

1 MR. NOSEWORTHY, CHAIRMAN: Good morning  
2 everybody. Some familiar faces out there and some not  
3 so familiar faces. I'd like to welcome everybody in  
4 attendance here this morning for the scheduled  
5 beginning of the hearing into Newfoundland Power's  
6 2003 capital budget application. To all participants  
7 including the Applicant, the registered Intervenor,  
8 their counsels, support staff, along with any public  
9 organizations or individuals as well as the media, I  
10 extend to each of you a welcome and I certainly look  
11 forward to a productive and fair hearing.

12 My name is Bob Noseworthy and I'm the Chair  
13 and CEO of the Public Utilities Board. I keep having to  
14 introduce myself because there may be a few people out  
15 there that's new to this process. For purposes of this  
16 public hearing I will serve as the Chair of the panel  
17 which has been delegated the responsibility to indeed  
18 hear the application.

19 My colleagues joining me on the panel here  
20 this morning, to my left, Commissioner Darlene Whalen,  
21 who is Vice-Chair of the Public Utilities Board. To my  
22 right is Commissioner Bill Finn, who is a part-time  
23 commissioner with the Board and is a lawyer in private  
24 practice in Carbonear. I'd also like to introduce to my  
25 left at the table here, Mark Kennedy, who is attempting  
26 to grow a beard. Mr. Kennedy, it's quite becoming.  
27 Mark is the Board hearing counsel. Mark is a lawyer in  
28 private practice in the city. Dwanda Newman is the  
29 Board's solicitor and Board Counsel for the hearing.  
30 Dwanda is in the middle, and Cheryl Blundon is Board  
31 Secretary and is also Director of Corporate Services  
32 with the Board. And in the back table on the left, I'd  
33 like to introduce as well, Mr. Robert Byrne, who is  
34 Director of Regulatory and Advisory Services with the  
35 Board, and Doreen Dray, who is the Financial and  
36 Economic Analyst with the Board, and indeed is  
37 instrumental in these applications.

38 This public hearing by the Public Utilities  
39 Board is for the purpose of deciding on Newfoundland  
40 Power's application regarding its 2003 capital budget  
41 and pursuant to the Public Utilities Act, Newfoundland  
42 Power are seeking approval for the purchase,  
43 construction, and lease in 2003 of the improvements  
44 and additions to its property as set out in the  
45 application, and also the fixing and determining of  
46 Newfoundland Power's average rate base for 2001, and  
47 I'll now ask Board Counsel, Ms. Newman, to formally  
48 enter the matter before us this morning, and to confirm  
49 issuance of the appropriate public notices respecting

50 this hearing. Ms. Newman?

51 MS. NEWMAN: Thank you, Mr. Chairman. Good  
52 morning, everybody. I can confirm that the application  
53 from Newfoundland Power was received by this Board  
54 on August 2nd, 2002. On October 4th, 2002, a letter was  
55 received from Newfoundland Power advising of some  
56 small corrections of errors and omissions and revisions.  
57 On October 21st, 2002, Newfoundland Power filed a  
58 slightly amended application. On October 28th, 2002,  
59 Newfoundland Power filed pre-filed testimony and  
60 exhibits.

61 Notice of this application has been published  
62 in newspapers throughout the province, beginning on  
63 October 23rd, 2002, with newspapers including, the  
64 Evening Telegram, the Western Star, the Shoreline, the  
65 Express, the Compass, the Packet, the Southern Gazette,  
66 the Beacon, the Pilot, the Advertiser, the Nor'Wester,  
67 the Coaster, the Humber Log, the Georgian, the Gulf  
68 News, the Labradorian, the Charter, and the Northern  
69 Pen. Notice of this application and hearing is on file  
70 with the Board's Secretary and forms part of the record.  
71 I can confirm that this hearing is duly constituted  
72 pursuant to the provisions of the Public Utilities Act.

73 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
74 Newman. Could you also indicate the Intervenor's  
75 submissions that were received prior to the October  
76 30th deadline stipulated in the Board's notice of the  
77 public hearing, and also, indeed, if there are any  
78 requests from persons or organizations before  
79 yesterday's deadline to make oral presentations  
80 concerning the application, and indeed, if there are any  
81 letters of comment on the application which has been  
82 filed with the Board to date, please?

83 MS. NEWMAN: Yes, Mr. Chair, we did receive, in fact,  
84 two Intervenor submissions; one from the Consumer  
85 Advocate, dated and received October 30th, and one  
86 from Newfoundland and Labrador Hydro, dated and  
87 received on October 30th. We have received to date no  
88 requests for oral presentations and neither have we  
89 received any letters of comment. There have been some  
90 information requests exchanged, and I would note for  
91 the record that some new information requests were  
92 filed this morning, and I'm assuming all the parties have  
93 received those, and the Board has checked the  
94 numbering of these items to date, and we would note  
95 that there is one mistake in CA-27. According to our  
96 records, there is no (e) or (f) in this particular  
97 information request, so there is an (a), (b), (c), (d), and

1 it goes right to (g), (h), and (i). Those are all the  
2 procedural matters that I have.

3 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
4 much. I would ask at this point in time if the Applicant  
5 and the Intervenors could introduce themselves and  
6 indicate in what capacity they are participating in the  
7 hearing, and indeed, where lead counsel would have a  
8 co-counsel who would be participating in the hearing,  
9 if they could introduce themselves as well and I'll begin  
10 with Newfoundland Power, please?

11 MS. BUTLER, Q.C.: Good morning, Mr. Chairman and  
12 Commissioners, Gillian Butler and Peter Alteen will  
13 represent Newfoundland Power Inc. throughout the  
14 entire proceeding.

15 MR. NOSEWORTHY, CHAIRMAN: Thank you, the  
16 Consumer Advocate?

17 MR. BROWNE, Q.C.: My name is Dennis Browne, the  
18 Consumer Advocate appointed under the Public  
19 Utilities Act to represent Newfoundland Power's  
20 218,000 customers, the consumers of the province, and  
21 with me is Stephen Fitzgerald, who will be co-counsel.

22 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
23 Browne. Newfoundland Hydro please?

24 MS. GREENE, Q.C.: Good morning, Mr. Chair,  
25 Commissioners, my name is Maureen Greene, I am  
26 counsel for Newfoundland Hydro. It is possible,  
27 depending on the length of the hearing that Mr. Young  
28 may be here on occasion throughout the hearing as  
29 well, as co-counsel.

30 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
31 much. Are there any other parties present today who  
32 wish to give notice of their intention to intervene in this  
33 hearing or make an oral presentation, who haven't  
34 already done so? Okay, having heard none, I would  
35 reiterate that letters of comment from interested parties,  
36 either organizations or individuals may be made to the  
37 Board any time up to the close of the hearing, so that  
38 still offers the possibility for those who are interested.

39 I would, if you would bear with me for a  
40 moment, I'm trusting that possibly everybody, or at  
41 least ninety percent of the people know why we're here,  
42 and what process we go through. This is a public  
43 hearing nonetheless, and there may be people  
44 attending these from time to time from the general

45 public who indeed would not be familiar with the role of  
46 the Board, or indeed the process that we follow, and I  
47 think it's incumbent on myself as Chair to at least briefly  
48 outline what we're here, and what we're about, so with  
49 the indulgence of counsel for the parties, and indeed  
50 everybody here, I'll just take a brief moment to outline  
51 that role and the process.

52 The Board derives its authority to conduct this  
53 hearing from provincial statutes and legislation,  
54 primarily the Public Utilities Act and the Electrical  
55 Power Control Act. The Board has an obligation under  
56 this legislation to regulate electric utilities operating in  
57 the province and this includes Newfoundland Power.

58 The Board, in accordance with its legislative  
59 responsibilities has a duty to hear the evidence  
60 presented by the Applicant, Newfoundland Power, and  
61 other interested parties, and at the end of the process  
62 render a decision. In fulfilling its statutory  
63 responsibilities, the Board must protect the interests of  
64 all parties, including producers, retailers, and  
65 consumers of electricity. In doing this it must also be  
66 sensitive and strive to balance the interests of each  
67 class of consumer, whether they be households,  
68 businesses, industries, both small and large users of  
69 electricity.

70 Over the next several days the Board will hear  
71 a variety of evidence on the issues contained in this  
72 application. The evidence will be presented to the  
73 Board by witnesses for the Applicant, Newfoundland  
74 Power, and the Intervenors, the Consumer Advocate,  
75 and Newfoundland and Labrador Hydro. Each party to  
76 the hearing will have the opportunity to cross-examine  
77 the witnesses and evidence put forward by the other  
78 parties.

79 The process involves one of questioning and  
80 testing the information and data presented by each of  
81 the witnesses, to ensure that the necessary evidence  
82 reaches the Board to enable it to deliberate in a fair and  
83 equitable fashion on all issues arising from the  
84 application. Following these deliberations the Board  
85 sets out its decision in an order which is binding on the  
86 parties, but can be appealed subject to the provisions  
87 of the Public Utilities Act. And that concludes the  
88 more general remarks, I guess, I would have concerning  
89 the role of the Board and the process.

90 There are, indeed, a number of other specific  
91 items relating to the hearing here this morning, and I

1 will be inviting comment from counsel on these items  
2 following. In terms of the procedural rules and  
3 regulations for this hearing, I'll ask Ms. Newman to  
4 address this issue initially.

5 MS. NEWMAN: Yes, while Regulation 39.9.6, pursuant  
6 to the Public Utilities Act, sets out the general rules and  
7 procedures of the Board, I propose that this proceeding  
8 be conducted pursuant to the rules established by this  
9 Board in PU-27, 2002/2003, for the Newfoundland Power  
10 General Rate Application, to the extent that they may be  
11 applicable here. I suggest that the Board and the  
12 parties be guided by these rules, and I'll have ...  
13 although the parties are very familiar with them, I'll have  
14 the Secretary circulate them to allow you to have a  
15 copy of them.

