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<p>1 FEBRUARY 13, 2007</p> <p>2 (10:02 A.M.)</p> <p>3 CHAIRMAN:</p> <p>4 Q. Good morning everybody. I'd like to welcome</p> <p>5 you here to the concluding final oral</p> <p>6 arguments associated with this hearing this</p> <p>7 morning. And I trust you've all escaped the</p> <p>8 flu and cold. Unfortunately, we haven't been</p> <p>9 so lucky up here and it's just as well we're</p> <p>10 quarantined a distance from you. But in any</p> <p>11 event, I don't think we saw much of an</p> <p>12 opportunity to reschedule, so if you hear the</p> <p>13 odd hacking cough and that, we'll try not to</p> <p>14 project it too far. With regard to a couple</p> <p>15 of things before we get started, with regard</p> <p>16 to timing this morning, it's my understanding</p> <p>17 that we may get through this without a break,</p> <p>18 but I'm not 100 percent certain; we'll play it</p> <p>19 by ear, if that's okay. With respect to the</p> <p>20 process itself, everybody, beginning with</p> <p>21 Hydro, will be afforded an opportunity to make</p> <p>22 the final oral argument in the order that</p> <p>23 we've been following throughout the</p> <p>24 proceeding, and we'll offer Hydro the</p> <p>25 opportunity for a rebuttal at the end. The</p>	<p>1 Board would reserve the right at the end of</p> <p>2 each presentation to ask any questions that we</p> <p>3 might have and if we don't, we'll just</p> <p>4 continue on. Before we begin, however, Ms.</p> <p>5 Newman, is there anything else that you wish</p> <p>6 to -</p> <p>7 MS. NEWMAN:</p> <p>8 Q. No, Mr. Chairman.</p> <p>9 CHAIRMAN:</p> <p>10 Q. Thank you, very much. And we'll proceed.</p> <p>11 Good morning, Mr. Young. Good morning, as</p> <p>12 well.</p> <p>13 BUTLER, Q.C.:</p> <p>14 Q. Mr. Young is going to do the argument, mostly.</p> <p>15 CHAIRMAN:</p> <p>16 Q. Okay.</p> <p>17 MR. YOUNG:</p> <p>18 Q. Good morning, Mr. Chair, Vice-Chair.</p> <p>19 CHAIRMAN:</p> <p>20 Q. It looked like he was preparing himself,</p> <p>21 gritting himself.</p> <p>22 MR. YOUNG:</p> <p>23 Q. Grab the microphone is always the first</p> <p>24 signal. I hope my voice doesn't fail me</p> <p>25 partway through the day; it did part of</p>
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<p>1 yesterday. We haven't escaped the flu in this</p> <p>2 end of the room, I regret to inform you. We</p> <p>3 will be brief this morning. Ms. Butler and I</p> <p>4 are going to share this to some extent. I'm</p> <p>5 going to be dealing with just three matters</p> <p>6 and Ms. Butler will be dealing with the</p> <p>7 contested matters, and that, incidentally,</p> <p>8 essentially follows the way that we've</p> <p>9 proceeded throughout the last several months.</p> <p>10 The three matters I'm going to be dealing</p> <p>11 with, Mr. Chair, I'm going to be providing</p> <p>12 just a brief overview and a brief overview is</p> <p>13 the revised filing and the settlement</p> <p>14 agreements. I'm also going to be updating the</p> <p>15 Board to some degree, just to mention it, on</p> <p>16 the Burgeo School and Library matter. And the</p> <p>17 third issue I'm going to be speaking to</p> <p>18 briefly is on the application of costs by the</p> <p>19 Industrial Customers and our position on that.</p> <p>20 Earlier in the hearing Mr. Johnson</p> <p>21 reminded us something that Mr. Kelly had</p> <p>22 pointed out, that we were sometimes guilty of</p> <p>23 agreeing violently on matters. And in our</p> <p>24 view, if efficient regulation is going to be</p> <p>25 allowed to happen, the parties should probably</p>	<p>1 stop doing that here and being repetitious, so</p> <p>2 I promise to be brief, and we will be largely</p> <p>3 asking the Board to refer to the fairly</p> <p>4 extensive written representations that have</p> <p>5 been made.</p> <p>6 I think it's fair to characterize the</p> <p>7 submissions of all parties on the settlement</p> <p>8 agreements and on the revised rates filing as</p> <p>9 a joint submission. It may be stretching it a</p> <p>10 little bit, but in any event, the Board has</p> <p>11 ordered interim rates and I think the parties</p> <p>12 are all on the same wavelength, and no one has</p> <p>13 said otherwise, but that those interim rates</p> <p>14 should be made final, and that, of course, is</p> <p>15 Hydro's application. We do, however,</p> <p>16 acknowledge that at least two groups have made</p> <p>17 a submission, the groups of Labrador West,</p> <p>18 which is not in that direction and they</p> <p>19 haven't asked that those rates be made final.</p> <p>20 And I'm not going to go on too much about</p> <p>21 what we all see as a significant</p> <p>22 accomplishment to the settlement of this</p> <p>23 hearing as opposed to a long-contested</p> <p>24 hearing. We've gone on about that perhaps</p>

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<p>1 long enough already. But there is one point I 2 would like to make, Mr. Chair, about the issue 3 of the Board's view, of the Board's treatment 4 of a joint submission or a joint proposal of 5 settlement agreements and in the manner this 6 has turned out our revised application based 7 upon that. We understand that this is as new 8 to this Board as it was to the parties, that 9 is to say, the essentially settled rate case 10 proposal. We know it's not new to public 11 utilities tribunals, but I believe this is the 12 first time anything this extensive has 13 happened here. And certainly, it's our first 14 involvement in it, certainly. The comments I 15 have pertain to the way we would ask the Board 16 to treat this submission.</p> <p>17 I think the Board understands that there 18 was a full range of issues before the parties 19 when negotiations started, and I think it's 20 also fair to say that those settlement 21 agreements that we have filed with you treat a 22 number of different issues, there's a full 23 package of issues and a full package of 24 different outcomes on them, on those 25 individual issues. We recognize that they may</p>	<p>1 not have been the same outcomes on an 2 individual basis, issue by issue, as the Board 3 may have reached, and we're asking that the 4 Board consider the overall circumstance, the 5 overall outcome. We also recognize that it 6 may not be exactly the same overall outcome 7 that the Board may have reached if this was a 8 fully contested hearing, but again, we ask 9 that the Board consider the overall outcome of 10 the settled hearing.</p> <p>11 I believe I can speak on behalf of all 12 parties in saying that the Board is not 13 required, and we understand that the Board is 14 not required to accept any joint proposal from 15 any group of parties that appear before it. 16 The Board has an independent jurisdiction that 17 has much to do with ensuring that the public 18 interest is looked after, so any order that is 19 issued by this Board must ultimately pass this 20 test.</p> <p>21 I think it is proper for me to inform the 22 Board that the parties were aware of this 23 responsibility of the Board from the minute 24 negotiations commenced. Negotiations 25 proceeded along the lines of principle, not</p>
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<p>1 just seeking middle ground and not just horse 2 trading, which is the way that one might fear 3 that these things might go, but that's not the 4 way it happened. And I think also it's 5 important that the Board is informed that the 6 negotiations proceeded with considerable 7 guidance from Board staff at crucial intervals 8 and with also the assistance of Mr. Kennedy, 9 the Board appointed facilitator, ensuing that 10 these principles were kept in our mind, I 11 assure you.</p> <p>12 So we would submit that the Board should 13 ask itself whether overall the settlement is a 14 reasonable one, one that balances the 15 interests of ratepayers, customers groups and 16 the utility and it should, to some extent, 17 defer to the parties' collective sense of 18 goodwill, cooperation and also, and this is 19 important in the end, the parties' individual 20 abilities to competently look after the 21 interests of the groups that they represented 22 at the bargaining tables. I'm sure that as 23 the parties we all realized that right from 24 the beginning and we still realize that this 25 morning.</p>	<p>1 I would repeat that overall the outcomes 2 in the proposal agreements and in the revised 3 filing are fair to all parties and most 4 especially to the consumers who will enjoy 5 stable and reasonable rates that enable the 6 utility to provide safe and reliable delivery 7 of electrical service. And if the Board 8 agrees with that general outcome, the parties, 9 Hydro submits, the parties have earned and are 10 entitled to a certain level of deference from 11 the Board and the proposed agreement should be 12 accepted and the interim rate should be made 13 final.</p> <p>14 Another matter I need to address this 15 morning, Mr. Chair, is the issue of the Burgeo 16 School and Library. Bit of a wrinkle in this 17 unfolding of this rate case. The history of 18 the rates charged to the Burgeo School and 19 Library is a long one, approximately 40 years 20 or more. It appears to, and I've done some 21 reading on this, which was interesting, over 22 the last week or so, it appears to predate the 23 time that Hydro or its immediate predecessor, 24 Newfoundland and Labrador Power Commission or 25 the Power Distribution District, two different</p>

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<p>1 entities, and they were both involved in 2 certain periods of this history. It seems to 3 predate that time and it goes back to the time 4 that a town council was providing power in 5 that community. It goes back to a time 6 certainly in the 1960s, at which time Burgeo 7 was an electrically isolated community. The 8 community was interconnected to the grid in 9 the 1980s, and at that point the Power 10 Distribution District, PDD, inherited the old 11 school and library rate that really is a one- 12 off rate, there's nothing exactly like it, no 13 other group on that rate. That's the ancient 14 history.</p> <p>15 And perhaps what we should focus on to a 16 greater extent is the more recent history. In 17 the summer of 2003 Hydro appeared before this 18 Board for a GRA and in that summer an Order in 19 Council was issued as to rural rates. That 20 Order in Council continued the rate for the 21 Burgeo School and Library, but at that time a 22 new school had been built and it was a new 23 owner. Hydro concluded, at that time, that 24 the Order in Council was not made in relation 25 to that new school and so the rates that would</p>	<p>1 have been charged--the rates that had been 2 charged, I'm sorry, to that customer are the 3 same interconnected general service rates that 4 Hydro charges to other schools, other 5 interconnected schools on the Island 6 Interconnected System.</p> <p>7 A short time ago Mr. Johnson brought this 8 matter to our attention, we discussed it, and 9 Hydro has since determined that the 2003 Order 10 in Council, in all likelihood, referred to the 11 newly constructed school, not just to the old 12 school that was in place. So we have looked 13 at this matter since and we have determined 14 that we ought to rectify the situation. There 15 will be a proposal coming forward to the Board 16 for this rate. There is an established manner 17 for this rate to be determined, it's an 18 escalated rate and there are some rules in 19 place from old Orders in Council, and we will, 20 of course, rectify any over billings that have 21 occurred.</p> <p>22 And I realize, Mr. Chair, that these 23 matters of Order in Council rates can be 24 somewhat clumsy in the matter of jurisdiction 25 for the Board because the Board is directed on</p>
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<p>1 it, essentially, and Hydro has to ensure that 2 the spirit and the intent of the Order in 3 Council is carried forward and we propose 4 rates which the Board, I think it's probably 5 fairer to say, confirms if it's in accordance 6 with the direction. We will be doing that.</p> <p>7 The last matter I need to speak to the 8 Board on this morning before I pass it over to 9 Ms. Butler is the issue of costs. I said in 10 our opening submission a few weeks ago that 11 settling a hearing should save significant 12 time and money over a contested hearing, but 13 that we had learned going through the process 14 that there is still a considerable amount of 15 effort required in doing this properly.</p> <p>16 It would not, in Hydro's view, be 17 reasonable for this Board to expect the 18 parties to participate in a negotiated 19 settlement process involving lawyers, 20 consultants, the filing of expert testimony, 21 the preparing of requests for information, the 22 review of all that information that comes 23 back, all that stuff requires that parties 24 incur some significant amount of costs and we 25 understand that. And this is true of a</p>	<p>1 contested hearing and to a very large degree 2 it's also true of a negotiated settlement 3 hearing, as we have here.</p> <p>4 Hydro also feels strongly that it would 5 be shortsighted to send a signal to 6 intervenors that the net result of a 7 negotiated settlement is a higher net bill for 8 lawyers and consultants. And I suppose what 9 we mean by that is if the Board were to deny 10 costs on the basis that there was no contested 11 hearing and the Boards (sic.) were left out of 12 pocket in a worse situation than they would 13 have been if they were awarded costs after a 14 full hearing, there is a potential perverse 15 signal being sent to the parties and one which 16 is contrary to what we believe ought to be the 17 signal encouraging settlement.</p> <p>18 And I suppose one further thing I should 19 say about this is we anticipate that there 20 will be more of this to come, more negotiated 21 settlements, more of these kinds of processes. 22 And we were quite encouraged by the level of 23 participation and cooperation from the parties 24 in a full range of negotiations and we would 25 hope that this will happen again in the</p>

