Mr. Osler, thank you very much. Those are all my questions, Mr. Chairman.

MR. NOSEWORTHY, CHAIRMAN: Thank you very much, Ms. Butler. Thank you, Mr. Osler. We'll break now for fifteen minutes until twenty to please.

(break)

(3:40 p.m.)

MR. NOSEWORTHY, CHAIRMAN: I apologize, Mr. Young and Ms. Greene, I forgot the undertakings, so if you want to spend a minute or so on these now, certainly.

MS. GREENE, Q.C.: Thank you, Mr. Chair. Another document was circulated during the coffee break as well that I would like to speak to.

MR. NOSEWORTHY, CHAIRMAN: Certainly.

MS. GREENE, Q.C.: The first is a list of undertakings from yesterday, and you will see there were two undertakings provided. The first was to Counsel for the Board, and it was to file Hydro's procedure relating to the collection of overdue accounts. The second undertaking was given to Commissioner Saunders, and it related to confirmation with respect to whether there were any government departments or agencies receiving a subsidized rate on the interconnected system. We will file responses to both undertakings on Monday. The second document that was just circulated during the coffee break is Hydro's response to what I fervently hope is the last information request that we received a couple of weeks ago, since the hearing started. It was information request, IC-288, and we have just filed that response now.

MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms. Greene. Mr. Browne, could I ask you to begin your cross please?

MR. BROWNE, Q.C.: Thank you, Mr. Chairperson. Some of my colleagues have asked for mercy, one has to catch a flight, so ...

MR. NOSEWORTHY, CHAIRMAN: If you request it, I have the power to grant it *(laughter)*.

MR. BROWNE, Q.C.: I think we can take a hint, okay, maybe we'll continue Monday morning, if that's better for us all.

MR. NOSEWORTHY, CHAIRMAN: That's fine with me, thank you very much. We'll reconvene at 9:30 on Monday morning.

(hearing adjourned to December 3, 2001)