16 I would suggest that the Board and the parties  
17 be guided by these rules that are set out in Appendix  
18 A, items four and five, except that Sections 10 and 11 as  
19 they relate to the timing and the motions may not have  
20 application here given the timing of this particular  
21 matter, so what I would suggest in relation to motions  
22 is that it be left to the discretion of the Board to  
23 establish its rules as appropriate in each individual  
24 case.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you once  
26 again, Ms. Newman. I believe these rules of procedures  
27 have been circulated and indicated as Appendix A, Item  
28 4, arising from the PU-27. The second item, these  
29 proceedings are being recorded under the supervision  
30 of the Board's Secretary, Ms. Blundon, and they indeed  
31 will be transcribed overnight. I am advised by the  
32 transcription people that they will strive to have the  
33 transcription completed by early evening. I am advised  
34 that 8:00 is an outside time, hopefully they'll have it  
35 around the dinner hour. I'm sure everybody would like  
36 to read that over their dinner hour, no question about  
37 that. Anyway, the transcription services will be  
38 available on a timely basis. They will be emailed to the  
39 parties immediately upon completion, with the paper  
40 copy available for the commencement of the hearing the  
41 following day, and this way we hope to maintain  
42 continuity certainly, and an up to day and current  
43 record of the proceedings as they unfold.

44 The electronic filing previously adopted by the  
45 Board for the Newfoundland and Labrador Hydro  
46 General Rate Application is in place for this proceeding  
47 and will also apply throughout Newfoundland Power's  
48 upcoming general rate application. Subject to some

49 limitations, copies of all documentation filed with the  
50 Board in this proceeding, including the daily  
51 transcription will be placed on the Board's website, and  
52 will be used in electronic format throughout the course  
53 of this hearing itself. The electronic file will not  
54 however be the official record. The paper version  
55 contained in, I guess, some rather large binders whose  
56 control is vested with the Board's Secretary, Ms.  
57 Blundon, comprises the official record of the  
58 proceedings.

59 Ms. Butler, could I ask you to, at least at this  
60 point in time, introduce Mr. Chris Wells, who will be,  
61 indeed, supplying all the electronic data and  
62 information that we will be using throughout the  
63 hearing, and if it's based on, I think it was Mr. O'Reilly  
64 with Newfoundland Hydro, he's probably, if not the  
65 most important person in the room, one of the most  
66 important people in the room, please, if you would?

67 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I  
68 certainly will. Mr. Chris Wells, who is apparent to the  
69 left of myself in the far corner of the room, will be  
70 running the information technology for the benefit of all  
71 the participants. Mr. Wells is, of course, the  
72 counterpart of Terry O'Reilly who assisted us all so  
73 greatly in Hydro's GRP capital budget application in  
74 2002, and I'm sure the system will run very well again,  
75 Mr. Chairman.

76 MR. NOSEWORTHY, CHAIRMAN: Welcome, Mr.  
77 Wells, and thank you from the bottom of my heart.  
78 Board hearings, indeed, are not court trials, however  
79 evidence is normally given under oath, and procedures  
80 governing conduct are somewhat similar to a court.  
81 The Board's main goal is to get the facts on the record  
82 in a way that is convenient to the parties and the public  
83 interest. It is not necessary for lawyers or witnesses to  
84 stand while questioning or giving evidence, certainly,  
85 however, we would ask that witnesses take the  
86 designated seat to the right on the witness stand,  
87 unless making a presentation or referring to a display.

88 For the purpose of giving evidence in this case  
89 or matter, witnesses may either swear an oath on the  
90 Bible or swear an oath in accordance with another  
91 religious belief, or give a solemn affirmation to tell the  
92 truth, which refers to no religious belief, the choice  
93 rests with the witness, and in the case of the witness  
94 choosing to declare by way of solemn affirmation, I  
95 would ask counsel to indicate the same upon  
96 presenting the witness, and in the event of swearing an

1 oath in accordance with another religious belief, I  
2 would ask counsel to advise the Board's Secretary of  
3 this in advance so that appropriate arrangements can be  
4 made if needed.

5 The daily sitting hours for this hearing will  
6 begin at 9:00 a.m. through to 1:30, with a half hour break  
7 from 11:00 to 11:30 a.m., and today is the exception,  
8 since indeed we did start at 9:30. We'll schedule a break  
9 at 11:00 to 11:30 at the appropriate time and we'll see  
10 where the morning takes us from there. I will now invite  
11 comments from the parties on any of those items,  
12 specific items that I've outlined, and I'll begin with Ms.  
13 Butler please?

14 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I  
15 wonder if might first address the opening comments of  
16 Ms. Newman in relation to the procedural rule. We had  
17 discussed during the counsel meetings on November  
18 4th and November 8th that it may be suggested that in  
19 general the procedural rule that we had agreed upon for  
20 the GRP would apply, and I had made it clear on both  
21 those occasions, and I thought it was understood and  
22 agreed between all parties that, in fact, while this  
23 procedural rule does not contemplate it, clearly it was  
24 always contemplated for this proceeding that Mr.  
25 Hughes would be giving an opening statement, and  
26 that would be in form of direct examination from myself,  
27 and in addition, that Mr. Ludlow, when he takes the  
28 stand in a day or two, will be guided throughout his  
29 direct examination with a Powerpoint presentation.  
30 That format is identical to what was followed by  
31 Newfoundland Power in its capital budget last year and  
32 should come as no surprise to any of the participants in  
33 the room today because it has been openly discussed  
34 by counsel twice.

35 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
36 much. Mr. Browne, Consumer Advocate please?

37 MR. BROWNE, Q.C.: No, we have no, we find no fault  
38 with the practice of direct examination, the only thing  
39 we took exception to in the past were speeches by  
40 witnesses, so we'll keep it to that.

41 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
42 much. Ms. Greene, please?

43 MS. GREENE, Q.C.: Thank you, Mr. Chair, the  
44 procedural rules as outlined by Ms. Newman are  
45 acceptable to Hydro and the proposal by Ms. Butler, as  
46 she mentioned, was discussed with counsel and agreed

47 to by counsel previously, so I have no objection to  
48 that.

49 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
50 much. Ms. Newman, I wonder are there any other ...  
51 before we get started ... preliminary matters before us?

52 MS. NEWMAN: No, Mr. Chair, I'm not advised that  
53 there are any other matters that need to be addressed at  
54 this time.

55 MR. NOSEWORTHY, CHAIRMAN: I will provide the  
56 opportunity for counsel before we get into  
57 Newfoundland Power presenting their witnesses, for  
58 counsel to make any opening statement that they  
59 would like to make at this point in time, and I would ask  
60 then if they would outline for the purposes of the  
61 proceeding, any witnesses that you would intend to  
62 call as well, please, so we don't have, we don't have a  
63 procedure order per se relating to that in this particular  
64 circumstance, so I'd just like for all our benefit, if indeed  
65 counsel could outline for us any witnesses that they  
66 would intend to call. Newfoundland Power, please?

67 MS. BUTLER, Q.C.: Thank you again, Mr. Noseworthy.  
68 Before I actually give the brief opening statement on  
69 behalf of Newfoundland Power, there were a couple of  
70 procedural filing issues that Mr. Alteen was going to  
71 address.

72 MR. ALTEEN: Yes, Mr. Chairman, as Ms. Newman  
73 alluded to this morning, this morning we filed additional  
74 responses to 16 more requests for information with a  
75 couple of revisions. Currently outstanding it's in the  
76 order of six or seven questions which will be filed in the  
77 normal course over the next couple of days. As Mr.  
78 Wells has been introduced, I can inform the Board that  
79 full electronic copies of the record as of this morning  
80 have been made available to all counsel in this  
81 proceeding, and I have asked them to either inform me  
82 or Mr. Wells directly about their needs as to revisions,  
83 but we would intend to revise the disk or produce an  
84 additional disk at some time where the increment of  
85 additional evidence warrants, not necessarily on every  
86 single sheet of paper. That's all, Mr. Chairman.

87 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
88 Alteen. Ms. Butler, please?

89 MS. BUTLER, Q.C.: Thank you, Mr. Chairman. Good  
90 morning again, this is, of course, the hearing of  
91 Newfoundland Power's application filed, as Ms.

1 Newman indicated, originally on August 2nd, and  
2 amended on October 21st, 2002. The application is  
3 presented principally under Section 41 of the Public  
4 Utilities Act, seeking approval of Newfoundland  
5 Power's 2003 capital budget in the amount of \$55.8  
6 million. However, Mr. Chairman, the application also  
7 requests that the Board fix and determine the company's  
8 rate base for 2001 under Section 78 of the same Act.  
9 With the provision of Grant Thornton's report to the  
10 Board last Friday, we anticipate that this second issue  
11 would consume very little of the Board's time during the  
12 hearing.

13 With respect to witnesses, following  
14 identically the format from last year's capital budget  
15 hearing, there will be five witnesses. First, Mr. Philip  
16 Hughes, President and Chief Executive Officer, and Mr.  
17 Barry Perry, VP Finance and Chief Financial Officer will  
18 testify as a panel. They will be followed by Mr. Earl  
19 Ludlow, VP Engineering and Operations, who will give,  
20 as I indicated, a Powerpoint presentation in his direct  
21 exam, and Mr. Ludlow will be followed by a second  
22 panel comprised of Ms. Nora Duke, VP Customer and  
23 Corporate Services, and with her, Mr. Peter Collins, the  
24 Manager of Information Systems.

25 As we have openly discussed and agreed  
26 upon, Mr. Hughes will have a brief opening statement  
27 in a few minutes in the form of a direct exam. In fact, the  
28 only procedural difference, Mr. Chairman, between last  
29 year's capital budget hearing and this is the presence of  
30 Intervenor, which has understandably led to a more  
31 significant record. That record, in fact, now comprises  
32 in excess of 6,000 pages.

33 Newfoundland Power has faced an aggressive  
34 schedule in preparing for this hearing but as was  
35 indicated in the Board's guidelines, all RFIs that were  
36 filed on November 1st were, in fact, responded to by  
37 the date indicated on November 8th. Those presented  
38 after November 1st, Mr. Chairman, will be responded to  
39 certainly over the next few days, and just let me say  
40 that Newfoundland Power has responded to each and  
41 every RFI without objection on the basis of relevancy  
42 or otherwise, in the interest of having this capital  
43 budget addressed by the end of 2003, ultimately for the  
44 benefit of Newfoundland Power's customers, but we  
45 feel it appropriate to say we would not want that lack of  
46 objection to be taken as a precedent in any future  
47 hearings.

48 This hearing, Mr. Chairman, as you've already  
49 indicated, must be focused on the issues that require  
50 adjudication under the statute. It is a capital budget  
51 hearing, and we do seek the Board's assistance in  
52 assuring that the hearing does not stray into other  
53 areas that potentially will be the subject of the  
54 upcoming general rate application.