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<p>1 future. That can be fully expected.</p> <p>2 On the other hand, Hydro would expect</p> <p>3 that the Board would, in this case, as it</p> <p>4 always does, ensure that it considers whether</p> <p>5 the costs that are filed and sought are</p> <p>6 reasonable and appropriate to the matter at</p> <p>7 hand. And we can do no better than refer the</p> <p>8 Board to the Bell Canada case, which is</p> <p>9 provided as an authority accompanying the</p> <p>10 Industrial Customers' written brief.</p> <p>11 Incidentally, Mr. David Orsborn, who is now</p> <p>12 Justice Orsborn of our Supreme Court, Trial</p> <p>13 Division, was quoting a principle of the CRTC</p> <p>14 in that case. And this is on page 11,</p> <p>15 paragraph 16 of the case. I don't think we</p> <p>16 need to turn to it, but I'll just read it, it</p> <p>17 says, "The costs awarded shall not exceed</p> <p>18 those necessarily and reasonably incurred by</p> <p>19 the intervenor." I think essentially that</p> <p>20 policy is one that this Board has followed.</p> <p>21 And of course, the Board's authority on costs</p> <p>22 arises from Section 90 of our Act, and I don't</p> <p>23 think I need to read that; the Board, I'm</p> <p>24 sure, is more than familiar with it.</p> <p>25 In this context I would like to refer the</p>	<p>1 Board to a fairly recent decision it made, PU-</p> <p>2 14 (2004) arising out of Hydro's last GRA.</p> <p>3 And it indicated that it had a preference of</p> <p>4 awarding an amount of costs based on its</p> <p>5 expertise in these matters as opposed to</p> <p>6 taxing them, they can determine an amount of</p> <p>7 costs that ought to be awarded. And in order</p> <p>8 PU-25 (2004) which dealt with the costs issue,</p> <p>9 I'm going to read a recital from that order,</p> <p>10 "Whereas in PU-14 the Board concluded that</p> <p>11 based on the potential significant impacts of</p> <p>12 Hydro's application and in light of the</p> <p>13 Industrial Customers responsible participation</p> <p>14 and contribution to the Board's understanding</p> <p>15 of the issues, an award of costs to the</p> <p>16 Industrial Customers if fair and appropriate</p> <p>17 in the circumstances." We point out that in</p> <p>18 that matter the costs requested by the</p> <p>19 Industrial Customers were roughly \$578,000 and</p> <p>20 they were awarded \$315,000, which is a little</p> <p>21 over half, not fully, clearly not the full</p> <p>22 costs sought. This time the bill of costs</p> <p>23 sought by the Industrial Customers is in the</p> <p>24 order of \$280,000.</p> <p>25 We realize that it is difficult, if not</p>
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<p>1 impossible, for the Board to ascertain the</p> <p>2 contribution made or the efficiency of any of</p> <p>3 the parties in a negotiation process because,</p> <p>4 quite simply, the Board wasn't present, as</p> <p>5 they would be in a contested hearing, to view</p> <p>6 the relative efforts and participation and</p> <p>7 contribution made by the parties. But I can</p> <p>8 paraphrase the Board's words, perhaps that it</p> <p>9 used in last order, to some extent, and I</p> <p>10 would assure the Board that the Industrial</p> <p>11 Customers, in our matter that we're appearing</p> <p>12 before you on today, participated responsibly</p> <p>13 and did contribute to the parties'</p> <p>14 understanding of a number of issues and</p> <p>15 contributed to the ultimate resolution of the</p> <p>16 issues.</p> <p>17 (10:18 A.M.)</p> <p>18 We note that the Industrial Customers are</p> <p>19 seeking recovery of their costs. And it boils</p> <p>20 down to this, Hydro's position is they should</p> <p>21 receive a similar proportion of the bill that</p> <p>22 they submitted as they received in the last</p> <p>23 hearing and for the same reason, that they</p> <p>24 made a responsible contribution. In our view</p> <p>25 proving the same pro-rata amount of the bill</p>	<p>1 avoids the disincentive concern I spoke about</p> <p>2 a moment ago and it ensures that the party is</p> <p>3 passed on the same portion of their costs that</p> <p>4 they would have expected under the same test</p> <p>5 as they would have received in a fully</p> <p>6 contested hearing.</p> <p>7 Just finally, we would also note that the</p> <p>8 Industrial Customers' costs in the settled</p> <p>9 hearing was considerably less, which is a</p> <p>10 positive thing, of course, for all concerned,</p> <p>11 than it was in the last hearing. But it is no</p> <p>12 surprise to us that it was still a</p> <p>13 considerable amount of effort. It wasn't a</p> <p>14 negligible amount of costs; it was a</p> <p>15 significant amount of costs and the Board, I</p> <p>16 think, should take note of that.</p> <p>17 Those are my comments on the matter. I'm</p> <p>18 going to pass this over to Ms. Butler, unless</p> <p>19 there's any questions the Board has at this</p> <p>20 point. It's up to -</p> <p>21 CHAIRMAN:</p> <p>22 Q. Thank you, Mr. Young. Good morning, Ms.</p> <p>23 Butler.</p> <p>24 BUTLER, Q.C.:</p> <p>25 Q. Good morning, Mr. Chairman and Vice-Chair</p>

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<p>1 Whalen. Of the six contested issues which are 2 addressed in Hydro's written argument, Section 3 B, I'm really only going to touch very briefly 4 this morning on three, and that is the 5 automatic adjustment mechanism, the IRP, and 6 reliability policy and reliability tracking 7 addressed by Mr. Douglas Bowman.</p> <p>8 First, relative to the automatic 9 adjustment mechanism, in this jurisdiction 10 which regulates on a return on rate base 11 basis, unlike so many others that regulate on 12 a return on equity basis, Hydro maintains that 13 it was completely fair and appropriate that it 14 should model its proposed automatic adjustment 15 mechanism on Newfoundland Power's formula.</p> <p>16 Relative to Dr. Cannon's concern over the 17 difference between forecast rates and actual 18 rates, I remind the Board that this was 19 something that you have already addressed as a 20 stated concern in the case of Newfoundland 21 Power's formula and that in response to that 22 criticism or concern you required Newfoundland 23 Power to provide additional reporting which is 24 also embedded into Hydro's proposed automatic 25 adjustment mechanism. So once again, the</p>	<p>1 concern which Dr. Cannon has expressed to you 2 was a concern that you have dealt with before 3 and which Hydro has modelled in its proposed 4 formula.</p> <p>5 The other factor to consider relative to 6 the concern for over earning, as Dr. Cannon 7 expresses it, is that in a practical sense 8 that is in relation to a circumstance in which 9 Hydro's margin is actually \$8 million, so any 10 concern for over earning has to be considered 11 in relation to the size of the actual margin. 12 And the difference, as we indicated in the 13 example, relative to the 2010 year being a 14 \$600,000 potential for over earning.</p> <p>15 Before I leave the automatic adjustment 16 mechanism I want to refer to a paragraph of 17 the Consumer Advocate's argument with which 18 Hydro does take issue, and that is paragraph 19 54. Here the Consumer Advocate makes 20 reference to evidence from Dr. Cannon but does 21 not give a reference to the actual evidence 22 that was given under oath. And you will find 23 Dr. Cannon's evidence on this point in the 24 January 25th transcript starting at page 112, 25 line 8 and going to page 113, line 6 and the</p>
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<p>1 Board can, of course, read this when you're 2 deliberating on the point. Hydro just wants 3 it to be clear, as a matter of record, that we 4 do not accept that this is accurate, what Dr. 5 Cannon said was what he believed to be 6 happening in Ontario, but he also acknowledged 7 that what is happening in Ontario has no 8 relevance to the recommendation he was making 9 in this hearing. What actually occurs in that 10 jurisdiction is a matter of public record, Mr. 11 Chairman. And you'll find that by going to 12 the web site for the Ontario Energy Board that 13 there was a December 20th, 2006 report of the 14 Board on cost of capital, with which report 15 Dr. Cannon told the Board he was not familiar, 16 and you'll find that reference in his 17 transcript, January 25th, page 154, lines 5 to 18 9. Hydro believes that what actually happens 19 in Ontario is that the embedded cost of debt 20 is only changed when there is re-basing of 21 rates. So again, that's a matter of public 22 record, but I think it's important to clarify 23 that we do not accept what's stated in 24 paragraph 54 of the Consumer Advocate's 25 submissions on this point. Having said that,</p>	<p>1 though, what's really important on the 2 automatic adjustment mechanism and Dr. 3 Cannon's evidence is that no other 4 jurisdiction does what Dr. Cannon is proposing 5 you do. And, in fact, he's never made that 6 recommendation to any other regulator. The 7 undertaking document U-Hydro 1 which was 8 provided to the Board and all parties on 9 February 2nd, 2007, sets out the formula, the 10 actual proposed automatic adjustment 11 mechanism. And Hydro suggests that if the 12 Board is prepared to accept Hydro's proposal 13 on the automatic adjustment mechanism but has 14 any questions relative to the mechanics of it, 15 because, of course, I can't give evidence on 16 that, that it would be appropriate for the 17 Board's consultant to deal with Mr. Bradbury 18 on it.</p> <p>19 I'll turn just very briefly to the issue 20 of integrated resource planning. And Hydro's 21 argument deals with this in Section B.2. In 22 our written argument, as well as in some 23 submissions and cross-examination during the 24 hearing, we made reference to the BC 25 Integrated, it's called an IEP instead of an</p>

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<p>1 IRP in that jurisdiction. And just so that 2 there'd be no misunderstanding about the 3 extent of the exercise in that jurisdiction on 4 which I believe the Industrial Customer's 5 expert suggested there may be some modelling, 6 in answer to an NRFI they referred us only to 7 the web site and not to the actual filing. 8 What I have on my table here is the actual 9 filing, which is three volumes long, so in our 10 evidence we refer to the fact that it was over 11 2000 pages. The enormity of the exercise is 12 something that has to be considered because 13 Hydro is not simply accepting that an IRP is 14 appropriate at this time. 15 And I want to clarify what is stated in 16 the Industrial Customer's argument at page 4, 17 which they indicate that the Board should 18 order, in this application, that any party has 19 leave to bring an application for directions 20 of the Board on how to proceed with the IRP 21 process, 60 days or later following the 22 province's energy plan. Hydro's position is 23 that whether an integrated resource planning 24 exercise is appropriate or not is something 25 this Board should determine, not simply the</p>	<p>1 extent of the exercise, but whether, in fact, 2 the exercise itself is appropriate, and if 3 appropriate, then as indicated in your prior 4 orders whether, in fact, it should be a 5 generic process involving both utilities but 6 parties should be involved, etcetera. 7 Finally, on the issue of reliability. On 8 reliability policy Hydro's position is stated 9 in Section B.3 of our argument. Frankly, we 10 found Mr. Bowman's evidence on this to be, 11 both pre-filed and oral, confusing. I was 12 left not really understanding whether Mr. 13 Bowman really knew what he was recommending 14 for Hydro, and the references that he had 15 cited to other jurisdictions we felt were not 16 supportive of his position. The Board has 17 already exercised its regulatory authority 18 relative to Hydro's reporting requirements 19 with respect to reliability. And Hydro's 20 position is, with respect to those, that any 21 modifications for these should follow only if 22 the Board is satisfied that they provide value 23 sufficient to warrant any costs. Relative to 24 what criticism he has made on Hydro's 25 reliability targets, Hydro's current target,</p>
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<p>1 and it is only a current target, is to achieve 2 a 20 percent increase in reliability because 3 its reliability statistics support the need 4 for improvement. But Hydro does not accept 5 that it is as simple as Mr. Bowman or the 6 Consumer Advocate might suggest it might be. 7 Any discussion of improving Hydro's 8 reliability distribution performance requires 9 the consideration of Hydro's reality: two 10 interconnected systems, numerous radial lines 11 and 21 isolated systems. Hydro's evidence on 12 this was that the way to improve performance 13 in a cost effective way for consumers is to 14 apply sound engineering judgment based upon a 15 sound maintenance philosophy which you recall 16 Mr. Martin said he's developing. It is not a 17 one size fits all standard. Hydro's position 18 on the reliability policy and tracking is set 19 out in Section B.3.3 on page 34 and Section 20 B.4.6 on page 41. 21 (10:30 A.M.) 22 Those are our submissions with respect to 23 those three issues, Mr. Chairman and Ms. Vice- 24 Chairman. I don't think--Vice-Chair, that we 25 need to address the issues of oil hedging,</p>	<p>1 conservation and others. Thank you, very 2 much. 3 CHAIRMAN: 4 Q. Thank you, Ms. Butler. Ms. Butler, just 5 quickly, with regard to the integrated 6 resource plan or the IEP, you seem to indicate 7 that Hydro's position is that the Board should 8 decide on whether a plan is required or not. 9 And it appears that that position is not 10 contingent on what's contained in the 11 Provincial Energy Plan. Is that your - 12 BUTLER, Q.C.: 13 Q. Oh, no, I'm sorry, Mr. Chairman, if you 14 misunderstood me. Hydro's position has always 15 been that the release of the province's energy 16 plan is, in fact, a precursor, in any event. 17 But what I wanted to address was that we were 18 not simply accepting that once that energy 19 plan was released that an IRP would 20 automatically follow. 21 CHAIRMAN: 22 Q. I see, understood. 23 BUTLER, Q.C.: 24 Q. It is a matter then for somebody to make an 25 application to the Board and ask the Board to</p>

