

transmission on the Great Northern Peninsula was that it should remain specifically assigned to Hydro rural. Now why would its position have changed? And the answer is, in fact, very simple. At the time of the Board's last hearing with respect to Hydro's rates, the industrial customers and Newfoundland Power were sharing in the deficit, so at the end of the day what you transferred on one end, you picked up on the other, that if you got the costs specifically assigned, well then you picked it up in the deficit, and we all picked it up proportionately.

However, as a result of the change to *The Electrical Power Control Act*, so that the industrial customers no longer contribute to the deficit, any assignment of assets or re-assignment of assets to common means that the industrial customers pick up a share that they didn't otherwise have and Newfoundland Power's contribution to the deficit is in fact reduced. So I think that the intervenor to whom you must look in terms of change of position is in fact Newfoundland Power, which has changed its position significantly and reversed it with respect to the treatment of the transmission on the Great Northern Peninsula.

Now, we raised during our testimony, during our cross-examination, the issue of the Burin Peninsula. Right at the present time the Burin Peninsula transmission technically serves two customers. It serves Hydro rural and it serves Newfoundland Power. There is an argument that the line going down the western side of the Burin Peninsula should be specifically assigned to Newfoundland Power and that the line going down the eastern side of the Burin Peninsula can be treated as common.

We've decided not to take that position with respect to this hearing, however, we do have some concerns that Newfoundland and Labrador Hydro has very, very few customers, roughly 150, I think it is, in a very small section of the Burin Peninsula which is overwhelmingly served by Newfoundland Power, and one of the issues which ought to be investigated is whether it is reasonable and practical to transfer those customers to Newfoundland Power, and therefore perhaps save in some duplication costs.

One of the issues which everybody has focused on to some extent is the issue of a generation credit. We think that we have been misunderstood with respect to our position on the generation credit and our position may now be better understood as a result of our written submission. We have never suggested that the industrial customers are looking for an Interruptible B rate that is the equivalent of the generation credit. In fact, what we are suggesting is that the mechanism by which Hydro recognizes Newfoundland Power's generation support to meet peak or

emergency situations ought to be calculated in the same general basis that the Interruptible B credit is. In other words, it should be transparent, everybody should understand how it works, and it should be calculated using the same general parameters, and that would have several benefits.

First of all, it would treat similar services similarly. Now it might be that because of an ability to provide a slightly different service, but only slightly different, that the compensation for it might be a little different than the compensation for, for example, Abitibi in Stephenville or any other industrial customer taking advantage of an Interruptible B rate, but the principle remains that similar services, all of Hydro's witnesses, everybody's witnesses, indicated that it was a similar service, should be compensated, and, more importantly, those services should, the costs of those services should be transparent.

(3:45 p.m.)

One of the problems that we have with the generation credit is that it treats Newfoundland Power's generation as if it's serving the system all of the time, and it's not, so Newfoundland Power's peak is treated as if it is generating its own energy all of the time and it only generates that energy on their circumstances. This shifts costs to the industrial customers for every single hour of generation and we don't think that that's fair and we think that the evidence that has been submitted through our witnesses, and in particular the exhibit that was put to Mr. Brockman, indicates that the amount of compensation that Newfoundland Power is receiving for the availability of that generation is out of proportion to what it ought to be.

Now, the demand energy rate is an interesting thing because as we have seen through the evidence of Mr. Brockman and others, in 1990 and 1992, Hydro and Newfoundland Power were all in favour of a demand energy rate for Newfoundland Power. They both wanted it, but the Board didn't set one. The Board asked them to work together to design a rate, and here we are in 2002 and they have not in ten years been able to agree on an appropriate rate design for demand energy rate. Given ... and that seems to be the entire reason ... I mean, this whole revenue volatility thing, as far as I'm concerned, is a red herring. The thing is that there's obviously a little bit of a battle as to who should bear what risk involved in the design of that rate. Given that they have not been able to come up with their own rate, then basically the Board is now in the position where it should impose a solution.

The Newfoundland Power revised forecast as submitted to the Board in October, our position again as detailed in our written submission, is that it is not reasonable. We believe that as a result of our cross-

examination of various witnesses we have shown that Newfoundland Power has not in the past been able to achieve the type of load factor that its proposed new forecast would lead you to believe would be their load factor in 2002. We believe that the evidence indicates that it's not reasonable.