55 The hearing is an investigation into what  
56 Newfoundland Power proposes to spend in terms of  
57 capital in 2003. Section 37.1 of the Public Utilities Act  
58 mandates Newfoundland Power to provide service and  
59 facilities that are reasonably safe and adequate and just  
60 and reasonable. Safe and adequate facilities and just  
61 and reasonable services, Mr. Chairman, cannot be  
62 provided without capital expenditures.

63 Newfoundland Power also acknowledges the  
64 application of Section 3 of the Electrical Power Control  
65 Act which states, of course, that all sources and  
66 facilities for production, transmission, and distribution  
67 of power should be managed and operated in a manner  
68 that would result in the most efficient production,  
69 transmission, and distribution, with consumers having  
70 equitable access to an adequate supply of power, and  
71 power delivered at the least possible cost consistent  
72 with reliable service.

73 In essence, therefore, as you've indicated, the  
74 focus of this hearing is whether Newfoundland Power's  
75 proposal for \$55.8 million in capital expenditures in 2003  
76 is reasonably required for it to meet its statutory  
77 obligations to each of its 220,000 customers, regardless  
78 of whether they are residential, commercial, rural or  
79 urban, and regardless of whether these customers  
80 happen to fall in growth areas of the province, or areas  
81 of out migration.

82 Mr. Chairman, because Newfoundland Power's  
83 2003 capital budget is driven by reliability, customer  
84 service, and the other factors which will be addressed  
85 by Mr. Hughes, and because the capital budget process  
86 followed by Newfoundland Power is rigorous, at the  
87 conclusion of the hearing we anticipate we will be  
88 seeking approval of its 2003 capital budget as  
89 presented. Specifically, Newfoundland Power rejects  
90 the submissions of the Consumer Advocate in its actual  
91 intervention and subsequent submission, that this  
92 Board should prioritize projects stated in the capital  
93 budget over a three year period, and require  
94 Newfoundland Power to share a common VHF system

1 with Newfoundland Hydro. Those are our opening  
2 comments, thank you.

3 MR. NOSEWORTHY, CHAIRMAN: Thank you, Ms.  
4 Butler. Mr. Browne, do you have any opening remarks,  
5 please?

6 MR. BROWNE, Q.C.: Thank you, Mr. Chairman. We  
7 recognize that this is a capital budget hearing and our  
8 questions for the most part will be focused on that  
9 particular budget. However, we recognize as well that  
10 the capital budget is a large capital budget, as have the  
11 capital budgets been in previous years. For the last  
12 number of years the capital budgets seem to be out of  
13 whack with what had gone on prior to 1997. This has  
14 caused us concern and causes consumers concern  
15 ultimately because the company is building up its rate  
16 base at an alarming rate.

17 That is why we are making this intervention at  
18 this particular time. While it would be, in an ideal world,  
19 acceptable, I guess, from Newfoundland Power's  
20 perspective, just to deal with the capital budget, it's  
21 difficult to isolate the capital budget without looking at  
22 some aspects of the general rate application. One leads  
23 to the other. The capital budget leads to a build-up in  
24 rate base. Rate base leads to the return on rate base,  
25 and ultimately the return on equity. Everything is  
26 interrelated here, and some of our questions, I will tell  
27 you at the outset, will pertain to that. However, we do  
28 recognize that the general rate application, we will have  
29 a full and complete opportunity to address all issues  
30 pertaining to rate of return. That is not an area we will  
31 dwell upon, but it is an area that we will have to  
32 approach out of necessity from time to time.

33 Other than that, in reference to the witnesses  
34 that we intend to call, we will not be calling expert  
35 witnesses during this particular phase of the hearing.  
36 We will be calling witnesses during the general rate  
37 application. During this phase of the hearing we may  
38 be calling by way of subpoena, a number of witnesses,  
39 but we are reserving our rights on that until we hear  
40 what the Newfoundland Power witnesses have to say.  
41 We should be able to give the Board some idea of that  
42 early next week.

43 We retain our right to examine this budget  
44 fully and completely. We have asked for numerous  
45 information requests, as you've seen, and we find  
46 ourselves a little hard pressed, as I guess was  
47 Newfoundland Power in answering the request. We

48 got quite a number of requests back on Friday, and  
49 when we get these into our office, we send them to a  
50 printer, and we just got two volumes back from the  
51 printer at 12:00 yesterday, because of the Monday  
52 holiday. So, we are not as prepared as we could be at  
53 this point, but we are prepared to engage in the cross-  
54 examination of Mr. Hughes, at least for a period this  
55 morning. I think these are our only comments at this  
56 time. I should say, Mr. Fitzgerald will be cross-  
57 examining some witnesses as well. The area he will be  
58 crossing is the area of the information systems, the  
59 testimony of Ms. Duke and her associate.

60 MR. FITZGERALD: That's correct, Mr. Chairman, and  
61 also Ms. Butler just mentioned that all the information  
62 requests have been answered. In fact, we're stuck on  
63 one at this point, and it's our intention, and we have  
64 advised counsel this morning that we will be making a  
65 motion on Friday to hear an issue regarding disclosure  
66 of a particular information request. Thank you.

67 MR. NOSEWORTHY, CHAIRMAN: Thank you, Mr.  
68 Browne and Mr. Fitzgerald. Ms. Greene, Newfoundland  
69 and Labrador Hydro, do you have any opening  
70 comments?

71 MS. GREENE, Q.C.: Thank you, Mr. Chair. Hydro's  
72 interest in this particular application hearing is more of  
73 a policy/procedural type interest. Hydro is intervening  
74 in the hearing with respect to policies to be applied by  
75 the Board in approval of capital budgets for electrical  
76 utilities and also with respect to the procedure to be  
77 followed by electrical utilities in getting approval for a  
78 capital budget, so I would describe our interest as more  
79 of a policy/procedural type interest with respect to this  
80 particular hearing, and we will not be getting into the  
81 specifics of any particular capital projects.

82 With respect to witnesses, we will not be  
83 calling witnesses. We will, however, be cross-  
84 examining the witnesses to be called by Newfoundland  
85 Power, and in closing I would say again, that our  
86 interest in this proceeding is more of a  
87 policy/procedural type interest in view of the fact that  
88 we are also a utility subject to regulation by the Board  
89 and we believe that this hearing will be of significance  
90 with respect to the policies to be applied by the Board  
91 in approval of capital budgets and in the procedures to  
92 be followed by electrical utilities in the future. Thank  
93 you, Mr. Chair.

1 MR. NOSEWORTHY, CHAIRMAN: Thank you. Just  
2 a very brief comment as it relates to the interface, I  
3 guess, between the capital budget and certainly the  
4 general rate application, and it's ... the Board is really  
5 going to apply a fair bit of discipline, I think, in relation  
6 to trying to keep these as separate as possible.  
7 Certainly, I don't think it's in anybody's interest to get  
8 into a duplication here, and while it's recognized that  
9 there are perhaps grey areas that exist between the two,  
10 that indeed I would ask that counsel strive to try and  
11 keep ...

12 MR. BROWNE, Q.C.: Excuse me, Mr. Chairman, we  
13 can't hear you?

14 MR. NOSEWORTHY, CHAIRMAN: I would ask that  
15 counsel try and strive to keep the issues between the  
16 capital budget and the general rate application as clear  
17 and distinct as possible so that we don't get into any  
18 duplication and extended time that might apply to that,  
19 so I would indicate that we will be diligent in that  
20 regard. That's it for the opening statements. Ms.  
21 Newman, do you have any comments to make, or Mr.  
22 Kennedy?

23 MS. NEWMAN: No.

24 MR. KENNEDY: No, Mr. Chair.

25 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
26 much, I'll call upon Newfoundland Power and Ms.  
27 Butler, if you could present your witnesses please?

28 MS. BUTLER, Q.C.: Thank you, Mr. Chairman, I'll just  
29 make a brief response to points that came from Mr.  
30 Browne and Mr. Fitzgerald. First of all, with respect to  
31 relevancy, obviously we'll just object as we see  
32 appropriate, and in relation to the one RFI which I had  
33 indicated was answered, and which Mr. Fitzgerald has  
34 pointed out they have an issue with, it's one thing to be  
35 answered, and it's another thing to have an issue with  
36 it. We recognize that there is a dispute ongoing with  
37 respect to 87(e), and we were prepared to argue the  
38 responsibility for that on short notice, so we've actually  
39 indicated that we're content to have that argued on  
40 Friday morning. I wonder if my two witnesses could be  
41 sworn please?

42 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
43 much. I'd like to welcome Mr. Hughes and Mr. Perry.  
44 Mr. Hughes, do you swear on the Bible that you have  
45 in your hand that the evidence to be given by you shall  
46 be the truth, the whole truth, and nothing but the truth,  
47 so help you God?

48 MR. HUGHES: I do.

49 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
50 much, you may be seated. Mr. Perry, do you swear on  
51 the Bible that you have in your hand that the evidence  
52 to be given by you shall be the truth, the whole truth,  
53 and nothing but the truth, so help you God?

54 MR. PERRY: I do.

55 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
56 much, and welcome once again. Ms. Butler, please?

57 MS. BUTLER, Q.C.: Thank you. Mr. Hughes first. You  
58 are President and Chief Executive Officer of  
59 Newfoundland Power Inc.?

60 MR. HUGHES: That's correct.

61 MS. BUTLER, Q.C.: And you have filed pre-filed joint  
62 testimony with Mr. Barry Perry who is your VP  
63 Finance?

64 MR. HUGHES: That's correct.

65 MS. BUTLER, Q.C.: Do you adopt that testimony, Mr.  
66 Hughes, as part of your sworn testimony today?

67 MR. HUGHES: I do.

68 MS. BUTLER, Q.C.: And Mr. Perry, you are VP Finance  
69 and Chief Financial Officer of Newfoundland Power  
70 Inc.?

71 MR. PERRY: I am.

72 MS. BUTLER, Q.C.: And likewise filed the joint pre-  
73 filed testimony with Mr. Hughes?

74 MR. PERRY: I have.

75 MS. BUTLER, Q.C.: Do you also adopt this testimony  
76 as part of your sworn testimony today?

77 MR. PERRY: Yes, I do.

78 MS. BUTLER, Q.C.: Now since the application was  
79 filed on August 2nd, and your pre-filed testimony on  
80 October 28th, there has been substantial additions to

1 the record. This brief examination in chief is designed  
2 to give the opportunity to address the case as a whole.  
3 Mr. Hughes, can I ask you first, could you advise the  
4 Board what you have identified as the main drivers  
5 behind the 2003 capital budget of \$55.8 million?