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<p>1 determine if an IRP exercise should then 2 follow. And if that is your determination, 3 then the parameters of that and the parties 4 who would be involved in that. But the 5 Industrial Customer's arguments seem to 6 suggest that, in fact, it was a matter of 7 awaiting the release of the energy plan and 8 then coming to the Board and saying, okay, 9 now, what are the parameters. And I don't--we 10 have to step one step back from that and say, 11 no, it is a matter for the Board to exercise 12 its discretion first as to whether an IRP is 13 an appropriate exercise following the release 14 of that plan.</p> <p>15 CHAIRMAN:</p> <p>16 Q. No, that's what I understood to be, I think, 17 your submission during the hearing. I was 18 just a little bit confused. Thank you, very 19 much for that clarification. Mr. Young, just 20 I do have again just a quick question. With 21 regard to the Burgeo Library and School, 22 you're coming back with some additional 23 information on that?</p> <p>24 MR. YOUNG:</p> <p>25 Q. Yeah, essentially it would just be a</p>	<p>1 calculation of that rate sheet. And I 2 probably should just take a moment to explain 3 this. And I'm not, by no means, an expert in 4 rate design. But as I understand, this rate 5 was essentially closed just a couple of years 6 ago from the point of view that it wasn't 7 escalated. There is an Order in Council, I 8 think it's in 1978, I could be wrong on the 9 exact date, which indicates the manner by 10 which that rate was to be escalated. And I 11 think it essentially follows the level of 12 change in rates for Newfoundland Power. And 13 we're going to have to have our rates people 14 go back and essentially escalate that rate 15 from what it should have been a couple of 16 years ago to the present and re-post that 17 rate. It is, as the Board is aware, low rate; 18 it's in the range of four or five cents, I 19 understand, even escalated. And we would then 20 bring that forward and ask the Board to 21 consider whether that should be approved based 22 upon our calculation and our escalation 23 method.</p> <p>24 CHAIRMAN:</p> <p>25 Q. So this will come forward as sort of an</p>
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<p>1 addendum to the application. Will that take-- 2 how long do you expect before that's 3 submitted?</p> <p>4 MR. YOUNG:</p> <p>5 Q. No, I imagine it will be days or a week or two 6 at the most. It's just a matter of--and 7 perhaps we're at the Board's pleasure as to 8 how this goes. I mean, we can do this as a 9 separate application. I don't think it's 10 really, at the moment it's not really a 11 contested matter, as I understand it now. Mr. 12 Johnson, my learned friend, and I have 13 discussed this a few times over the last few 14 weeks and determined generally what's needed 15 to be done. So we will be coming forward with 16 an application very soon.</p> <p>17 CHAIRMAN:</p> <p>18 Q. This is a matter of a few days?</p> <p>19 MR. YOUNG:</p> <p>20 Q. I would think so, yes. Certainly long before 21 we need to have the rates approved.</p> <p>22 COMMISSIONER WHALEN:</p> <p>23 Q. I just wanted to confirm, as well, Mr. Young, 24 on the issue of the Industrial Customers costs 25 that Hydro's proposed to amortize its</p>	<p>1 regulatory cost. Does the estimate that's 2 included in revenue requirement contemplate an 3 award of cost to the Industrial Customers, as 4 well, there would be no update or revision 5 required there?</p> <p>6 MR. YOUNG:</p> <p>7 Q. Yeah. No, that's an interesting point you 8 raise. Perhaps I should just explore that 9 just for a moment to explain how a settled 10 proposal is a little different than you would 11 have with a contested hearing and an order. 12 What normally has happened and what this Board 13 and Hydro, in fact, is used to doing, is 14 indicating to the Board that it would 15 appreciate to have an estimate of its award of 16 costs. And then when the Board then issues 17 its order upon which Hydro designs rates for 18 its re-application, it would have those in 19 there as an estimate of costs and then it 20 would sort of follow pretty neatly, of course. 21 This time it's different because we've applied 22 for interim rates and are asking those rates 23 to be final. There is already included in it 24 an estimate of costs, and we're asking for 25 that amount to be amortized. Whether or not</p>

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<p>1 the IC's, the Industrial Customers' costs 2 exceeded our exact estimate is not something I 3 can tell you for sure. It strikes us as a 4 little bit higher because we cut them down 5 sort of all our regulatory costs per-rata, but 6 we did not assign, and I can't point you to 7 any particular number we estimated for any 8 particular group. We just put an estimate in 9 there as to our overall regulatory costs. So, 10 the short answer, and I'm sorry I didn't give 11 you a short answer, it's rare that I can, I 12 suppose, but the short answer is that we have 13 made an estimate of our regulatory costs. And 14 this comes now, of course, as something we 15 knew that would come, an application for 16 costs, but it's difficult for us to indicate 17 specifically whether that number is higher or 18 lower than we expected. I can share with you 19 that it's pushing our numbers a little.</p> <p>20 COMMISSIONER WHALEN: 21 Q. My only concern was that the--if we were to 22 issue an order finalizing rates, that the 23 revenue requirement would assume certainly an 24 amount for the Industrial Customers' cost, 25 obviously.</p>	<p>1 MR. YOUNG: 2 Q. That's correct. And our - 3 COMMISSIONER WHALEN: 4 Q. And we would be getting another application 5 for--I'm sorry, my voice is - 6 MR. YOUNG: 7 Q. Yeah, no, we have the same burden, I think, 8 this morning, you and I. 9 COMMISSIONER WHALEN: 10 Q. We wouldn't be getting another application for 11 a cost deferral of any difference or anything 12 subsequently? 13 MR. YOUNG: 14 Q. No, I don't think we would be. The 15 application we have made has also in our 16 submission, in our submissions to the Board 17 we've asked to be able to defer, it's in the 18 revenue requirement thing, and to defer our 19 regulatory costs to recover them over a period 20 of years. Of course, if the order of costs 21 exceeds our estimate in total, then that falls 22 to Hydro's bottom line, comes out of our 23 margin. 24 COMMISSIONER WHALEN: 25 Q. Okay.</p>
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<p>1 MR. YOUNG: 2 Q. But our estimate and our rates that we have 3 should not be affected by an award of costs. 4 We essentially have to stand to it. 5 COMMISSIONER WHALEN: 6 Q. Thank you. 7 CHAIRMAN: 8 Q. Thank you, Commissioner Whalen. Thank you, 9 Mr. Young and Ms. Butler. Good morning, Mr. 10 Johnson. 11 MR. JOHNSON: 12 Q. Mr. Chairman, Vice-Chair, I think I'll 13 probably be a little longer than my friends. 14 So I regret that given the level of health 15 that's here this morning. 16 It's a pleasure to appear before the 17 Board to provide oral submissions in my 18 capacity as Consumer Advocate. The Board, of 19 course, already had the parties written 20 submissions which were filed on February 9th, 21 just this past Friday. And the Board is no 22 doubt familiar with these submissions as well 23 as the viva voce evidence of the witnesses and 24 certainly, from my perspective, the reports of 25 Mr. Doug Bowman and Dr. William Cannon. So</p>	<p>1 it's not my intention to bring the Board 2 chapter and verse through those submissions 3 and those reports. 4 I will be addressing the following 5 issues, the negotiated agreements first, the 6 automatic adjustment formula for return on 7 rate base, reliability policy and initiatives, 8 peer group benchmarking and tracking and 9 reporting of additional performance 10 indicators, conservation initiatives, IRP and 11 just a brief word on costs at the end. 12 Turning first to the negotiated 13 agreements. All parties at the outset of the 14 hearing, of course, on January 22nd, spoke to 15 their support of negotiated agreements. I 16 would have been shocked if they had done 17 otherwise, frankly. And Hydro, in its written 18 submission, has dealt extensively with these 19 agreements. Newfoundland Power and the 20 Industrial Customers have also submitted in 21 their briefs that they request that the Board 22 determine the various matters addressed in the 23 agreements, including Hydro's revenue 24 requirement in accordance with these 25 agreements. The Consumer Advocate concurs</p>

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<p>1 with these submissions. These agreements 2 reached after an extensive discovery and 3 negotiation process which really started back 4 in the winter of 2006 when Hydro first held 5 meetings with the parties to overview some of 6 their plan initiatives do reflect a reasoned 7 consensus of the parties. The parties, as Mr. 8 Young ask indicated, were assisted ably, I 9 think, by their respective consultants and 10 advisors and in that regard also had the 11 benefit of the Board's facilitator.</p> <p>12 As I have said before, I am pleased with 13 the results achieved for consumers through the 14 extensive process. As Hydro has noted in its 15 submission, the rate outcomes are essentially 16 status quo for most domestic and general 17 service customers, receiving little or no 18 increase. And as I said at the beginning of 19 the hearing, I'm also pleased that progress 20 has been made on other fronts, such as the 21 rate design review and the RSP review, with 22 the identification of the principles by the 23 parties and their consultants and a process 24 which we hope will be workable for a thorough 25 review of these issues. I, for one, am</p>	<p>1 confident that these reviews will be efficient 2 and will ultimately benefit our electrical 3 system.</p> <p>4 Just before leaving the topic of 5 negotiated agreements, I didn't dream that the 6 Burgeo school issue would be the only fly in 7 the ointment, but the Board certainly will 8 have read my comments in the brief with 9 respect to that issue and, and I concur with 10 the approach that Hydro is taking in light of 11 the directive.</p> <p>12 Turning now to the automatic adjustment 13 mechanism. As the Board knows, this was a 14 contested issue. And Hydro has proposed an 15 automatic adjustment mechanism for its return 16 on rate base which is modelled on the 17 Newfoundland Power mechanism which this Board 18 established and later modified and now we're 19 working with.</p> <p>20 As you know, Hydro's proposal would have 21 us annually adjusting its cost of equity up or 22 down, depending upon the written estimates of 23 Hydro's cost of issuing long-term debt on the 24 first ten trading days in October, plus an 25 underwriter's credit spread, we'd take an</p>
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<p>1 average and we'd move it up or down annually. 2 But as you know, we're still not making any 3 adjustment for Hydro's embedded cost of debt.</p> <p>4 Now, as we've heard from Dr. Cannon, and 5 this is not disputed by Mr. Mark Bradbury, of 6 Hydro, Hydro's embedded costs of debt 7 determines in excess of 92 percent of Hydro's 8 overall return on rate base, while Hydro's 9 cost of equity determines just less than eight 10 percent of it. So to my mind, with its 11 proposal, Hydro is in essence saying we don't 12 want to be stuck with the test year cost of 13 equity, which is in this case is agreed to be 14 4.47 percent, something in that area, for the 15 next number of years, we want that to float up 16 or down, hopefully up, I suppose, because it 17 is relatively low, and we want that adjusted 18 annually. So, of course, in order to do that 19 you have to have a formula to depart from the 20 test year values for cost of equity. The 21 traditional regulatory position would leave 22 everything in place at the test year values, 23 and of course, that's the status quo for Hydro 24 now, because it has been acting for years</p>	<p>1 without such a formula. So Hydro's proposal, 2 using the Newfoundland Power model for itself 3 is to freeze at a constant rate for four 4 years, which is the plan life of the automatic 5 adjustment mechanism, the cost rate on that 6 component that makes up 92 percent of the 7 return on rate base, but to allow year-by-year 8 adjustments on that which accounts for eight 9 percent.</p> <p>10 Now I don't take issue with the notion 11 that an AAM in principle can reduce costs and 12 promote enhanced regulatory efficiency. But I 13 do take exception to Hydro's position as it 14 stated in its brief that Hydro should be, 15 quote, "entitled," to an AAM based on the 16 Newfoundland Power model on the grounds of 17 regulatory fairness and regulatory 18 consistency.</p> <p>19 Newfoundland Power does not have anywhere 20 near 92 percent of its overall return on rate 21 base determined by its embedded cost of debt. 22 Newfoundland Power is more like 50/50. And 23 this is a very material difference between 24 these two utilities. It's my submission that 25 the Board should consider this material</p>