There is, however, one other issue with respect to forecast, and we're really not clear what Hydro's position is on this because we're not sure we fully understand what they've said in their submission. You may recall that Hydro indicated that Corner Brook Pulp and Paper had, when it indicated its amount of power on order for 2002, and I will point out that it will pay for that demand, whether it utilizes it or not, and if it exceeds that demand it will have to pay for non-firm rates. The question is whether that should be incorporated in the forecast. We believe that it ought to be and certainly because it is firm and it is a commitment for which there are negative consequences if Corner Brook Pulp and Paper is wrong.

We think Hydro may have said that it's not planning to make any further changes with respect to the forecast, but if it is prepared to make changes with respect to the Newfoundland Power forecast, it certainly should be prepared to make changes with respect to the Corner Brook Pulp and Paper forecast which also ultimately affects the demand and the load factor for the industrial customers as a whole, and we want to make sure that the Board actually directs Hydro that when it does its final cost of service, that this projection by Corner Brook Pulp and Paper for a 12 megawatt reduction in its amount of power on order should be accommodated.

With respect to the deficit, we don't believe that Section 17(5) of *The Public Utilities Act* authorized Hydro to break the law, and with respect to the phase-out of the industrial contribution to the subsidy, for whether the reasons based on Government policy and all that kind of thing are justified or not, it does not take away from the fact that the legislation required it to be phased out, and IC-8 and IC-248 indicate that as a result of that statutory breach the industrial customers have paid \$9,681,000 in additional contribution to the rural subsidy which they otherwise should not have paid.

With respect to Board counsel, we agree with Mr. Kennedy's interpretation of the law as set forth at pages 21 and 22 of his submission. We think you should strike the section of his submission with respect to marginal rates, with respect to capital budget exclusion and with respect to industrial contracts. In all three of those sections he is taking a position with respect to matters that are before the Board. He agreed before we broke that he would not do that. It is our submission that it is inappropriate for him to take a position and even though we actually like his

position with respect to whether or not the industrial, whether or not Hydro should be treated as an investor-owned utility, and there's a possibility that that could be construed as a matter of law for interpretation by the Board, we have always taken the position that it is inappropriate for Board counsel to intervene on the issues and we reiterate that position.

In conclusion, we believe that the industrial customers are entitled to their costs. Newfoundland Power said that they shouldn't be required to contribute to the costs, I guess, of the enemy. Well, neither should we. And the result, when Newfoundland Power sets its rates, it includes in its revenue requirement its anticipated costs of participating in regulatory hearings, and therefore it recovers from its customers its costs of participating in regulatory hearings. Hydro recovers its costs, the Consumer Advocate recovers its costs. The only participant in this hearing who is not represented by the Consumer Advocate is the industrial customers, the only one, so why should the industrial customers who have such a large stake in the outcome of the hearing be excluded from recovery of their costs?

As we've stated in our submission, we believe that Hydro can save a significant amount of its revenue requirement. Ms. Greene opened by indicating that in spite of changes in the cost of living over the last ten years, Hydro's customers have not had to deal with a rate increase. Well, the converse of that argument is that if Hydro has not had to come back to the Board for a rate increase in ten years, perhaps its rates in 1992 were set too high.

We urge the Board to restrict costs where reasonable, to look at cost of service principles carefully and analyze the substantial benefit and promote the status quo with respect to assignment of rural assets, to set ground rules and reasonable restrictions with respect to capital projects, to influence Hydro to only incur prudent reasonable rate design and to award the industrial customers their costs. Thank you.

MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms. Henley Andrews.

MS. GREENE, Q.C.: You have ten more seconds, Janet.

MR. NOSEWORTHY, CHAIRMAN: Timing is impeccable. Thank you very much. We'll move now to Mr. Lockyer who's here to make a presentation on behalf of CFB Goose Bay. Welcome, Mr. Lockyer.

MR. LOCKYER: Thank you, Mr. Chairman, Commissioners. The thrust of our argument is that the proposed rate for secondary energy is unreasonable and unjustly discriminatory and therefore contrary to Section 3 of *The*