6 MR. HUGHES: Certainly, good morning everybody, I  
7 am pleased to address what the main drivers are and  
8 really to set the scene for the capital budget. The main  
9 drivers for this \$55.8 million capital budget are  
10 reliability, customer service, productivity, safety,  
11 environment, new services, and customer expectations.  
12 This is consistent with the previous five capital  
13 budgets.

14 As we know, a sound electrical system is  
15 becoming increasingly important in today's  
16 technologically dependent economy. This is obviously  
17 due to the use of electronics and microprocessors that  
18 are now prevalent throughout industry, particularly in  
19 fish plants ... where it's also in terms of electrical  
20 system, microprocessors in home and business  
21 computers, and growing global competition. Even  
22 short interruptions in service are becoming far less  
23 acceptable to customers and there's an increasing high  
24 level of expectations from customers.

25 MS. BUTLER, Q.C.: Thank you, are there any other  
26 factors that impact Newfoundland Power's 2003 capital  
27 budget?

28 MR. HUGHES: Yes, there are. Firstly, as anybody who  
29 is familiar with the utility industry knows, it's a very  
30 capital intensive industry. To put this into perspective  
31 for Newfoundland Power, we have spent approximately  
32 \$1 billion to build our electrical system. The \$1 billion  
33 is the original cost of the assets that are in service  
34 today. It's approximately \$1 billion. When you stop to  
35 think of the nature of the system, it is not difficult to  
36 understand the level of investment that's required.  
37 We're not connected to the North American grid. In  
38 other words, we're an isolated, stand-alone electrical  
39 system, and as Mr. Ludlow will explain far better than  
40 me, there are a lot of decisions that have to be made  
41 and items that are affected in the capital budget that  
42 come from being a stand-alone system.

43 Weather conditions, for a utility,  
44 Newfoundland's weather is about as bad as it can be.  
45 Utilities, the weather that's the worst for utilities is  
46 where you get rain, freezing rain, or snow in the plus  
47 one to about minus six range, because that's where you

48 get the freezing rain, that's where you get the coating  
49 on the lines, and that's what, with freezing rain and high  
50 winds will bring down lines. It's the worst temperature  
51 range, and as we all know, we get a reasonable amount  
52 of that. Also salt spray, and over the previous capital  
53 budgets, we've talked about the effect of salt on  
54 equipment. The age of the system, we have a system  
55 that is reasonably old, so those are the factors that  
56 really describe the nature of the system.

57 We have continued to invest in rural  
58 Newfoundland, despite the significant out migration  
59 in these areas, while at the same time meeting the growth  
60 requirements of the Avalon Peninsula. The quality and  
61 condition of that infrastructure is vital to our ability to  
62 provide quality service for our customers at the lowest  
63 possible cost.

64 MS. BUTLER, Q.C.: Thank you, Mr. Hughes, what do  
65 you see as the significant components of the 2003  
66 capital budget as presented?

67 MR. HUGHES: In terms of the main components, about  
68 51 percent or \$28 million will be used for asset  
69 replacement and upgrading of our older plant, so just  
70 over half, or \$28 million is asset replacement and  
71 upgrading. Replacing these assets costs much more  
72 than the original equipment. It's costing in the order  
73 three and a half times the original cost for a 30 year old  
74 asset, so if an asset was \$100 thirty years ago, it's now  
75 \$350. There's 51 percent for replacement and  
76 upgrading. New capital investment, largely for new  
77 growth areas, totals approximately 20 percent or \$11  
78 million, and this is really, as you would expect, new  
79 customers, new services, or additional load capacity.  
80 There's a further ten percent that's technology  
81 investment, and that's approximately \$6 million of the  
82 budget. This level of investment is needed to support  
83 the electrical system and the processes required in the  
84 operation of the business. The other way we use  
85 technology is it's also necessary to achieve  
86 productivity improvements, and operational efficiency  
87 that will benefit all customers. The quality of service  
88 and customer interactions with Newfoundland Power is  
89 enhanced through the use of technology, and I think  
90 it's fair to say that we are making progress. Our  
91 customer satisfaction has increased from 70 percent in  
92 1996 to 90 percent in 2001 and 2002.

93 As I mentioned earlier, Earl Ludlow, who is our  
94 VP Engineering and Operations, will follow me. Nora  
95 Duke, who is Vice-President, Customer and Corporate



1 Services, and Peter Collins, who is Manager of IS, they  
2 will provide a more detailed review of the specific  
3 capital budget initiatives.

4 MS. BUTLER, Q.C.: Thank you, now Mr. Browne has  
5 already raised in his opening address this morning, Mr.  
6 Hughes, the actual size of the 2003 capital budget.  
7 Would you comment on the overall size of the  
8 proposed 2003 capital budget for the benefit of the  
9 Board, please?

10 MR. HUGHES: Certainly. Maybe the way to start is  
11 look at it from a historical perspective. Over the last 20  
12 years, the average annual capital budget, adjusted for  
13 inflation, is approximately \$48 million. If you take the  
14 2003 capital budget and you take out the Aliant poles  
15 and you adjust for inflation, it's approximately \$50  
16 million, so you've got a historical average of \$48 million,  
17 you've got a 2003 of \$50 million adjusted for inflation  
18 and Aliant, so therefore, the 2003 proposed capital  
19 budget is essentially the same as the average for the  
20 last 20 years on a like-to-like basis.

21 I think the other aspect to think about the size,  
22 and to judge whether it's reasonable or not, and I think  
23 it's a very fair question, is that, and I talked before  
24 about we're a capital intensive business. You've got a  
25 billion dollars in original capital costs. The average life  
26 of assets is 30 years, some of the ones we're going to be  
27 talking about are older. For example, the Lockston  
28 Penstock (*phonetic*) was put in place in 1956. We've  
29 also, talking about the size of the business, we've got  
30 approximately 220,000 customers, we've got  
31 approximately 250,000 poles, \$380 million in sales, and  
32 we've got fewer employees than we've ever had. So if  
33 you put all that ... capital intensive, the size of the  
34 business together, intuitively, a capital budget of \$55.8  
35 million is very reasonable.

36 MS. BUTLER, Q.C.: Mr. Hughes, historically, what do  
37 you see as the principal differences between this year's  
38 capital budget and those that have been presented to  
39 the Board for approval in the past?

40 MR. HUGHES: If you will permit me, I'm going to go  
41 and take us through the last 20 years. In the late  
42 eighties and early nineties, and the reason I'm going to  
43 do that is try and put it into perspective, because the  
44 different phases and different capital budgets are  
45 relevant at different times. In the late eighties and early  
46 nineties, our capital budget focus was on construction  
47 and building the system to meet the customer growth

48 and demand. As we moved into the period from 1993 to  
49 1997, we drastically reduced the level of investment to  
50 reflect the economic conditions of the day, in other  
51 words, the cod moratorium. With hindsight, we  
52 probably went too far in our reduction in capital  
53 expenditures, whether in energy supply with penstock  
54 surge tanks, or on the electrical system. Why do I  
55 believe this? For two reasons. One, what we see now  
56 in the system, and two, if you go back to those times,  
57 about the comment that was at that time, and we're  
58 talking the period of '93 to '97 when there was the  
59 reduction. In 1995, civic officials from the community of  
60 Branch, and this is down below one, made complaints  
61 to the Board regarding the number and length of  
62 service outages experienced in the community.

63 In the period from 1995 to 1997 civic officials  
64 from the communities of Bay de Verde, Old Perlican,  
65 and Grate's Cove ... is is Old Perlican, 01, made  
66 complaints to the Board regarding the number and  
67 length of service outages experienced in their  
68 communities. There is absolutely no doubt that the  
69 customers served by those feeders were dissatisfied  
70 with the reliability of the service provided. This level of  
71 expenditure in the early nineties reduced reliability and  
72 the quality of electrical service to our customers. It was  
73 decided in 1997 that reliability had to be improved and  
74 the capital program had to be adjusted.

75 Mr. D.G. Browne, as opposed to Mr. D.M.  
76 Browne, the Board's own engineering expert, clearly  
77 indicated in his 1998 report, and this is the Board's  
78 expert, that Newfoundland Power should seek to  
79 improve its reliability performance, and this is in 1998.  
80 Mr. Browne, D.G. Browne, concluded, it is important  
81 that the utility maintain and, in fact, seek to improve its  
82 performance in this regard.

83 We were obviously not adequately meeting  
84 and maintaining the system, or meeting the needs of  
85 our customers. Based upon the condition of the overall  
86 system, we could see that operating costs were rising,  
87 but that wasn't the only problem. There were also  
88 safety and environmental concerns, particularly on  
89 surge tanks and penstocks.

90 What have we done about this? Over the last  
91 four years we have addressed specific electrical system  
92 reliability concerns, whether they be equipment on the  
93 insulator replacement program, or individual feeders, we  
94 have addressed safety issues such as replacing failing  
95 surge tanks. We have improved the efficiency and

1 reliability of our generation, whether it be runners,  
2 penstocks, gas turbines, and we've also focused capital  
3 expenditures on improving customer service,  
4 productivity, safety, environment, or replacing obsolete  
5 technology.

6         So what's this done to operating costs? Since  
7 1997 operating costs per customer has declined from  
8 \$292 per customer, to \$245 in 2002. That's a reduction  
9 of 16 percent. The customer satisfaction in 1996 was  
10 only 70 percent, it's now 90. To view the capital budget  
11 on a consistent basis, we should adjust the Aliant  
12 expenditures in the years 2001 to 2003 which were \$32  
13 million. Customers have and will continue to benefit  
14 from that Aliant transaction. With that adjustment in  
15 looking at the 2003 capital budget, I view it as similar in  
16 nature and direction as the last five capital budgets,  
17 and personally, I suspect that this trend will continue  
18 for the next couple of years. After that it's hard to  
19 foresee, but I expect it will continue in the same  
20 direction for the next couple of years.

21 MS. BUTLER, Q.C.: Thank you, Mr. Hughes, can you  
22 put the proposed 2003 capital budget in context for the  
23 Board, please?