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<p>1 difference very closely and in judging upon 2 the appropriateness of what Hydro has proposed 3 in this case. Hydro, the evidence is clear, 4 really didn't look any further than the 5 Newfoundland Power formula, according to Mark 6 Bradbury, who said that he was the principal 7 architect of the mechanism. So I do not find 8 that Hydro's appeal that it should be entitled 9 as a matter of regulatory consistency and 10 fairness to the use of the Newfoundland Power 11 formula to be particularly compelling, 12 particularly in the absence of Hydro taking an 13 exhaustive review of other possibilities. And 14 I point out, after all, they are the 15 proponents for this automatic adjustment 16 formula. It's well know that those who allege 17 have an onus. So, whether or not the current 18 formula is the most appropriate for 19 Newfoundland Power, that's not the issue here 20 today. It's not, in my submission, respectful 21 submission, appropriate for Hydro. 22 Q. Hydro, I believe, improperly limited its 23 review to the more obvious adaptations it 24 could make to the Newfoundland Power formula, 25 without sitting back and taking a good hard</p>	<p>1 look at the difference between the make up in 2 the return on rate base of the two utilities. 3 The problem with the Newfoundland Power 4 formula, in short, is it does not fit Hydro 5 very well, despite the adaptations. Hydro, 6 from start to end, really couldn't see beyond 7 the Newfoundland Power formula template, and 8 after all, they see themselves as entitled to 9 it. They didn't see that the Newfoundland 10 Power formula was not really the right tool 11 for the job, and I'm reminded of the saying 12 someone once told me, that if all you have is 13 a hammer, everything starts looking like a 14 nail, and this formula is not appropriate for 15 Hydro. 16 (10:45 a.m.) 17 So while I would agree that in the 18 interest of regulatory consistency and 19 efficiency, automatic adjustment mechanism 20 should be considered for Hydro, I don't think 21 that the Board should consider that the only 22 way to achieve consistency and efficiency is 23 to adapt the Newfoundland Power formula for 24 Hydro and to have it done with. 25 Hydro's written submissions would have it</p>
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<p>1 that to deviate from the Newfoundland Power 2 formula would, in essence, run contrary to 3 regulatory principles of fairness and 4 consistency. We reject that. It's important 5 to note that what Hydro was proposing, in 6 itself, represents a departure from using test 7 year values for all of the components that 8 make up its overall return on rate base. It's 9 already a departure from Section 3A(2) of the 10 EPCA, which Hydro cites and which specifies 11 that rates to be charged for the supply of 12 power should be established wherever 13 practicable, based on forecast costs of power 14 for one or more years. In this jurisdiction, 15 the Board has focused on a single test year. 16 In this process of rate setting, it's a 17 perspective exercise. So there's already a 18 departure when we start talking about 19 formulas. 20 Now the Board, in my submission, is fully 21 within its right and power to implement such 22 formulas. The Board has been held by the 23 Court of Appeal of this province to have what 24 it terms as a broad discretion and a large 25 jurisdiction in its choice of methodologies</p>	<p>1 and approaches to achieve the purposes of the 2 Public Utilities Act and to implement 3 provincial power policy. 4 Now, in my submission, Hydro's brief of 5 argument would have it that this Board is hide 6 bound to employ only X post facto processes 7 for that which makes up the other 92 percent 8 of Hydro's rate base. I would submit that to 9 accept such a contention is really to decline 10 jurisdiction that this Board has to fashion a 11 more realistic formula, one that meets the 12 facts and circumstances of Hydro. The Court 13 of Appeal would not, I'm very confident, say 14 otherwise. If the Board found that the 15 Newfoundland Power formula was not the most 16 appropriate for Hydro, the Board should be 17 able to fashion another formula that is more 18 fitting. 19 Now I note, and as I've said in my brief, 20 the Board's own financial consultants, Grant 21 Thornton, who are no doubt quite familiar with 22 rate base regulation, previously suggested 23 that the Board consider adjusting for changes 24 in the embedded cost of debt annually. Now I 25 know that obviously the Board opted for a</p>

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<p>1 monitoring mechanism instead, and I guess, 2 from the perspective of the Consumer Advocate, 3 a monitoring mechanism is okay, but it doesn't 4 provide the type of protection that I would 5 expect for consumers. You take Hydro's case 6 as an example. Hydro could over earn on its 7 equity by two million dollars basically before 8 there would be any trigger at all, and on an 9 allowed margin of profit of say eight million 10 dollars, Hydro could earn 25 percent more than 11 that without triggering anything. So really a 12 monitoring mechanism is the least that 13 consumers would expect.</p> <p>14 Now, Dr. Cannon's proposal is not perfect 15 but it uses and attempts to use the best 16 information available to us which we tested 17 and scrutinized in this hearing, which in our 18 respectful judgment is better than ignoring 19 likely changes to the embedded cost of debt, 20 particularly given their significance to 21 Hydro's overall return on rate base. And as I 22 pointed out in my brief, Hydro's proposed 23 formula would ignore a major debenture being 24 refinanced at significantly more or less cost 25 than is reflected in the test year, with no</p>	<p>1 scrutiny at all.</p> <p>2 So Hydro acknowledges that Dr. Cannon's 3 proposal would not be administratively 4 burdensome. It would not disincent it from 5 seeking out the lowest cost financing, which 6 are very key considerations. But I'd also 7 like to point out that Dr. Cannon's 8 recommendation, as the Board knows from his 9 evidence, was made in a context of the Board 10 having previously stated that it would run 11 contrary to a formula to make annual 12 adjustments to the cost of debt as it changed. 13 So there was a confines that we were frankly 14 trying to work around, in terms of putting 15 forward a proposal to the Board in this 16 matter. Frankly, I don't have a lot of time 17 personally for trying arguments that are 18 identical and coming up to the same result. 19 So there was a bit of a different tact taken 20 by ourselves in this regard. So in light of 21 that, he proposed forecasting the debt cost 22 for the formula at this hearing using the best 23 information available.</p> <p>24 Now, Hydro has not, in this proceeding, 25 updated evidence as to what formulas are in</p>
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<p>1 place in other jurisdictions. There's no 2 evidence in this hearing that there are any 3 utilities elsewhere that have automatic 4 adjustment mechanisms where the embedded cost 5 of debt is held constant each year during the 6 life of the automatic adjustment formula. In 7 fact, the evidence of Mr. Bradbury, when he 8 was asked by Vice-Chair Whalen whether Hydro 9 in preparing its proposal looked to any other 10 jurisdictions in Canada that also used similar 11 mechanisms, and Vice-Chair referred to B.C., 12 the NEB, Ontario, to see if any aspects of 13 those mechanisms would be applicable or not in 14 this jurisdiction for Hydro's circumstance, 15 and Mr. Bradbury said that in their perusal, 16 they were unable to find a mechanism that was 17 similar to the one that's in place in 18 Newfoundland and Labrador. So that is what 19 the evidence is in this proceeding. But in 20 addition to that, Dr. Cannon did testify that 21 in Ontario they do update the cost of equity 22 and the cost of debt annually, and I provide 23 the citation for that evidence in my written 24 brief, in setting the revenue requirement.</p> <p>25 So I guess the point is that if the Board</p>	<p>1 does not want to go this far as say Ontario, 2 and as was suggested previously as an option 3 to consider by Grant Thornton, then our 4 submission is that in fairness to both 5 ratepayers and Hydro, the Board should build 6 into the ECD values, for years beyond the test 7 year, the effects of changes to Hydro's 8 capital structure and financings that are at 9 least forecastable. So it's not a perfect 10 solution frankly, but it's better, we submit, 11 than letting the current formula ride in the 12 case of Newfoundland Hydro, because we believe 13 that it would be ignoring real and substantial 14 differences in the make up of Hydro's return 15 on rate base vis-a-vis that of Newfoundland 16 Power to simply adopt the modified formula. 17 And in the alternative, if that proposal is 18 not accepted, my position on the part of 19 consumers is that we just adjust the cost of 20 debt annually and I agree that there is 21 additional regulatory burden involved with 22 that, to some degree, but let's do it, have a 23 look at it, judge its effectiveness in a few 24 years time. I can't see that in the interim 25 it would work an injustice to either the</p>

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<p>1 ratepayer or to Hydro, and there might be some 2 benefit into trying alternative arrangement to 3 see how it works.</p> <p>4 With respect to the reliability policy 5 and those initiatives, in our brief, we have 6 put forward a proposal calling upon the Board 7 to direct Hydro to develop a plan documenting 8 its approach that will ensure acceptable 9 distribution reliability performance going 10 forward. The plan, we submit, should identify 11 targets for reliability, a plan for meeting 12 those targets and a tracking mechanism for 13 monitoring performance relative to that plan. 14 And the plan should be consistent with a 15 distribution reliability policy approved by 16 the Board. The plan would be, as we envision 17 it, the initial filing under the new policy.</p> <p>18 We also propose that Hydro review current 19 reporting requirements and make any 20 recommendations that they might make for 21 streamlining the process, and in particular, 22 eliminating any reporting requirement that may 23 be duplicated by the reporting requirements 24 stemming from the new distribution policy, and 25 I think I should point out here that we</p>	<p>1 certainly do not view this as casting aside 2 reporting requirements that are being made. 3 We rather see it as fitting in with an overall 4 distribution reliability policy, to a large 5 degree. I guess, as I've said in my brief of 6 argument, you know, these GRAs, I guess 7 thankfully, only come about ever so often and 8 they do provide an opportunity for 9 intervenors, whether they be me or the 10 Industrial Customers or Newfoundland Power or 11 whomever, to bring forward ideas and proposals 12 aimed at improving the regulation of utilities 13 in our province, and I believe that 14 improvement can take place, and that's why we 15 put forward this proposal.</p> <p>16 I think the context is important here, 17 and I guess here's where I'm coming from with 18 it. Obviously we all know that consumers have 19 a right enshrined in the power policy of the 20 province to have power delivered to them at 21 the lowest possible cost, consistent with 22 reliable service. We also know that Hydro 23 says that it's committed through operational 24 excellence to ensuring that customers indeed 25 have appropriate levels of reliability at the</p>
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<p>1 lowest possible cost, and as I've said, 2 consumers have a vital interest in Hydro 3 achieving operational excellence. And we also 4 know, from Hydro's evidence, that consumers 5 want reliable power, but they want their rates 6 to remain as low as possible, because as we 7 passed along in reference in part of the 8 cross-examination to the commercial customer 9 survey, I mean, it was so very telling that 10 the commercial customers, even those who said 11 that they would lose money, for instance, 12 after an interruption, still only a minority 13 of those were prepared to pay any more. It's 14 very telling as to how cost conscious the 15 customer is.</p> <p>16 We also know that it costs significant 17 sums to ensure present levels of reliability 18 and that as you aim to improve upon 19 reliability, that can and likely will cost 20 more money. We also know that Hydro is 21 stating that despite detailed reporting 22 requirements to the Board as to its 23 reliability performance, that Hydro is of the 24 view that "significant improvement of 25 reliability for its retail customers is</p>	<p>1 desirable and should be targeted." So in our 2 view, Hydro has not quantified the extent of 3 the reliability problem, and that's because 4 Hydro has not established a standard or target 5 level of distribution reliability performance 6 against which current performance can be 7 compared, and I guess, in our submission, it's 8 hard to know where we are going if we haven't 9 tried to set out our destination, and I don't 10 mean an interim destination about a 20 percent 11 improvement over a five year. I mean what 12 constitutes acceptable reliable service.</p> <p>13 I note that Mr. Haynes' evidence says 14 that, "look, we have a fair bit of ground to 15 cover if we want to be equal to the CEA's 16 composite levels." So I ask, do we want to 17 close that gap? Is that the destination? I 18 don't know. At page nine of Mr. Haynes' 19 evidence, he said, look, he said "there's 20 quite a bit of room to cover to close the gap 21 with Newfoundland Power," and then he says 22 "now, I'm not suggesting that we will close 23 that gap totally." So again, I don't know 24 what the ultimate destination is. It's just 25 not clear, you know, so I ask some questions,</p>

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<p>1 you know, should the closing of the gaps be 2 the ultimate destination or should a target be 3 chosen that takes into account the challenges 4 in Hydro's service areas with customer 5 expectations and obviously engineering 6 judgment? That has to apply. I don't take 7 any issue with that.</p> <p>8 I also ask, is it appropriate and 9 sensible for Hydro to distinguish between 10 regions or systems? It seems to be an 11 accepted fact that some areas tend to have 12 less reliable service than other areas. It's 13 quite a common phenomenon. It's nothing to do 14 with preferences. It's just the way it is. It 15 would cost a lot of money to get certain areas 16 up to the level of say an urban area. It's a 17 widely known phenomenon.</p> <p>18 (11:00 a.m.)</p> <p>19 So I agree with, you know, Mr. Ed Martin. 20 I thought his evidence was quite clear, 21 straightforward, direct, that when he said 22 "look, we have to know what the minimum 23 standard for reliability is that has to be 24 achieved." His evidence was replete with 25 those types of references. So I guess, right</p>	<p>1 now, I mean, it's difficult to tell a consumer 2 what reliable service means, and in our 3 submission, we ought to be able to put some 4 definition around that and not with a view to 5 penalizing Hydro if it falls short. I'm 6 frankly not interested in that. We all know 7 there's challenges and Hydro has a dedicated 8 work force and management team, but something 9 that enables us to audit a bit better. Like 10 Mr. Bowman said in response to a question from 11 Vice-Chair Whalen, he said "what we're talking 12 about is a policy that establishes some 13 criteria and whether you define that as a 14 minimum criteria where there's penalties 15 applied or whether you establish it as a 16 benchmark, that's totally up to the policy." 17 He said the issue to him and to me isn't what 18 you set, it's just that you need a policy that 19 sets some kind of audit trail, in our 20 respectful submission. So that's the first 21 thing, the setting of some standards, targets, 22 maybe a band of reliability that is realistic, 23 as Mr. Martin suggests. Maybe it's tied to 24 past performance level, as apparently they did 25 in Delaware, instead of a CEA composite, so we</p>
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<p>1 avoid the apples versus oranges debate and 2 chasing each other around the room as to what 3 standards is the one we adopt.</p> <p>4 So then when we know what the destination 5 is, then the question is, okay, we know the 6 destination, now how are we going to get there 7 and how long will it take us? How much is it 8 expected to cost? And depending upon the 9 target arrived at, the band, it may not get 10 done in a year or two years or three years or 11 four years. So obviously, we need a plan for 12 achieving these targets in a manner that 13 provides the greatest value to consumers. 14 Then, consistent with operational excellence, 15 we need a mechanism for tracking and comparing 16 the performance relative to the plan to ensure 17 that Hydro is meeting its targets on schedule 18 and within budget. So we propose that this 19 could be done by Hydro providing a performance 20 report annually that assesses the results and 21 effectiveness of the previous year's actions 22 so we can track it.</p> <p>23 Now that, in our view, would offer 24 improvements and again, that's not to be taken 25 as saying that the way we do things is no good</p>	<p>1 or is broken, but the question is can we 2 improve? Can we learn from others? We've 3 heard through the evidence of Mr. Bowman that 4 Delaware, for instance, does have a monopoly 5 system on distribution and transmission, but 6 it has a formal reliability policy. Now 7 certainly, as Mr. Bowman indicated in response 8 to questions from the Vice-Chair that 9 certainly the setting of reliability standards 10 for utilities has been driven, to some degree, 11 perhaps a large degree, by deregulation, but, 12 in my judgment, that really doesn't take away 13 from the transferability of some of their 14 ideas for our jurisdiction.</p> <p>15 Hydro's brief suggests that concerns from 16 other deregulated jurisdictions that have 17 resulted in the establishment of reliability 18 policies are not entirely relevant in this 19 province. Well, maybe that's where we have to 20 modify such policies, as I say, by getting rid 21 of punitive penalty sections as a for 22 instance. But I would think that this Board 23 and consumers in this province have no less an 24 abiding interest in ensuring that customers 25 have a reliable system and ensuring that the</p>

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<p>1 Board and consumers have a better way to audit 2 performance than do regulators in these other 3 jurisdictions, and I would harken back to the 4 comments of the Chairman that, an excerpt of 5 which appears in Mr. Bowman's evidence, when 6 Mr.--Hydro's then CEO, Bill Wells was on the 7 stand, who is now, I understand, enjoying the 8 unmitigated pleasure that can only come with a 9 private law practice, but you outlined when he 10 was on the stand that there's an asymmetry of 11 information and that the focus in the sense of 12 regulation has to be on performance measures 13 and benchmarking if this is going to work at 14 all.</p> <p>15 Now, I agree with that, and I believe 16 that, you know, the intervenors are no match 17 for Hydro when it comes to being able to bring 18 expertise and data to bear on an issue, 19 whether it be reliability or many others. 20 Hydro knows its system best, but we all have a 21 job to do here and my job, of course, is to 22 ensure that consumers are, in fact, getting 23 reliable service at the least possible cost, 24 and that's what we all want. So I present 25 this as an improvement, a tool to better allow</p>	<p>1 us to meet that obligation, meet that 2 objective, and as I pointed out, and I've 3 quoted extensively in our brief from Mr. 4 Martin's evidence, I mean his evidence is 5 replete with references to "listen, you got to 6 start with that standard." So much falls out 7 of that standard. You got to get that right, 8 and then you build on that. It makes 9 perfectly good sense.</p> <p>10 The unfortunate thing is that Mr. Haynes' 11 evidence, who is looking after this part of 12 the shop for Hydro, really doesn't give 13 consumers an assurance or much to look forward 14 to as to when we might be able to receive 15 this, because his evidence, in one part, says, 16 you know, "not saying it's not a good idea. It 17 could be X years," or at one point, 25 years, 18 I mean, "we'll see. We'll get to it." You 19 know, I mean, and another point in his 20 evidence, he suggests that, you know, "once we 21 get to the area of where we all think that we 22 have an acceptable level of service, well then 23 we could look at putting standards in place." 24 I mean, that's totally circular in my view. I 25 just don't understand that process.</p>
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<p>1 So Hydro has stated in its brief that an 2 iterative process is currently under way, and 3 they indicate that there's an--the first step 4 is to establish a band of reliability which 5 will assist in the preparation of a long-term, 6 comprehensive maintenance plan, which it will 7 use in support of capital and operating 8 expenditure decisions. Now, Mr. Haynes spoke 9 about that in his evidence and he said, you 10 know, the focus was going to be on the 11 maintenance tactics on the assets themselves, 12 but he did point out that we're going to be 13 starting with a clean piece of paper. So you 14 know, there seems to be some movement perhaps 15 in Hydro towards this regard. It's a bit 16 unclear to me exactly what it is, but my 17 concern here is that I think we need the Board 18 direction to ensure that we're getting off on 19 the right foot with this, and again, absent 20 that, I don't believe that we'll get what I 21 think is needed in a timely fashion.</p> <p>22 So, you know, in summary, I basically ask 23 some basic questions. Is there room for 24 improvement in our system? Is it reasonable 25 for Hydro to establish a standard or target</p>	<p>1 level of distribution reliability performance 2 against which performance can be compared? Is 3 the setting of reliability parameters high 4 value, as Mr. Martin indicated? Would it be 5 of value for Hydro to report annually to the 6 Board as to what its current objectives and 7 planned actions and projects are, and then to 8 report annually as to how it did on doing 9 that? Is the proposal consistent with the 10 Board's duties to implement the power policy 11 of the province? Is it consistent with the 12 goal of providing power at the lowest possible 13 cost to consumers, consistent with reliable 14 service? I think the questions should be 15 answered affirmatively.</p> <p>16 Regarding the peer grouping benchmarking 17 and tracking of reporting of additional 18 performance indicators, I'll just be brief on 19 this. As regards peer group benchmarking, our 20 brief proposes that the Board direct Hydro to 21 initiate reporting of key performance 22 indicators found in Exhibit JRH-1 with 23 performance externally benchmarked to a 24 comparable peer group beginning with 2006 for 25 the non-reliability data, and we submit that</p>

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<p>1 Hydro should report the non-reliability 2 related performance data by no later than the 3 KPI report on 2007 performance. However, the 4 reliability related performance should be 5 reported for the peer group in the next KPI 6 report, since the information appears to be 7 readily available. And in order to enhance 8 the ability to trend the performance, data for 9 years dating back to at least 2003 should be 10 used, as Hydro already has the historical data 11 for the reliability.</p> <p>12 Mr. Bowman agrees to assist Hydro with 13 the identification of a peer group and sources 14 of information relating to the external 15 benchmarking undertaking.</p> <p>16 As regards the business of tracking and 17 reporting of additional key performance 18 indicators, this is--you know, sounds all 19 pedestrian, I understand that, but the 20 business about tracking the number of customer 21 complaints per X number of customers, the 22 percent of calls answered within 30 seconds, 23 percent of customers outage calls answered, 24 percentage of new customer services installed 25 and energized by the date promised. I mean</p>	<p>1 it's not exactly riveting stuff but there is a 2 tie in to operational excellence. I mean, it 3 is a service issue. I mean, goodness knows 4 Hydro tracks a lot of other data in its 5 surveys and everything else, and you know, the 6 point is, like the McKinsey report that was 7 referenced in Mr. Bowman's evidence, I mean, 8 these are a lot of times where rubber hits the 9 road for consumers, as to, you know, how they 10 look upon the service they're getting from 11 their utility. I mean, there is an importance 12 attached to these things, and you know, 13 finally, in terms of the burden that this may 14 place upon Hydro, there is a burden, there's 15 no doubt about that, but I mean, we got to be 16 realistic that Vermont has a little tiny 17 utility where they annually and regularly 18 track this type of material. I think it's 19 Barton Village. I mean, this is not new 20 stuff, and whether it's as high up on the 21 pecking order as in terms of the importance 22 that consumers attach to the issue as cost, 23 for instance. No, it's not. It's not to say 24 that it's not important and shouldn't be 25 tracked.</p>
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<p>1 I'd like to just touch briefly on the 2 conservation efforts. I don't think that 3 there is a huge amount of rancour over this, 4 given the current recent developments in 5 Hydro. I should say, I mean, I welcome the 6 increased focus by Hydro on its conservation 7 effort, as outlined in its application and its 8 evidence. It's very important to our system 9 and to consumers generally that conservation 10 be followed up on, and I'm very much looking 11 forward to the study, the results of the study 12 and Hydro's goals and plans coming out of the 13 study that Hydro is undertaking. But one 14 relief that I am seeking is that in 15 recognition of the fact that Hydro is in the 16 process of examining what different types of 17 programs that it might implement in this 18 province, what we would respectfully request 19 the Board to do is direct Hydro to bring 20 forward a plan aimed at educating electricity 21 consumers of the relative cost of electricity 22 and oil for heating and water heating purposes 23 by way of regular updates to consumers with 24 their electricity bills and such other 25 effective means as may be identified.</p>	<p>1 I think the Board is aware, from my 2 brief, of the particular request for 3 information that dealt with the relative cost 4 differences. I guess the bottom line is that 5 none of this information is readily available 6 to consumers, and I agree with Mr. Martin 7 that, you know, they do have a responsibility. 8 They are the ones ideally suited for getting 9 this information to the customers. Who else 10 can be expected to do this on a regular basis? 11 And I think an educated consumer is a good 12 consumer, and it's in that vein that I suggest 13 that. Otherwise, I look forward to the 14 results of Hydro's study.</p> <p>15 With respect to the integrated resource 16 plan, we, and I think it's fair to say that 17 the Industrial Customers too, didn't get into 18 a great amount of depth as to the merits in 19 our written submissions on the IRP, because as 20 we pointed out at the start of the hearing, we 21 were more interested in having a mechanism to 22 come back before the Board on the issue. At 23 least that was where my head was. So I'm not 24 going to get into a debate of the BC plan with 25 their binders. There's some evidence, not</p>