24 MR. HUGHES: Certainly. I think context is important.  
25 Our electrical system is comprised of over 10,000  
26 kilometers of transmission and distribution lines.  
27 We've got 137 substations, 23 hydro plants, and as  
28 we've mentioned, at an original cost of nearly \$1 billion,  
29 and where is the money being spent? Is it being spent  
30 in the right places? I think it is. About 80 percent is  
31 being spent on the electrical system and generation.  
32 It's being spent where it matters.

33         Technology, is this the right size? We're  
34 spending approximately ten percent. That also strikes  
35 me as reasonable. We do need decent computer  
36 systems to support the business processes. We  
37 process approximately two and a half million bills,  
38 customer bills every year, and we receive approximately  
39 half a million customer calls every year, so technology  
40 supports the processes and it also enhances  
41 productivity. If we're lucky it does both, but often it  
42 will do one or the other.

43         Reliability, another very important issue.  
44 Reliability is fairly good, but it's not too good, and it  
45 needs to improve. Our SAIDI forecast, and that's  
46 duration, so in other words it's in hours and it's for the  
47 average customer ... an average customer in 2002, we're

48 forecasting will experience outages in time of five and  
49 a half hours. SAIFI, which is frequency or times, how  
50 many times you experience outages, the average  
51 customer will experience five and a quarter times in  
52 outages. It's too much. Why do I say it's too much?  
53 Because this is below the Canadian and Atlantic  
54 Canada averages.

55 MS. BUTLER, Q.C.: Mr. Hughes, does Newfoundland  
56 Power's capital investment as proposed in the 2003  
57 capital budget affect Newfoundland Power's operating  
58 costs?

59 MR. HUGHES: Yes, it does. Capital obviously has an  
60 effect on operating costs. If you've got sound capital  
61 investment, it will reduce operating costs, and our aim  
62 is to provide the level of service that meets our  
63 customers' expectations in the most cost effective  
64 manner possible. We try and do this, and we have  
65 achieved this, I believe, by controlling our costs  
66 through sound capital investment and effective  
67 management, and we think we're doing a fairly good job  
68 at controlling our costs. The workforce has decreased  
69 by approximately 33 percent from 1,004 employees in  
70 1992 to 665 in 2002. 2001 operating costs per customer  
71 is at its lowest level in ten years, operating costs have  
72 been reduced by 22 percent since 1992, so I would  
73 contend that from any business comparative or  
74 regulatory stand, whatever stand that you want to  
75 choose, this is a pretty impressive operating  
76 performance.

77 MS. BUTLER, Q.C.: How much specifically has  
78 Newfoundland Power spent on capital investment over  
79 the past ten years?

80 MR. HUGHES: Over the last ten years we have spent  
81 in excess of \$400 million.

82 MS. BUTLER, Q.C.: And in that same period, Mr.  
83 Hughes, what has happened to Newfoundland Power's  
84 electrical rates?

85 MR. HUGHES: If we look at base Newfoundland Power  
86 electrical rates for the same period that we spent the  
87 \$400 million, and if we exclude flow-through increases  
88 from Hydro, our rates over that ten year period have  
89 increased 1.3 percent. Inflation during this time was  
90 approximately 17 percent, or 15.7 percent higher.

1 MS. BUTLER, Q.C.: Comparatively, how much has  
2 Newfoundland Power spent on capital investment over  
3 the past five years?

4 MR. HUGHES: In the last five years we have spent  
5 \$250 million on capital investment.

6 MS. BUTLER, Q.C.: And what has happened to  
7 Newfoundland Power's electrical rates in that period?

8 MR. HUGHES: If we do the same thing and look at  
9 base Newfoundland Power electrical rates, in the last  
10 five years our rates have decreased by one percent over  
11 those past five years and I believe inflation during this  
12 time was about 8 percent.

13 MS. BUTLER, Q.C.: What has ... I'm sorry, what do you  
14 achieve from sound capital investment, Mr. Hughes?

15 MR. HUGHES: If you're investing capital in the right  
16 places, the following things will happen. You will  
17 maximize asset lives. Our recently filed depreciation  
18 study shows that asset lives are getting longer. The  
19 expected life of distribution plant has increased from 28  
20 years to 30 years, so we're getting another two years  
21 out of those assets. Also, if we're investing in the right  
22 place, you'll be able to respond to demands for new  
23 services. It's less disruptive, you can bring them in.  
24 We should also improve productivity and you've got to  
25 look at the quality of equipment. For example, our pole  
26 mounted stainless steel transformers now have a 20  
27 year warranty. For those that were here a few years  
28 ago, remember Mr. Evans bringing in a transformer, and  
29 I think it was about five or six years old, where the salt  
30 had corroded it so that it was basically junk.

31 MS. BUTLER, Q.C.: Now, Mr. Hughes, Newfoundland  
32 and Labrador Hydro, of course, also recently submitted  
33 their 2003 capital budget to the Board for approval. As  
34 President of Newfoundland Power Inc., can you tell the  
35 Board your view on whether there are duplication of  
36 capital expenditures between the two utilities and/or  
37 opportunities to cooperate?

38 MR. HUGHES: There's certainly potential for  
39 duplication, there's no doubt about that. In terms of the  
40 capital program, generally the less potential for  
41 duplication is in terms of capital programs. In terms of  
42 generation, Hydro's generation is in general terms much  
43 larger than Newfoundland Power's. In terms of  
44 transmission, in general terms, Hydro has a much  
45 higher voltage than Newfoundland Power, and in terms

46 of distribution there is a different geographical service  
47 territory. There is a risk of duplication in capital  
48 expenditures for buildings, and accounting systems,  
49 such as billing, customer service systems, and the call  
50 centre. The last part of your question asked me about  
51 cooperation. Newfoundland Power and Hydro have  
52 always cooperated on a number of levels and the most  
53 recent ones are the reliability committee, joint system  
54 and loading planning, outage planning, construction  
55 activities, system control centres, sharing of services  
56 and equipment. Having said all that, the reality is we  
57 are two separate companies.

58 MS. BUTLER, Q.C.: Mr. Hughes, I wonder if you could  
59 address for the Board now the process which was  
60 followed within Newfoundland Power in terms of the  
61 preparation of the capital budget?

62 MR. HUGHES: I just need to sneak some water.  
63 (inaudible). The question was what's the process that  
64 we follow in preparing the capital budget. First of all,  
65 it's a very rigorous process. It varies in timing slightly  
66 every year, but I'm going to describe a general process  
67 and it's pretty similar to what happened this year. The  
68 process begins in the spring with a preliminary review  
69 of the various inputs such as forecasted customer and  
70 sales growth, reliability performance, condition of the  
71 plant and equipment, safety, and environment. Next,  
72 plant and equipment is reviewed in the field and  
73 discussed by the management group, in particular the  
74 engineering and operations group, and the various  
75 inputs that I previously described are updated. What  
76 then happens is a list of capital projects is then  
77 proposed, it's reviewed, discussed and challenged by  
78 the management group, and then once that list of  
79 projects, people are getting fairly comfortable with it,  
80 that's when the capital budget is then developed. It's  
81 reviewed and modified by senior management. In  
82 particular, the capital budget's effect on reliability,  
83 customers, financial implications, productivity, etcetera,  
84 are considered.

85 It's then submitted to our Board of Directors  
86 and ultimately to the Public Utilities Board for approval.  
87 The only real difference year to year is you might be  
88 three to five weeks in timing one way or the other, but  
89 the process tends to go pretty much like that.

90 MS. BUTLER, Q.C.: And finally, Mr. Hughes, I wonder  
91 if you could summarize please, Newfoundland Power's  
92 2003 capital budget for the Board?

1 MR. HUGHES: So how do we sum up the capital  
2 budget? First of all, it's a refurbishment of the electrical  
3 system to improve reliability, and that's the central  
4 aspect of our capital budget. We have gone through  
5 an extremely diligent internal process to produce the  
6 capital budget, and for 2003, \$55.8 million is the lowest  
7 reasonable budget. We have to invest in areas of  
8 customer growth such as the Avalon Peninsula,  
9 however, and this is very important, this does not  
10 lessen our commitment to rural Newfoundland. We will  
11 continue to invest in providing quality service to all our  
12 customers. We're proud of our track record in having  
13 to have been able to deliver safe reliable electrical  
14 service to our customers in the most cost efficient  
15 manner possible. Our customers continue to benefit  
16 from the lowest rates in Atlantic Canada. How have we  
17 been able to do that? We have been able to do this by  
18 investing wisely in the electrical system, enhancing our  
19 low cost generating plants, and increasing productivity,  
20 and I believe we have demonstrated that we're on the  
21 right path. But we can do better. We must continue to  
22 be diligent, we've got to continue to improve if we are  
23 to meet our customers' expectations, and their  
24 expectations are increasing. We're far from perfect, but  
25 we're working hard to give our customers the kind of  
26 service that they deserve.

27 MS. BUTLER, Q.C.: Thank you. Mr. Perry, have you  
28 come prepared to address the issues of rate base and  
29 Newfoundland Power's financing plan?

30 MR. PERRY: Yes, I have.

31 MS. BUTLER, Q.C.: And have you supervised the  
32 preparation of the calculation of rate base which is  
33 contained in Newfoundland Power's application at  
34 Schedule F?

35 MR. PERRY: Yes, I have.

36 MS. BUTLER, Q.C.: And this calculation, Mr. Perry,  
37 can you tell the Board, is it in accordance with previous  
38 orders and practices of the Board?

39 MR. PERRY: Yes, it is.

40 MS. BUTLER, Q.C.: Would you review for the Board,  
41 and I wonder, Mr. Wells, if we might actually have  
42 Schedule F on the screen, feel free to refer to any other  
43 exhibits that may be needed, Mr. Perry, but the  
44 company's application to fix its average rate base for

45 2001 at \$545,162,000, can you review that for the Board  
46 please?