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<p>1 before the hearing, but Nova Scotia has been 2 taking a look at this as well. It mightn't be 3 similar to BC. I don't think it's useful to 4 get into what exactly it should look like, but 5 I guess the--what the thrust for me at least 6 was is that we don't want to be into a 7 situation where we defer looking at the 8 integrated resource plan indefinitely, and 9 that's why there's some sort of time ban that 10 I've proposed around coming back before the 11 Board seeking direction as to the 12 appropriateness of the IRP and getting it 13 initiated. 14 (11:15 a.m.) 15 In that regard, my brief is clear on the 16 point, and I'll say really not much more 17 beyond that. Except to say that there's a 18 level of discomfort in Hydro's brief for me in 19 that if the release of the energy plan gets 20 delayed unduly, we are really--we're really 21 stuck under their proposal of not being able 22 to do anything with it, and as my brief 23 pointed out, there's no real legal or 24 jurisdictional impediment to taking a look at 25 IRP regardless of an energy plan.</p>	<p>1 With respect to costs, I didn't address 2 that in the brief. My costs, of course, are 3 handled differently than the IC's costs and 4 certainly this is a matter in the discretion 5 of the Board, and I will confirm, as my 6 learned friend Mr. Young did, that obviously 7 the ICs significantly contributed to this 8 process and the agreements reached. I too 9 don't really see a distinction between a 10 contested hearing and the negotiation process, 11 from the point of view of costs. These 12 negotiated resolutions require a lot of work, 13 as I'm sure Glen Mitchell, if he was here, Ms. 14 Butler and Geoff Young can attest to, as well 15 as Newfoundland Power, I mean, we were due to 16 conclude written evidence on the whole 17 shemille (phonetic) by December 14th, and you 18 know, we're now into the middle of February. 19 We're chugging along. It takes time. So as 20 regards the quantum of costs, I think the 21 Board is in the best position to exercise 22 discretion on that point. 23 Just by way of closing, I'd like to thank 24 the Board, the Board staff, Ms. Newman, Mr. 25 Kennedy, and all the parties and their staffs</p>
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<p>1 and consultants, as well as my own, for making 2 this a good process, an efficient process and 3 an enjoyable one, by times, and I guess like 4 Mr. Martin said, you don't know what to expect 5 when you first get into this process, but I 6 was pleased, frankly, to see people of 7 goodwill and conscientiously and honestly 8 going about their work. I can't say that that 9 was a surprise to me, but it was welcomed. So 10 thank you all very much. 11 CHAIRMAN: 12 Q. Thank you very much, Mr. Johnson. 13 VICE-CHAIR WHALEN: 14 Q. I have no questions. 15 CHAIRMAN: 16 Q. No, I have no questions either. Mr. 17 Coxworthy, good morning. Do you have any idea 18 how long you might be? 19 MR. COXWORTHY: 20 Q. I think, Mr. Chair, 15 minutes. 21 CHAIRMAN: 22 Q. Mr. Kelly? 23 KELLY, Q.C.: 24 Q. 10-15 minutes tops, Mr. Chairman. 25 CHAIRMAN:</p>	<p>1 Q. Okay. Well, if that's the case, I'm going to 2 exercise a little discretion because I need 3 to, and take a 15-minute break and we can 4 return then, if that's okay. Thank you very 5 much. 6 (BREAK - 11:18 a.m.) 7 (RESUME - 11:37 a.m.) 8 MR. CHAIRMAN: 9 Q. Anything before we begin, Ms. Newman? 10 MS. NEWMAN: 11 Q. No, Mr. Chair. 12 CHAIRMAN: 13 Q. Okay. Sorry for that little delay. Mr. 14 Coxworthy, when you're ready, good morning. 15 MR. COXWORTHY: 16 Q. Thank you, Mr. Chair, good morning. Good 17 morning, Vice-Chair. You will have noted that 18 Mr. Hutchings is not here with us this 19 morning; I'd like to think he's here in 20 spirit. My comments on behalf of the 21 Industrial Customers, I expect, will be brief, 22 essentially on three topics. Much has been 23 said already about the settlement process, but 24 I think I will say a few words about the 25 Industrial Customers' perspective on that</p>

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<p>1 process. Secondly, with respect to long range 2 system planning and integrated resource 3 planning, and finally some comments on costs; 4 the Industrial Customers having made an 5 application for costs.</p> <p>6 With respect to the settlement process, I 7 just want to reiterate a comment that's been 8 made by the other parties and is made in the 9 Briefs that from the perspective of the 10 Industrial Customers, it did represent a 11 thorough and rigorous review of Hydro's 12 application and of the evidence. As pointed 13 out by Hydro in its final argument Brief, all 14 parties were represented by legal counsel and 15 supported by expert consultants and that was 16 no less true of the Industrial Customers. And 17 I think I would go further and say that it 18 wasn't just a matter of their being on standby 19 in case the matter went to a hearing, but in 20 fact, those advisors, consultants, on behalf 21 of the Industrial Customers and the other 22 parties were actively involved throughout the 23 settlement process.</p> <p>24 The settlement process, in the view of 25 the Industrial Customers, and the model that</p>	<p>1 was used in this particular hearing, had 2 tangible positive results, quite apart from 3 the rates that were achieved, if the 4 settlement agreements are, in fact, accepted 5 by the Board, that will be achieved. The 6 tangible, positive result was that the process 7 itself was less costly, more timely, 8 particularly when we bear in mind that the 9 application itself wasn't filed until August 10 of 2006. And I think it's not unfair to 11 speculate or to contemplate how much more 12 hearing time would have had to have been spent 13 if the number of issues that were addressed in 14 the settlement agreements had had to have been 15 contested in a hearing, and from the 16 perspective of the Industrial Customers, a 17 more efficient process.</p> <p>18 Hydro, in their final argument at page 19 six, estimate that savings, estimates in 20 savings in regulatory costs of \$250,000 in 21 2007 and the Industrial Customers would 22 understand, and Hydro can correct this if this 23 understanding is incorrect, that much if not 24 all of that saving is due to the settlement 25 process and the settlement agreements having</p>
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<p>1 been achieved. The Industrial Customers' own 2 cost of participation in the settlement 3 conference were considerably less, \$300,000 4 less, than what they had been in the 2003 GRA. 5 So a 50 percent, less than 50 percent of the 6 cost. But notwithstanding that, the process 7 did reflect due scrutiny by the parties and 8 due process involving the Board as well in the 9 hearing that we had in January and with 10 respect to the participation of Mr. Kennedy 11 that's been adverted to. So in conclusion, 12 with respect to the settlement process, the 13 Industrial Customers would like to leave the 14 Board with the submission that this settlement 15 process model is one that should be encouraged 16 for future proceedings. We can't always be 17 assured of the same results, but certainly, I 18 think we can be assured that based on the 19 experience in this matter, all parties will 20 come to such settlement processes in the 21 future with a very constructive and positive 22 frame of mind as to what may be able to be 23 achieved.</p> <p>24 If I may make a few comments then about 25 integrated resource planning, and as with, I</p>	<p>1 think, the Consumer Advocate, we would have 2 hoped that Hydro would have seen or would have 3 indicated in their submissions a greater 4 openness to engaging in this process sometime 5 in 2007, notwithstanding whether or not the 6 Provincial Energy Plan is issued in 2007. 7 That is everyone's hope and expectation, but 8 no one can say that for certain. Certainly 9 its been the position of the Industrial 10 Customers that it is not a necessary precursor 11 to integrated resource planning.</p> <p>12 Why does integrated resource planning 13 need to start in 2007? The concerns of the 14 Industrial Customers are, I believe, best 15 identified and summarized in the pre-filed 16 testimony of Mr. Patrick Bowman and Mr. Andrew 17 McLaren, dated October 23rd, 2006, and 18 starting at page 39, and I don't intend to 19 read through that evidence, but what I think 20 Mr. Bowman and Mr. McLaren do there is they 21 combine, in three or four pages, all of the 22 issues that are facing Hydro and by extension, 23 Hydro's customers, in the coming short to 24 midterm with respect to identifying and 25 developing new sources of supply, with respect</p>

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<p>1 to demand management, and I think what Mr. 2 Bowman's pre-filed testimony indicates is that 3 it's not a matter or shouldn't be a matter of 4 looking at each of these items in isolation or 5 in a piecemeal fashion. They have to be 6 looked at in, to use the term, an integrated 7 fashion, weighing the costs and benefits of 8 the various options, and as Mr. Bowman points 9 out, there is never perfect information when 10 one engages in these exercises, and I would 11 submit that waiting for a Provincial Energy 12 Plan or setting that as a necessary precursor 13 to integrated resource planning is setting up 14 a condition of "look, we have to wait until 15 the conditions are perfect." 16 With or without a Provincial Energy Plan 17 in 2007, the parties, not just Hydro, although 18 certainly its the position of Industrial 19 Customers that Hydro should be taking a lead 20 in this, will need to roll up their sleeves 21 and start getting to work on resource 22 planning, integrated resource planning. The 23 fact that there will be a Provincial Energy 24 Plan will be one of the inputs into that, but 25 it's not the sole one, and it should not</p>	<p>1 become the driver or an impediment, in the 2 view of the Industrial Customers, to 3 proceeding in a timely fashion with integrated 4 resource planning. 5 In that regard, the suggestion that we 6 need to have a generic hearing to even decide 7 whether integrated resource planning is 8 necessary, in the--Industrial Customers don't 9 accept that. They view that there's 10 sufficient evidence already before the Board, 11 in terms of the evidence that has been filed 12 of Mr. Bowman and Mr. McLaren, which I just 13 referred to. I would also refer the Board to 14 the responses to various RFIs, NLH 34 IC, NLH 15 37 IC, NLH 33 IC, and NLH 42 IC, responses 16 with respect to various questions posed by 17 Hydro regarding integrated resource planning. 18 The view of the Industrial Customers that 19 there's sufficient evidence before the Board 20 to make the order that's being requested by 21 the Industrial Customers and that has also 22 been requested by the Consumer Advocate that 23 either any time after sixty days after the 24 release of a Provincial Energy Plan or, if it 25 becomes apparent by the end of the second</p>
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<p>1 quarter or June 30th of this year that the 2 Provincial Energy Plan is not going to be 3 released by that time frame, then in any 4 event, that any party would then have the 5 ability to come back before the Board and 6 apply for direction from the Board as to how 7 to best proceed with the integrated resource 8 planning process. If, as part of that 9 application, the proponent of that application 10 must make the case as to whether an integrated 11 resource planning process makes sense at all, 12 well so be it. That argument can be made at 13 that time. Certainly, the Industrial 14 Customers though would hope that by that time, 15 Hydro, with the Consumer Advocate and the 16 Industrial Customers and Newfoundland Power, 17 would see the merit in, rather than having to 18 have a generic hearing as to whether 19 integrated resource planning is necessary, 20 would see that time as better spent with 21 sitting down amongst themselves and with the 22 input of the Board as necessary, to determine 23 what type of model of integrated resource 24 planning is appropriate, as opposed to whether 25 it's appropriate at all.</p>	<p>1 (11:45 a.m.) 2 I do want to make a few comments with 3 respect to the model. Hydro has emphasized in 4 their final argument the model that was used 5 in British Columbia. Certainly, it is not the 6 position of the Industrial Customers that we 7 should follow the model of any particular 8 jurisdiction with respect to integrated 9 resource planning. We certainly accept that 10 there are aspects of the regulation here in 11 Newfoundland in respect to hydro generation, 12 the fact that we are not interconnected, a 13 number of other unique factors which all point 14 to developing a model which addresses those 15 particular factors which are unique or which 16 are found here in Newfoundland and Labrador. 17 From the Industrial Customers' point of view, 18 that is best achieved by way of consensus, by 19 way of the parties meeting and discussing this 20 amongst themselves as opposed to having a 21 generic hearing, where the tendency, I think, 22 would be to be more adversarial, and also I 23 think an unnecessary cost, quite frankly. 24 Certainly at the end of the process, 25 assuming that the parties could agree that</p>

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<p>1 yes, we should embark on a process of 2 discussing what a IRP should look like for 3 Newfoundland Hydro, certainly at the end of 4 the process, the Industrial Customers 5 recognize that at some point the matter would 6 have to come back to the Board, whether it's 7 through a generic hearing or some other 8 process, for final approval. But we don't see 9 that generic hearing as necessary at the 10 beginning of the process, but rather at the 11 end.</p> <p>12 Finally, I'd like to make a few comments 13 with respect to the cost application of the 14 Industrial Customers. I appreciate the 15 recognition of Hydro and Consumer Advocate 16 that they view the Industrial Customers' 17 participation as constructive in the 18 settlement process and certainly we would echo 19 that from the Industrial Customers' point of 20 view, that they viewed the participation of 21 the other parties, the Consumer Advocate, 22 Hydro and Newfoundland Power, as also having 23 been constructive across the Board with 24 respect to all of the issues that were 25 addressed in the settlement agreements, and</p>	<p>1 for that matter, in the issues that couldn't 2 be addressed by the settlement agreements and 3 had to be left aside. On all of those issues, 4 I think there was a bona fide attempt by all 5 parties to try and arrive at common ground or 6 consensus, even where that wasn't ultimately 7 achieved in respect to some of the issues, 8 like integrated resource planning.</p> <p>9 With respect to the measure of costs, 10 there's already been considerable submissions, 11 written submissions have been filed on behalf 12 of the Industrial Customers, but I do want to 13 comment on the submission that was made by Mr. 14 Young with respect to the past experience, 15 past precedent, if one wants to call it that, 16 represented by the award of costs to the 17 Industrial Customers in the 2003 General Rate 18 Application. Mr. Young characterized the 19 award there as having been a little bit more 20 than half of what had been sought or claimed 21 by the Industrial Customers. Our comment 22 there would be that we don't see the exercise 23 of the Board's discretion with respect to 24 costs to be one that ought to be circumscribed 25 by percentages or by what might have been the</p>
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<p>1 percentage of the award that was awarded in a 2 previous hearing, that your discretion should 3 be exercised based on a review of the costs 4 and the cost substantiation as submitted, 5 recognizing and we've already recognized, I 6 would note in the submission and have proposed 7 a discounting to reflect that there may be 8 some time interweaved in those accounts that 9 might not be beyond argument associated with 10 the General Rate Application. But even beyond 11 that, I think it would not be the appropriate 12 principle to say well, because we awarded 55 13 percent in the 2003 GRA, that's what we should 14 be awarding in this GRA. I think what needs 15 to be looked at is the accounts that are 16 rendered and the PUB exercises its discretion 17 based on that, to see whether there's been a 18 contribution that can be identified by way of 19 those costs having been incurred.</p> <p>20 Mr. Chair, Madame Vice Chair, those are 21 all our submissions. Thank you.</p> <p>22 CHAIRMAN: 23 Q. Commissioner Whalen? 24 VICE-CHAIR WHALEN: 25 Q. No, thank you.</p>	<p>1 CHAIRMAN: 2 Q. I just have one, Mr. Coxworthy. I guess it 3 relates to the issue of integrated resource 4 planning and the energy policy review being 5 conducted by Government. Quite clearly, the 6 Board has a role now with regard to the supply 7 aspect, as indicated under the EPCA. One 8 could argue that that, there has been an 9 element of disconnect between that and what's 10 happened there over the years, in recent times 11 in any event, and any submission, and we did 12 make a submission to the Energy Policy Review, 13 reflected on reconciling that disconnect one 14 way or another. I guess confirming it, or 15 indeed, taking that authority away, if indeed 16 we're not going to be in a position to 17 exercise it, and that clearly may--what 18 Government decides to do with that, if 19 anything, may very well, from our perspective, 20 colour, if you will, our involvement in 21 integrated resource plan. And I think I 22 understood from your argument that you're 23 saying that we need not wait for that Energy 24 Policy Review to be concluded and that we 25 should, you know, proceed, if there appears to</p>