47 MR. PERRY: Yes, I can. Before we refer to the screen,  
48 I'd like to do a brief overview of the components of rate  
49 base for the Board. Rate base mainly consists of the  
50 company's fixed assets. The company is allowed under  
51 regulation to earn a return on that rate base. Capital  
52 expenditures that are approved by this Board annually  
53 increase the rate base and depreciation expense causes  
54 the rate base to decrease. The Board also approves the  
55 company's depreciation rates. Now if we look at the  
56 screen, Schedule F deals with rate base and if we can  
57 scroll down, Mr. Wells, to the bottom of the page, you  
58 look at the second column, the bottom number, the  
59 company's actual average rate base for 2001 amounted  
60 to \$545,162,000. I'd like to take the Board through the  
61 main components of rate base, Mr. Wells, and if we  
62 could scroll back up to the top. Rate base starts with  
63 plant investment. In 2001 Newfoundland Power had  
64 invested approximately \$971 million into its plant. From  
65 this is then deducted accumulated depreciation  
66 totalling approximately \$408 million. Other factors such  
67 as contributions in aid of construction, deferred income  
68 taxes, weather normalization reserve, contributions for  
69 country homes, also impact rate base, and if we could  
70 scroll down a little further, Mr. Wells, items such as one  
71 time adjustments ordered by the Board, for example, the  
72 adjustment for the Duffy Place land, as well as cash  
73 working capital allowances and materials and supplies,  
74 also influence rate base.

75 The rate base for 2001 increased over 2000  
76 principally due to the 2001 capital program including  
77 the purchase of \$20 million of Aliant Telecom joint use  
78 poles, and the capital program, and the Aliant purchase  
79 were approved by this Board. Finally, I would like to  
80 point out that the \$545,162,000 is an average of the  
81 opening and closing rate base amounts for 2001.

82 MS. BUTLER, Q.C.: Thank you, Mr. Perry. Now, since  
83 you've filed your application on August the 2nd, and  
84 Schedule F, of course, was attached to it, has  
85 Newfoundland Power received the annual financial  
86 review by the Public Utilities Board's auditors?

87 MR. PERRY: Yes, that's correct.

88 MS. BUTLER, Q.C.: And what were Grant Thornton's  
89 conclusions on Newfoundland Power's calculation of  
90 rate base as we see it on Schedule F?

1 MR. PERRY: Well first the Board's auditor has agreed  
2 to the methodology used in the calculation of the  
3 average rate base to the Public Utilities Act to ensure  
4 the company is in accordance with established policy  
5 and procedure. The Board's auditor concludes that the  
6 ...

7 MR. BROWNE, Q.C.: Excuse me, can the witness state  
8 what he's reading from? Is there a report or something  
9 that we could, that you could point us to, Ms. Butler?

10 MS. BUTLER, Q.C.: I asked the question relative to the  
11 2001 Grant Thornton report which was provided to all  
12 of us last Friday, and I think it's at ... if you have a page  
13 number you might give that, Mr. Perry?

14 MR. PERRY: I don't have a page number, Ms. Butler,  
15 but it is in the front part of the 2001 report. It's  
16 probably the first or second item in the report.

17 MS. BUTLER, Q.C.: And is that ...

18 MR. ALTEEN: CA-124 might be a place to look, the  
19 response to ...

20 MS. BUTLER, Q.C.: I believe it's actually page four, I'm  
21 going by memory. Okay, I'll just give Mr. Browne a  
22 moment to follow.

23 MR. ALTEEN: Page four, that's correct, and continued  
24 on to page five.

25 MR. BROWNE, Q.C.: Thank you, go ahead, I'm fine.

26 MS. BUTLER, Q.C.: Yes, 2001, sorry, Mr. Perry.

27 MR. PERRY: The Board's auditor concludes that  
28 average rate base included in the company's 2001  
29 annual report to the Board, which is the same as shown  
30 in Schedule F is accurate and in accordance with  
31 established practice.

32 MS. BUTLER, Q.C.: Thank you, now in relation to the  
33 capital budget itself, and leaving rate base for the  
34 moment, I wonder if you might refer now to Section 5 of  
35 your pre-filed testimony which is at page 13 of your  
36 pre-filed. Yeah, I'm just waiting for Mr. Wells to enlarge  
37 that. Thank you very much. Okay, if we start with lines  
38 10 and it goes all the way down to the bottom of the  
39 page, but you can scroll up a bit then, Mr. Wells, for us,  
40 yes, and just keep the heading of Section 5 in our view.  
41 Thank you. Now Newfoundland Power proposes, as

42 we have already indicated, to spend approximately  
43 \$55.8 million in the 2003 capital budget. Could you  
44 explain to the Board how this capital expenditure will  
45 effect the company's financing requirement?

46 MR. PERRY: Yes, I can. As stated in my evidence, the  
47 funds required to finance the company's capital  
48 program will come from internal cash flow and from the  
49 issuance of debt. Initially a combination of internally  
50 generated cash flow, that is shareholders' equity and  
51 short-term debt are utilized. When short-term  
52 borrowing requirements approach a level where the  
53 company considers a long-term financing to be  
54 appropriate, the short-term portion is replaced with  
55 long-term debt. Currently the company does not  
56 contemplate doing a long-term debt issue until  
57 sometime in 2005.

58 MS. BUTLER, Q.C.: Thank you, Mr. Perry. Mr.  
59 Chairman, that concludes the direct examination of this  
60 panel, thank you very much.

61 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
62 much, Ms. Butler, Mr. Hughes, and Mr. Perry. It's ten  
63 to 11:00. I think we will start, Mr. Browne, if that's okay  
64 with you, on the first cross?

65 MR. BROWNE, Q.C.: When are we breaking?

66 MR. NOSEWORTHY, CHAIRMAN: Pardon?

67 MR. BROWNE, Q.C.: When are we breaking?

68 MR. NOSEWORTHY, CHAIRMAN: We were looking  
69 to break at 11:00.

70 MR. BROWNE, Q.C.: Okay, sure, I'll ask some ...

71 MR. NOSEWORTHY, CHAIRMAN: If I may just to  
72 clarify starting out, if indeed the questions, I think we  
73 discussed it throughout the Hydro hearing, it wouldn't  
74 be a tag team approach here, that indeed in the first  
75 instance, Mr. Browne, if you have questions for either  
76 of the witnesses, that you would indeed pose those  
77 questions and then offer the opportunity for Mr.  
78 Fitzgerald as a second instalment, if you will, if that's  
79 acceptable, thank you.

80 MR. BROWNE, Q.C.: Thank you, Mr. Chairman. Good  
81 morning, Mr. Hughes and Mr. Perry.

82 MR. HUGHES: Good morning, Mr. Browne.

- 1 MR. BROWNE, Q.C.: Mr. Perry, welcome to the  
2 hearing. Mr. Hughes, I'll just take you to your resume  
3 for a moment, and it's found on page two of the 2003  
4 capital budget application, page (ii) I should say.
- 5 MR. ALTEEN: So, (ii) to the evidence that I believe Mr.  
6 Browne is ...
- 7 MR. BROWNE, Q.C.: Yes, I'm sorry, the pre-filed  
8 evidence, the evidence of October 28th. On, and I don't  
9 know if you need to refer to it ...
- 10 MR. HUGHES: I wouldn't have thought so. To save  
11 me from trying to find it, so why don't you ask me  
12 anyway, Mr. Browne.
- 13 MR. BROWNE, Q.C.: Okay, I'll go ahead. Are you a  
14 director of any of the associated companies of Fortis,  
15 are you a director?
- 16 MR. HUGHES: Yes, I am.
- 17 MR. BROWNE, Q.C.: Okay, now you failed to mention  
18 on the resume which ones you're a director of, can you  
19 list those for us?
- 20 MR. HUGHES: The ones that I'd be able to list are the  
21 ones where there's a fair amount of activity. I am ...  
22 Newfoundland Power, Belize Electricity.
- 23 MR. BROWNE, Q.C.: Belize Electricity?
- 24 MR. HUGHES: Yes, Belize Electricity Limited, Belize  
25 Electricity Company Limited, which is BECL, as  
26 opposed to BEL. I believe I'm a director of Central  
27 Newfoundland Energy. I'm Chair of the Exploits River  
28 Partnership. There are also, Mr. Browne, and I just can't  
29 remember, there are some other companies that are  
30 essentially holding companies that I'm also a director  
31 of, I believe, but I'm not really certain.
- 32 MR. BROWNE, Q.C.: Are you a director of Maritime  
33 Electric at this time?
- 34 MR. HUGHES: Yes, I am. Sorry, I obviously forgot to  
35 mention that one.
- 36 MR. BROWNE, Q.C.: And what about Niagara.
- 37 MR. HUGHES: Niagara, I'm not.
- 38 MR. BROWNE, Q.C.: Were you at any time?
- 39 MR. HUGHES: No.
- 40 MR. BROWNE, Q.C.: Now these companies from  
41 Belize, are they just a syndicate of companies, a holding  
42 company, etcetera?
- 43 MR. HUGHES: No, no, no, they're not.
- 44 MR. BROWNE, Q.C.: You listed three, are they ...
- 45 MR. HUGHES: Sorry?
- 46 MR. BROWNE, Q.C.: You listed three companies, what  
47 is your role in the three companies?
- 48 MR. HUGHES: I meant to do two. The main  
49 companies, the companies that actually operate as  
50 opposed to holding companies, there's two companies  
51 in Belize. We call them BEL and BECL. BEL is the  
52 company that's similar to Newfoundland Power, it's the  
53 electrical utility. It has some generation and it's got the  
54 franchise for the whole of Belize. BECL has one asset,  
55 and that's the Mollejon hydro plant that we acquired  
56 from Duke (*phonetic*). All this stuff is on the public  
57 record, and that company has different ownership than  
58 BEL. In BEL, Fortis owns ... can I use approximate  
59 numbers, orders of magnitude? Fortis owns  
60 approximately 70 percent of BEL. Individual  
61 shareholders own about 30 percent. This is orders of  
62 magnitude. It might be 68 and 32 or something like that.  
63 BECL, which is the one with the plant, Fortis owns, I  
64 believe it's 95 percent and five percent is owned by the  
65 Bolivian government.
- 66 MR. BROWNE, Q.C.: Now Belize Electricity, is that a  
67 generating company or a distributing company?
- 68 MR. HUGHES: This is where I described it as similar in  
69 nature to Newfoundland Power. It is mainly a  
70 transmission distribution company, however, because  
71 of the Belize energy supply, it has a reasonable amount  
72 of diesel. It's just purchasing a gas turbine, so it has a  
73 reasonable amount of generation inside BEL.
- 74 MR. BROWNE, Q.C.: What assistance, if any, have the  
75 employees of Newfoundland Power given to Belize  
76 Electrical over the years?
- 77 MR. HUGHES: Am I allowed just to answer from  
78 general knowledge?
- 79 MR. BROWNE, Q.C.: Just in a general form, sure.