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<p>1 be an imminent further delay in that. Could</p> <p>2 you just, you know, generally comment on that</p> <p>3 for me?</p> <p>4 MR. COXWORTHY:</p> <p>5 Q. I think, there's no question that the</p> <p>6 Provincial Energy Plan, when its released,</p> <p>7 will have to be a necessary input and have to</p> <p>8 be taken into consideration with respect to</p> <p>9 integrated resource planning. Having said</p> <p>10 that, and what was being proposed by the</p> <p>11 Consumer Advocate and by the Industrial</p> <p>12 Customers is that there's no reason why we</p> <p>13 can't start some--set some of the framework up</p> <p>14 for moving forward with an integrated resource</p> <p>15 planning, even in advance of Provincial Energy</p> <p>16 Plan, by establishing terms of reference,</p> <p>17 setting some milestones on a go forward, which</p> <p>18 admittedly may then have to be changed if in</p> <p>19 the intervening period a Provincial Energy</p> <p>20 Plan is issued. But I think we shouldn't be</p> <p>21 left, the customers of Hydro shouldn't be</p> <p>22 left, Hydro shouldn't be left at the mercy of</p> <p>23 if and when, and perhaps it's not if, but when</p> <p>24 a Provincial Energy Plan is going to be</p> <p>25 issued. I think it's more a challenge of if</p>	<p>1 terms of reference were established, leaving</p> <p>2 them flexible enough so that they could take</p> <p>3 into account, and would have to take into</p> <p>4 account, the Provincial Energy Plan once it's</p> <p>5 issued. But I think there is work--in the</p> <p>6 view of the Industrial Customers, there is</p> <p>7 work that can be done in terms of establishing</p> <p>8 a framework, even in advance of a Provincial</p> <p>9 Energy Plan, that an IRP is going to be</p> <p>10 necessary regardless. It may take a</p> <p>11 different form, a different shape, because of</p> <p>12 the Provincial Energy Plan, but we don't see</p> <p>13 that a Provincial Energy Plan removing the</p> <p>14 need for an IRP, and we only see advantage to</p> <p>15 starting the process earlier rather than</p> <p>16 later.</p> <p>17 CHAIRMAN:</p> <p>18 Q. Certainly I think since we heard the</p> <p>19 evidentiary sort of phase of the hearing in</p> <p>20 early January, I thought I read somewhere</p> <p>21 where the Premier has come out and said that</p> <p>22 it's likely that the Energy Plan will be</p> <p>23 released in the first quarter, which may</p> <p>24 answer the question, and whether that will be</p> <p>25 in the form of a discussion paper for further</p>
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<p>1 circulation and discussion and decision making</p> <p>2 at a later date, I guess, remains to be seen.</p> <p>3 But it seems there might be something imminent</p> <p>4 on that front in any event. Okay, thank you</p> <p>5 very much.</p> <p>6 MR. COXWORTHY:</p> <p>7 Q. Thank you, Mr. Chairman.</p> <p>8 CHAIRMAN:</p> <p>9 Q. Good morning, Mr. Kelly.</p> <p>10 KELLY, Q.C.:</p> <p>11 Q. Thank you, Chair, Vice-Chair. I'd like to</p> <p>12 take a few moments first and spend a little</p> <p>13 bit of time just talking about the negotiation</p> <p>14 process and some of the lessons kind of</p> <p>15 learned during that process. In my opening</p> <p>16 comments, I addressed the benefits achieved by</p> <p>17 the negotiated approach to the resolution of</p> <p>18 issues, including the revenue requirement, the</p> <p>19 process results in regulatory efficiency,</p> <p>20 saving costs for the parties and ultimately</p> <p>21 for customers, and its in keeping with sound</p> <p>22 regulatory practice elsewhere in Canada. The</p> <p>23 experience in dealing with Hydro's negotiated</p> <p>24 settlement indicates to us that there are a</p> <p>25 number of factors which assist in a successful</p>	<p>1 negotiation, and I'd like to touch on four of</p> <p>2 them.</p> <p>3 The first is the commitment to the</p> <p>4 process, and in Hydro's negotiated settlement,</p> <p>5 all of the parties were committed to the</p> <p>6 process and worked hard constructively to</p> <p>7 resolve the matters in issue, and other</p> <p>8 counsel have touched on that.</p> <p>9 The second factor which I think clearly</p> <p>10 became important is information. The</p> <p>11 meaningful negotiation requires important</p> <p>12 information, and you find that information in</p> <p>13 the application, in the reports and in the</p> <p>14 RFIs, and those components will continue to</p> <p>15 remain critical as we explore negotiated</p> <p>16 solutions in the future. All of the parties,</p> <p>17 and ultimately the Board, have to do due</p> <p>18 diligence on the ultimate result of whatever</p> <p>19 is achieved and having that information still</p> <p>20 becomes critically important, whether its a</p> <p>21 negotiated process or ultimately a test in a</p> <p>22 matter before the Board.</p> <p>23 The third component, which I think we all</p> <p>24 identified, is that the process needs to allow</p> <p>25 sufficient time. The process of negotiation</p>

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<p>1 requires more than just a few days. It needs 2 time for common meetings, for separate 3 meetings, for consideration. Allowing 4 sufficient time however doesn't simply mean 5 that time lines can be ignored or that the 6 process doesn't have a structure, and I think 7 one of the lessons learned out of this process 8 that we perhaps need to do a little better 9 with the next time around is establishing a 10 process with sufficient time, but also with 11 sufficient structure so that it can move 12 forward in a proper fashion. But this has 13 been a learning experience, I think, for all 14 of us, and allowing sufficient time within a 15 structure is an important component for moving 16 forward.</p> <p>17 The fourth factor which we at 18 Newfoundland Power believe is important is the 19 participation of the Board and the Board's 20 facilitator, in the past case, Mr. Kennedy, is 21 a critical component. We believe Mr. Kennedy 22 played an important role in the process and we 23 believe that in future negotiations a 24 facilitator, whether it's Mr. Kennedy or 25 somebody else, should continue to play an</p>	<p>1 important role in the future. And that's not 2 to say that the facilitator has to be involved 3 in every step of the discussion or be there 4 for every meeting, but he plays an important 5 role in facilitating the process and in 6 ensuring a flow of information as to where the 7 parties are in that process.</p> <p>8 So those are some comments on what we 9 think are valuable lessons learned from this 10 experience, which has led to a successful 11 negotiation in the case of Hydro's 12 application.</p> <p>13 Newfoundland Power supports the 14 negotiated agreements that have been reached 15 in this case, and submits that the Board 16 should adopt those agreements on the issues 17 which they've resolved. We believe that they 18 represent a principled consensus and a 19 reasoned consensus on those issues, and I echo 20 Mr. Young's comments that all of the parties 21 here approached these negotiations very much 22 on a principled basis.</p> <p>23 (12:00 p.m.)</p> <p>24 With respect to the matters which 25 remained unresolved and are before the Board</p>
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<p>1 for decision, our brief summarizes our 2 position on those, and I'll just touch on each 3 of them very quickly.</p> <p>4 First of all, with respect to the 5 automatic adjustment formula, we support 6 Hydro's proposal. We do not support Dr. 7 Cannon's proposal to adopt forecast future 8 costs for debt. I note first of all that if 9 there were no formula, debt, like any other 10 cost, is simply a cost dealt with on test year 11 values that then remain unchanged as you go 12 forward. All the formula does is to allow a 13 change flowing from the rate of return on 14 equity then through the formula to generate 15 the return on rate base. As Ms. Butler 16 pointed out, no other jurisdiction in Canada 17 adopts Dr. Cannon's proposal and so we do not 18 believe it is in accordance with sound public 19 utility practice.</p> <p>20 Not only that, frankly, it creates an 21 illusion of precision which doesn't really 22 exist, because as you heard in the evidence, 23 forecast interest rate costs can change 24 significantly over a period of time. And 25 secondly, in fact, it may lead to</p>	<p>1 inappropriate adjustments. You've heard in 2 this case that some of Hydro's other costs, 3 depreciation, labour costs, will in fact 4 increase, so adjusting one factor without 5 adjusting other factors is frankly not a 6 principled approach. And so, the logic does 7 not dictate that one adjusts other costs 8 individually. The test year process is in 9 place and so if an automatic adjustment 10 formula is to be adopted for Hydro, it should 11 use the determined embedded cost of debt that 12 flows from the test year.</p> <p>13 The second issue to touch on is the IRP 14 process. There is an important process under 15 way in terms of the Provincial Energy Plan. 16 Considerable time and effort has been invested 17 in that process, and as the Chair alluded to a 18 few moments ago, we understand that that is to 19 be released in the next several months. So it 20 frankly does not make a lot of sense to us to 21 start a process until the content of the 22 Energy Plan is determined and then the role of 23 all of the players, including the Board, is 24 known from that Energy Plan. So we believe 25 that simply deferring that issue until we see</p>

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<p>1 what the Energy Plan is going to say is the 2 logical step to follow. We don't have a 3 particular problem with the Board allowing the 4 parties to make application to bring the issue 5 back before the Board. In essence, the 6 parties always have that power, in any event. 7 I think the important thing is that we see the 8 Energy Plan first, see what it's going to say 9 and then we'll have a sense of where this 10 process needs to go from there.</p> <p>11 The next issue I'd like to touch on is 12 reliability and frankly, sitting here from a 13 utility's point of view, we're, I think, a 14 little surprised by the degree of discussion 15 that has flowed out of what was a statement of 16 a high level corporate objective by Hydro to 17 try to improve their reliability performance 18 by some 20 percent. That high level objective 19 should not be confused with what actually 20 takes place in an electrical utility, and 21 you've heard Mr. Haynes explain how it 22 actually works in practice. One actually 23 looks at individual lines and feeders and 24 assets to determine what is necessary, and 25 then there are two components. There's the</p>	<p>1 maintenance component and there's the capital 2 replacement component. Well, in terms of 3 maintenance, this Board is now going to 4 approve, hopefully, what has been agreed as 5 part of the negotiated settlement, a budget, 6 an amount for Hydro's revenue requirement, and 7 Hydro is going to operate its maintenance 8 program within that approved financial 9 parameter, and when it comes to capital 10 expenditures, any capital expenditures by 11 Hydro will come before the Board for approval. 12 So there is a mechanism already in place to 13 have the utility operate within previously 14 approved or to be approved expenditures in the 15 case of capital expenditures within a budget, 16 and so that framework is in place and really 17 nothing more needs to be done over the next 18 several years, as Hydro works within its test 19 year requirement.</p> <p>20 That will, of course, give Hydro an 21 opportunity, as Mr. Martin has explained, to 22 get a better handle on where they believe they 23 need to go with maintenance issues, but for 24 the Board to deal with this at this point in 25 time really seems unnecessary and especially</p>
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<p>1 within the existing framework for maintenance 2 and capital expenditures which already exists.</p> <p>3 Next, I'll just touch on the peer group 4 benchmarking. We have no problem with Hydro's 5 proposals in that regard. As indicated in our 6 brief, we point out that one must take 7 considerable care in attempting to draw 8 meaningful conclusions from comparisons with 9 other utilities. As you've heard in the 10 evidence, there are considerable differences, 11 both in terms of the isolated nature of our 12 system and the difficulty in drawing 13 comparisons and we simply point out that that 14 continues to be an issue, but we have no 15 difficulty with what Hydro proposes to do.</p> <p>16 Oil price and hedging, I don't think I 17 need to say anything about. There's no 18 evidence before the Board to warrant any 19 change from existing practice. That issue has 20 been looked at previously and with respect to 21 conservation, there is now an important 22 process under way with Hydro and Newfoundland 23 Power's participation to look at a 24 conservation program, what effectively can be 25 done, and that program, that study, needs to</p>	<p>1 be allowed to run its course. I don't think 2 there's a serious issue on that point.</p> <p>3 Finally, with respect to the issue of 4 costs, in terms of the Industrial Customers, 5 that's a matter for the Board's discretion. 6 We take no particular issue with it, save for 7 the important point raised by Vice-Chair 8 Whalen and addressed by Mr. Young, it is 9 important, of course, that it be within the 10 existing revenue requirement which the Board 11 is approving, because rates have been 12 determined based upon that revenue requirement 13 and rate certainty at this stage is a very 14 important critical consideration, both for the 15 Board, I'm sure, for Hydro and certainly for 16 Newfoundland Power.</p> <p>17 Finally, I'd like to thank the Board, the 18 Board staff, all of the other parties and all 19 of the other counsel for their cooperation and 20 courtesy throughout this process. We believe 21 that important steps have taken place through 22 this hearing, in terms of the regulatory 23 framework in this jurisdiction, in particular 24 the success of the negotiated arrangements in 25 this particular case, and hopefully we'll be</p>

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<p>1 able to build on that framework and process as</p> <p>2 we go forward in the future.</p> <p>3 Those are my submissions, unless the</p> <p>4 Board has some questions.</p> <p>5 CHAIRMAN:</p> <p>6 Q. Thank you, Mr. Kelly.</p> <p>7 VICE-CHAIR WHALEN:</p> <p>8 Q. No questions. Thank you.</p> <p>9 CHAIRMAN:</p> <p>10 Q. I have no questions. Thanks. Ms. Butler, do</p> <p>11 you have any rebuttal?</p> <p>12 BUTLER, Q.C.:</p> <p>13 Q. Mr. Chairman and Vice-Chair, just one point</p> <p>14 that Hydro wishes to address in rebuttal, and</p> <p>15 that is on the point of conservation raised by</p> <p>16 the Consumer Advocate, and in their written</p> <p>17 brief, at paragraph 71, they make a specific</p> <p>18 recommendation, which Mr. Johnson addressed in</p> <p>19 his oral argument.</p> <p>20 I just want to make sure that the Board</p> <p>21 is clear with respect to Hydro's position on</p> <p>22 the issue of conservation initiatives, and</p> <p>23 this is, of course, addressed in our written</p> <p>24 argument at page 42 to 44. Hydro, with the</p> <p>25 cooperation of Newfoundland Power, has issued</p>	<p>1 an RFP and the consultant who is hired will</p> <p>2 identify a host of initiatives relative to</p> <p>3 conservation, and not only will they identify</p> <p>4 the list, but they will also indicate to the</p> <p>5 utilities where they expect to get the best</p> <p>6 results based on best practices from other</p> <p>7 jurisdictions. It may be that what will flow</p> <p>8 from that will be selection of initiatives</p> <p>9 that are more focused than that which the</p> <p>10 Consumer Advocate has recommended that you</p> <p>11 order Hydro to do at this point, and that is</p> <p>12 what he describes as a general education plan.</p> <p>13 On the other hand, it may be that a general</p> <p>14 education plan is identified as a very first</p> <p>15 and highest ranking initiative identified by</p> <p>16 the consultant; we don't know. But what we</p> <p>17 wouldn't want to see is that the Board make a-</p> <p>18 -you're required now to make an order</p> <p>19 identifying an initiative in the form of a</p> <p>20 general education plan which turns out to be,</p> <p>21 not in fact, one of the initiatives identified</p> <p>22 in the study which is being cost shared by the</p> <p>23 two utilities. So, we think that we should</p> <p>24 wait for the result of the study, see what</p> <p>25 initiatives come from that and we understand</p>
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<p>1 that this will be in the second quarter of</p> <p>2 this year that you will actually receive that</p> <p>3 report. Those are the only additional</p> <p>4 comments from me.</p> <p>5 MR. YOUNG:</p> <p>6 Q. I just have one comment that I'd like to make</p> <p>7 in closing, I suppose to Mr. Chairman. You</p> <p>8 said a few moments ago, I'm not sure if I'm</p> <p>9 really correcting you on this because I'm not</p> <p>10 the authority on this matter, but it had to do</p> <p>11 with the release of the energy plan. I'm not</p> <p>12 sure exactly when it is. I had seen media</p> <p>13 reports over the last week or so indicating</p> <p>14 that it could be a little bit later than the</p> <p>15 first quarter, perhaps into the second</p> <p>16 quarter. And I don't think a firm commitment</p> <p>17 as to that timing has been made yet.</p> <p>18 CHAIRMAN:</p> <p>19 Q. I seem to recall that as well. I think there</p> <p>20 was a wish or a hope expressed, I think, by</p> <p>21 memory, it might be the first quarter, but he</p> <p>22 did qualify that to say, indeed it could be</p> <p>23 later and his hope would be certainly before</p> <p>24 June, I think, something like that.</p> <p>25 MR. YOUNG:</p>	<p>1 Q. Yes, that's what I recall also. I just wanted</p> <p>2 to make sure that I could share that, insofar</p> <p>3 as it may not have been understood. And</p> <p>4 finally, Mr. Chair, I'd like to do what</p> <p>5 everyone else did and we mean this very</p> <p>6 sincerely, this hearing process, from a</p> <p>7 process perspective particularly, it's been a</p> <p>8 very successful one for Hydro. We would like</p> <p>9 to thank the Board, Board staff, all the</p> <p>10 parties, it has been a learning experience.</p> <p>11 I've listened very closely to Mr. Kelly's</p> <p>12 comments as to ways that these things could be</p> <p>13 improved in the future and I think Mr. Kelly</p> <p>14 has been a good instructor. And we learned as</p> <p>15 we were going, but if we have more to do going</p> <p>16 forward and I think we can improve on the</p> <p>17 process next time, somewhat. And finally, I</p> <p>18 suppose, I'd like to thank all those who</p> <p>19 appeared to drag themselves out of</p> <p>20 recuperating today to come before the Board to</p> <p>21 adhere to the schedule. I'm a little bit that</p> <p>22 way myself, but looking around the room, I</p> <p>23 realize that sometimes people have made an</p> <p>24 extra effort and we appreciate that.</p> <p>25 CHAIRMAN:</p>

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<p>1 Q. Thank you, Mr. Young and Ms. Butler. I guess 2 this brings to a conclusion this particular 3 public hearing. Again, while we reserve the 4 right to reconvene on any matters at the call 5 of the Chair, I sincerely trust that that 6 won't be necessary. It is the task of Ms. 7 Whalen and myself to now sift through the 8 evidence, I guess, presented during the 9 hearing including the settlements agreements 10 and render as fair and equitable and 11 expeditious a decision as possible. I do, as 12 well, want to thank all the parties for your 13 significant work and cooperation throughout 14 the hearing, particularly in reaching the 15 settlement agreement. This, as most people 16 have commented on, indeed, is new territory 17 for us all, I think, in terms of the utilities 18 GRA, the result in achievements, in terms of 19 reduced hearing days from 61 to 35 to, I 20 guess, it's roughly around four now, indeed 21 has been dramatic. The considerable rate 22 reductions negotiated for domestic general 23 service and Industrial Customers has been 24 significant. And we hope at the end of the 25 day greater regulatory efficiency and related</p>	<p>1 cost savings have been achieved as well and I 2 think from some of the comments in respect of 3 savings, in particular, those have been 4 significant for certain parties. 5 And all these, I think, speak to the 6 considerable effort put forward by each of you 7 on behalf of your respective customers. While 8 I don't anticipate that the level of 9 agreement, while I'm optimistic, I realistic 10 as well, that the level of agreement which has 11 been reached here would constitute a practical 12 outcome in all circumstances, it has, I 13 believe, proven its worth is part of the 14 public hearing process and will be certainly 15 encouraged by this Board regarding future 16 GRAs. 17 Having said this, as Mr. Young, I think 18 pointed out this morning, the Board does 19 reserve its right to render decision on the 20 agreement that may not, in each case, reflect 21 the unanimity reached by the parties. 22 (12:15 P.M.) 23 The Board will also be striving to work 24 with the parties following this public hearing 25 to see, indeed, what lessons were learned</p>
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<p>1 which can be incorporated in the future 2 settlement agreement processes. And I thank 3 Mr. Kelly for some of his constructive 4 comments on those here today. 5 Let me again commend each of your for the 6 settlement efforts put forward in this GRA and 7 indeed, your valuable contribution throughout 8 the hearing and I mean that quite sincerely. 9 I also want to express my appreciation to the 10 witnesses for their responsiveness and fairly 11 direct way in which the evidence was covered 12 in the few days that we had. 13 I want to also acknowledge the work of 14 the Ms. Newman and Ms. Blundon for their 15 efforts in ensuring that the hearing proceeded 16 in a relatively seamless manner. And also 17 recognize Ms. Dray who's always in the back of 18 the room and perhaps is instrumental in all 19 that we do, but because by virtue of the fact, 20 she doesn't sit up here, get recognized to the 21 tune that she should. And while, you know, 22 things go fairly smoothly during the course of 23 this hearing and certainly Ms. Blundon and, or 24 Ms. Whalen, I should say, and I are the 25 beneficiaries and indeed, all of us, there is</p>	<p>1 a considerable amount of planning and 2 organization that goes on behind the scenes as 3 well and we recognize that. I also want to 4 acknowledge the efforts of Mark Kennedy who, 5 again, from the comments from the parties, 6 certainly appears to have played an 7 instrumental and important role in this 8 settlement process. 9 I also want to recognize those groups and 10 persons who submitted letters of comment and 11 especially those in Labrador West who made 12 oral presentations via our video conference 13 last week. And I think that that, from my 14 perspective, in any event, proved to be fairly 15 successful in relation to the limited 16 representations that we did have from Labrador 17 West. And it was fairly cost effective in 18 addressing the manner in which we received 19 those particular overtures. All the public 20 input will carefully be reviewed and 21 considered by the Panel, indeed, in making its 22 decision. I also want to thank Terry O'Rielly 23 of Hydro and Mike McNiven of the Board for 24 their expertise in assisting us with the 25 technical portion of the hearing. Also,</p>

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1 Discoveries Unlimited for providing the
2 transcription services. And I guess again,
3 for those who don't always get recognized, if
4 you could, Bruce pass along to those who did
5 work behind the scenes and I think late into
6 the night in providing these transcription
7 services to us on a timely basis.

8 I want to recognize the continuing
9 support and co-operation of my own colleague,
10 Darlene Whalen, particularly since our work is
11 just starting, to some degree, and Darlene did
12 yank herself out of bed, I think, because I
13 think that's where she was yesterday, to come
14 in here today and I, indeed, thank her for
15 that.

16 In closing, we'll be proceeding with our
17 deliberations in as continuous a manner as
18 possible. It would be premature at this stage
19 to try and speculate on when a final order may
20 be issued, but certainly it's going to take a
21 few weeks; there's no question about that. We
22 will, however, take the necessary time to
23 ensure that the order is fair, thorough and
24 complete and have it available within the
25 earliest, practical time frame. That's about

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1 it. This hearing is now adjourned, unless
2 recalled by the Chair and that's an event hope
3 will not be necessary and thank you very much
4 everybody. Good day.
5 Upon conclusion at 12:20 p.m.

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1 CERTIFICATE

2 I, Judy Moss, do hereby certify that the
3 foregoing is a true and correct transcript in the
4 matter of Newfoundland and Labrador Hydro's Revised
5 2006 General Rate Application heard on the 13th day
6 of February, 2007 before the Board of Commissioners
7 of Public Utilities, Prince Charles Building, ST.

8 John's, Newfoundland and Labrador and was
9 transcribed by me to the best of my ability by
10 means of a sound apparatus.

11 Dated at St. John's, NL this
12 13th day of February, 2007

13 Judy Moss

14 Discoveries Unlimited Inc.