1 MR. HUGHES: We've, if I can go through it by from  
2 (inaudible). We've provided safety training, we've  
3 provided employee development training, we've  
4 provided some engineering support, and Mr. Perry,  
5 there's some other things as well, can you remember?  
6 Oh, regulatory advice. I think they're the main  
7 categories and I suspect ... oh, and Mr. Myers, who is  
8 in the room, conducts internal audits for them. In  
9 general terms, that's what it is.

10 MR. BROWNE, Q.C.: And of course, at the next stage  
11 of the hearing when we're dealing with inter-company  
12 transactions, we'll visit it in more detail, but for our  
13 purposes here, what assets of Newfoundland Power,  
14 that are paid for by the ratepayers of Newfoundland  
15 Power, have been used through Belize Electric?

16 MR. HUGHES: I can't think of any assets. The only  
17 thing I think has ever occurred was when they had the  
18 hurricane and we sent line persons down there. They  
19 took some of their own tools with them, but they  
20 brought them back, so I don't believe there was any  
21 assets on that thing. We did sell them two trucks, and  
22 I can't remember when it was, but I assume it's  
23 somewhere on the public record. Other than that, I  
24 can't think of any assets that have ever been used in  
25 Belize. That's not to say there aren't, I just can't think of  
26 it. But I think I would know if it was material. I can't  
27 think why I wouldn't know.

28 MR. PERRY: Just all of our transactions on Belize  
29 Electricity Limited and BECL, as well as other Fortis  
30 companies, are disclosed quarterly to the Board in the  
31 company's inter-company report filing, and details are  
32 listed in that report.

33 MR. BROWNE, Q.C.: In terms of Belize Electric, have  
34 employees of Belize Electric come to Newfoundland to  
35 be trained using the assets of Newfoundland Power?

36 MR. HUGHES: They certainly come to be trained.  
37 Most of the people I can think of are people like  
38 customer service, purchasing, engineering, things like  
39 that. No line persons as far as I know have ever come.  
40 In terms of assets, I would, I can't think, but that's not  
41 to say it's never happened, where what I would call the  
42 electrical system assets, the transformers, the poles, the  
43 substations, that kind of stuff, but certainly I'm sure  
44 they must have used computers or something like that.  
45 I'm trying to answer your question, Mr. Browne, in its  
46 widest sense, I assume that's what you want.

47 MR. BROWNE, Q.C.: Sure, in the widest sense at this  
48 point.

49 MR. HUGHES: Yes, so computers, I would say yes.  
50 What I would call the electrical system assets, which is  
51 obviously the bulk of it, I would tend to think no,  
52 because of the kind of people that have come. They  
53 tend to be ... if you did it in Newfoundland Power's sort  
54 of positions, they tend to be the President, Vice-  
55 President, Manager, Director level, so they tend not to  
56 really use assets other than computers.

57 MR. BROWNE, Q.C.: And when you say they use  
58 computers, are these computers that are paid for by the  
59 ratepayers of Newfoundland Power?

60 MR. HUGHES: I'm sure that they've been in  
61 somebody's office and somebody has shown them  
62 something on the computer so in that sense, I suppose  
63 the answer is yes, Mr. Browne.

64 MR. BROWNE, Q.C.: And when we use the word  
65 "they", the pronoun "they", and we particularize that  
66 by telling how many employees we're talking about that  
67 come from Belize to Newfoundland Power for training  
68 and using computers at Newfoundland Power, for  
69 instance, are we talking about one, or two, or three, or  
70 ten, or twenty, can you ballpark it for us over the last  
71 year, say?

72 MR. HUGHES: I would say over the last whatever it is,  
73 three or four years, it's been 20 individuals, you know,  
74 it might be 14, it might be 23, but I'm ... it's somewhere  
75 around there.

76 MR. BROWNE, Q.C.: And when they come, is that for  
77 training in an office, are they in an office environment,  
78 the 14 or 20, or is it for training out in the field with the  
79 linesmen or whatever?

80 MR. HUGHES: Well, first of all, they don't come in a  
81 group, they tend to come individually.

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

83 MR. HUGHES: So most of the training is discussions  
84 with individuals, their counterparts, so say like a  
85 purchasing manager will discuss issues with the  
86 purchasing manager, an engineer will discuss matters  
87 with an engineer, so that's how it works. It's mainly  
88 discussion.

1 MR. BROWNE, Q.C.: And would there be training by  
2 linesmen, to train the linesmen from Belize, for instance,  
3 would Newfoundland Power's linesmen be out there  
4 training them?

5 MR. HUGHES: We're probably better off to check with  
6 Mr. Ludlow, but my understanding is that the training  
7 that's been done in Newfoundland, there hasn't been  
8 any, but I could be wrong on that, Mr. Browne, and the  
9 reason I'm saying that is because although an engineer  
10 has to know what's going on in the field, how you do a  
11 pole top rescue or how you, you know, change a  
12 transformer in a back lot or something like that, isn't  
13 that useful for an engineer. It's what your front line  
14 people need to know, so that's why I tend to think that.

15 MR. BROWNE, Q.C.: I see the Chairman looking at his  
16 watch, and it is 11:00, so will we break or ...

17 MR. NOSEWORTHY, CHAIRMAN: We will, thank  
18 you, and we'll break until 11:30, and I would ask, the  
19 revised sitting schedule that we have provides for a  
20 half hour break, so I would ask that we be diligent in  
21 our return so we can commence at 11:30 promptly, thank  
22 you.

23 *(break)*

24 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, if I  
25 could ask you to continue please, if the witness is  
26 ready?

27 MR. BROWNE, Q.C.: Mr. Hughes, in addition to Belize  
28 Electricity, does Fortis have another electrical company  
29 in a foreign jurisdiction?

30 MR. HUGHES: It's got 20 something percent interest in  
31 Caribbean Utilities. It also owns four hydro plants in  
32 up-state New York, and that's it, excluding Belize, which  
33 we've talked about.

34 MR. BROWNE, Q.C.: In the Caribbean Utilities, have  
35 any employees from Caribbean Utilities come to  
36 Newfoundland Power?

37 MR. HUGHES: They held a board meeting ... Caribbean  
38 Utilities, for those who don't know is, it's the principal  
39 company in Grand Cayman Electrical Utility, and it's  
40 listed on the Toronto Exchange, it's a public company  
41 ... they held a board meeting in Newfoundland two  
42 summers ago, something like that. Mr. Thompson, who  
43 is CEO, and Richard Hew, who, he's number two, I think

44 he's titled General Manager, they visited and I believe  
45 the Corporate Secretary has visited. I think that's it.  
46 There may be some others, but it's quite a bit different  
47 than Belize. Caribbean Utilities is a very sophisticated  
48 utility because that's obviously where all the offshore  
49 banking is, so it's different in nature.

50 MR. BROWNE, Q.C.: So no employees from Caribbean  
51 Utilities are being trained at Newfoundland Power?

52 MR. HUGHES: I'd say not. I mean they may ask our  
53 advice on an issue, but in the training, what most  
54 people would understand by the word "training", the  
55 answer is no.

56 MR. BROWNE, Q.C.: No one is coming to  
57 Newfoundland Power as in the case of Belize Electricity,  
58 you mentioned 20 employees have come over time, it's  
59 nothing of that magnitude.

60 MR. HUGHES: Nothing at all. As far as I'm aware, it's  
61 only been people from their executive or board of  
62 directors, and not in a training sense.

63 MR. BROWNE, Q.C.: Now the other Fortis companies,  
64 Maritime Electric, has anyone from Maritime Electric  
65 come over for training at Newfoundland Power?

66 MR. HUGHES: I can't think of anybody who has. Mr.  
67 Lee (*phonetic*), who is President and CEO of Maritime  
68 Electric is on the Newfoundland Power Board of  
69 Directors.

70 MR. BROWNE, Q.C.: But generally, Newfoundland  
71 Power is not a training centre for Maritime Electric  
72 employees.

73 MR. HUGHES: No, that's true, Mr. Browne.

74 MR. BROWNE, Q.C.: And what about Niagara, are  
75 there any employees from Niagara come down to  
76 Newfoundland Power for training?

77 MR. HUGHES: There was one or two people who  
78 wanted to observe one of our hydro plants. I believe it  
79 was Seal Cove and both of the two individuals came  
80 down and had a look. One of them, I believe, was  
81 IBEW, and you know, so he came down on a ... I think  
82 it was called training, but it was basically an  
83 observation kind of thing.



1 MR. BROWNE, Q.C.: Are any of the assets of ... I'm  
2 sorry.

3 MR. HUGHES: I was going to say, other than those  
4 two, I believe the only other people from Canadian  
5 Niagara that have come have been executives and that  
6 wasn't for training, that just happened to be in St.  
7 John's. Thank you, Mr. Browne.

8 MR. BROWNE, Q.C.: Are any assets from  
9 Newfoundland Power loaned on occasion to Maritime  
10 Electric?

11 MR. HUGHES: Mr. Ludlow's probably the best one,  
12 but on the thermoscanning, I believe we have  
13 thermoscanned a couple of other companies, but I can't  
14 really give you details. It's more I can give you ... I  
15 think it's happened, and I'm answering this on sort of  
16 what I believe as opposed to what I can swear to.

17 MR. BROWNE, Q.C.: Mr. Ludlow is the better person?

18 MR. HUGHES: He's the better one to ask on the  
19 thermoscanning, but I believe there has been some of  
20 that, but I'm not a detailed ... what thermoscanning does  
21 is it, if you're trying to find a fault on the system, it  
22 would show up hot, so it's infrared, so that's what it  
23 does, and by ... if you thermoscan a line you can find  
24 the faults quicker.

25 MR. BROWNE, Q.C.: If there is an asset of  
26 Newfoundland Power paid for by the ratepayers of  
27 Newfoundland Power going to Maritime Electric, how  
28 is that accounted for?

29 MR. PERRY: What we do is we follow the guidelines  
30 set out by the Board in previous orders in inter-  
31 company transactions, so, you know, we comply with  
32 those orders and we file our reports quarterly detailing  
33 all transactions with related companies, both ways,  
34 things we receive from related companies and things we  
35 give to related companies, and we file them quarterly  
36 and follow previous Board orders in that respect.

37 MR. BROWNE, Q.C.: Are there any assets of  
38 Newfoundland Power paid for by the ratepayers of  
39 Newfoundland Power loaned on occasion to Niagara?  
40 Mr. Perry, you seem to have the handle on this, do you  
41 know that?

42 MR. PERRY: I don't believe so.

43 MR. HUGHES: I can't think of any. I mean the level it's  
44 at, it doesn't really lend itself to assets, and that's what  
45 I was trying to explain on the Belize one where it is more  
46 training ... it's on discussions as opposed to actually  
47 using assets.

48 MR. BROWNE, Q.C.: What about Central  
49 Newfoundland Energy, that's the energy company that  
50 you formed with Abitibi Price, is it, or Abitibi  
51 Consolidated?

52 MR. HUGHES: I'll explain how it works, because that's  
53 not quite right.

54 MR. BROWNE, Q.C.: Okay.

55 MR. HUGHES: Central Newfoundland Energy is a  
56 special purpose company that is a hundred percent  
57 Fortis owned that was formed to hold Fortis' investment  
58 in the Exploits River Partnership which is the joint  
59 venture with Abitibi, so it holds the 51 percent of the  
60 partnership.

61 MR. BROWNE, Q.C.: Now are any assets of  
62 Newfoundland Power used by Central Newfoundland  
63 Energy?

64 MR. HUGHES: I don't think so.

65 MR. BROWNE, Q.C.: No trucks?

66 MR. HUGHES: Sorry, let me finish, Mr. Browne.

67 MR. BROWNE, Q.C.: No trucks?

68 MR. HUGHES: I was just going to ...

69 MR. BROWNE, Q.C.: Okay.

70 MR. HUGHES: Can I answer the question?

71 MR. BROWNE, Q.C.: Sure, sorry.

72 MR. HUGHES: Mr. Ludlow is the better one to get into  
73 the details of this. There are various ... can I take one  
74 minute just to explain what the project is? What there  
75 is is that we've got a joint venture with Abitibi. There's  
76 two parts to it, there's Bishop's Falls and Grand Falls.  
77 At Grand Falls we're actually putting in a completely  
78 new unit. In Bishop's, it's refurbishment of the units  
79 and so on, so that's what it is. It's also going to be  
80 putting in a new substation and there's also a couple of

1 lines that Abitibi need in. The vast majority of the work  
2 that's being done is at an engineering level, and Mr.  
3 Perry can give you chapter and verse on how it's  
4 charged and all that. On the substation and the lines,  
5 I know we're involved. I don't know it at the detailed  
6 level to know how much line work we're doing and how  
7 much line work is contractors, but I'm sure if you ask  
8 Mr. Ludlow the question, he can tell you whether or not  
9 one of our trucks was or wasn't used and so on.

10 MR. BROWNE, Q.C.: In any case, all this will be  
11 reported in the inter-company transaction reports.

12 MR. HUGHES: Absolutely.

13 MR. BROWNE, Q.C.: In terms of this particular  
14 application, you're looking for an approval in your rate  
15 base, and we have with it a sister application, the 2003  
16 general rate application, and in terms of what you're  
17 seeking in that application, you're looking for a rate  
18 increase there, is that correct?

19 MR. HUGHES: Yes, the ... I might need help from Mr.  
20 Perry, but I believe the rate increase is 1.39.

21 MR. PERRY: That's correct.

22 MR. BROWNE, Q.C.: Now that 1.39 that you are  
23 seeking, that is in your rate of return, is that correct?

24 MR. HUGHES: Well ...

25 MR. BROWNE, Q.C.: Will go to your rate of return.

26 MR. HUGHES: The 1.39 is the revenue requirement  
27 result. For example, it counts rate of return, it would  
28 also count increased insurance costs, pension costs, so  
29 it's the sum of all the items including return on equity,  
30 return on rate base, that arise from all those items  
31 building up to the revenue requirement.

32 MR. BROWNE, Q.C.: So the 1.39, it's just not a matter  
33 of an increase, because you're seeking an increase in  
34 your rate of return, it's not just that.

35 MR. HUGHES: It's a combination of all those items.

36 MR. BROWNE, Q.C.: So it's not just a matter that you  
37 are seeking an increase in your rate of return from what  
38 is now, I think, the midpoint, 9.25 to what you are  
39 seeking, is that where the 1.39 comes in?

40 MS. BUTLER, Q.C.: Mr. Hughes, I wonder before you  
41 answer, Mr. Chairman, I'm just seeking some guidance  
42 in terms of how this may be focused on the capital  
43 budget application. I think we've been pretty patient so  
44 far, but this is definitely a GRP question.

45 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, any  
46 comment?

47 MR. BROWNE, Q.C.: Well, I think that we need to see  
48 the revenue requirement. The witness has answered  
49 that he's uncertain as to what the 1.39 is for. Does 1.39,  
50 is that to be used for purchases in this capital budget?  
51 Is it to be used for, he's mentioned insurance, he's  
52 mentioned this, that, and the other thing. I don't think  
53 they've been patient at all. I've just asked two  
54 questions on it. I have no intention of dwelling upon  
55 the subject, but I think where you have two sister  
56 applications like that in terms of their revenue  
57 requirement, and in terms of what goes into the rate  
58 base, I think that it is relevant. It's certainly relevant,  
59 whether it's timely or not, that's the only issue.

60 MS. BUTLER, Q.C.: Mr. Chairman, may I just say first  
61 of all, my witness never used the term "uncertain" in his  
62 answer, so it's unfair for Mr. Browne to categorize the  
63 fact that the witness was uncertain, and rate base is a  
64 subject of this proceeding to the extent that we have  
65 asked the Board to fix and determine 2001. Revenue  
66 requirement, to the extent that it may flow from rate  
67 base, is the subject of the GRP. They are very distinct.

68 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, would  
69 you have any comment at all on this?

70 MS. GREENE, Q.C.: I think as has already been said  
71 this morning, the subject matter for this application is  
72 the capital budget for 2003. However, there are some  
73 issues that are not necessarily black and white, they are  
74 grey. I think, for example, a fair question would be to  
75 determine what the potential impact would be on the  
76 2003 revenue requirement if this capital budget is  
77 approved, in very ballpark terms, so unfortunately this  
78 is one where there's judgement to be required with  
79 respect to whether the questions are relevant or not,  
80 and we can't simply say that there are no questions to  
81 be asked on the impact on revenue requirement of the  
82 approval of the 2003 capital budget.

83 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, are  
84 there any final comments that you can address to  
85 relevancy of this?

1 MR. BROWNE, Q.C.: No, it's just that I think it's  
2 relevant on its face. I think the revenue requirements of  
3 Newfoundland Power is what we're addressing here.  
4 We're addressing a portion of the revenue requirements  
5 right now because they're into their capital budget.  
6 They would like to compartmentalize everything. I can  
7 tell you that in the past, like in the case of Hydro, there  
8 was no such compartmentalization. We dealt with the  
9 capital budget and we dealt with the rate of return all at  
10 the one time, and I don't think that in an ideal world, I  
11 guess, you can compartmentalize, but the fact of the  
12 matter is that there's overlap from one into the other.  
13 When we come to deal with the general rate application,  
14 we'll have our own experts dealing with rate of return,  
15 etcetera, but if there's any ambiguity in terms of the  
16 revenue requirements that they are seeking and why  
17 they are seeking that and if they have any impact on  
18 the capital budget, I think that it's absolutely a valid  
19 question.

20 MR. NOSEWORTHY, CHAIRMAN: Okay, I'm not  
21 going to belabour this any further. I think the focus of  
22 the budget itself primarily is indeed the capital budget  
23 of \$55 million and the rate base. I do believe the linkage  
24 could be demonstrated, but certainly that's all. I'm not  
25 prepared to entertain a significant number of questions.  
26 I think, Mr. Browne, you indicated that you had a  
27 couple of questions along these lines and to the extent  
28 that the witnesses can answer, and I understand  
29 certainly that they came here prepared to address the  
30 capital budget as such, and wouldn't be in a position  
31 necessarily to address the items that are contained in  
32 the general rate application so we'll certainly give them  
33 some leeway, but I ask you to focus your couple of  
34 questions please.

35 MR. BROWNE, Q.C.: Thank you, Mr. Chairman, I think  
36 I am focused, and I'll continue to be focused. 1.39  
37 percent, the 1.39 percent that you are seeking, will any  
38 amount of that money be used in terms of this capital  
39 budget?

40 MR. HUGHES: As I was explaining to you, Mr.  
41 Browne, in the previous questions, the 1.39 is the result  
42 after adding up all those numbers, and our counsel was  
43 correct, it was uncertainty, I was disagreeing with your  
44 premise. You were trying to link the 1.39 and rate of  
45 return, and the 1.39 is a result, it's a result of the  
46 revenue requirement. That's what it is, and you cannot  
47 say because in revenue requirement there are factors A  
48 to M, you cannot really say, well how much is K and  
49 how much is E. It's the result, and obviously rate base

50 and the return on rate base goes into that calculation,  
51 but a rate increase is derived from revenue requirement,  
52 and depending what the Board rules on the revenue  
53 requirement, the number will drop out the bottom.

54 MR. BROWNE, Q.C.: So the 1.39 percent could  
55 contribute, if I take your answer, and you can correct  
56 me if I'm wrong, to this capital budget. The 1.39 percent  
57 if it's granted, could contribute, the money from that  
58 that you achieve, can contribute towards this capital  
59 budget, is that your answer?

60 MR. HUGHES: No, I think you've got it, I think you've  
61 got them mixed up, Mr. Browne.

62 MR. BROWNE, Q.C.: Well, that's quite possible, as  
63 long as you don't.

64 MR. HUGHES: No, I think I have it pretty clear. The  
65 capital budget obviously has an effect on rate base.  
66 Depending what the rate base is, and depending what  
67 return is granted by the Board is one of the factors that  
68 goes into making up revenue requirement, so that's how  
69 it works.

70 MR. BROWNE, Q.C.: And in that particular budget, the  
71 general rate application, there is a reference to an  
72 amount of some \$900,000 where you, of excess earnings  
73 for 2001, I believe it is, is that correct?

74 MR. HUGHES: I assume I'm allowed to answer these to  
75 the best of my ability without pulling out ...

76 MR. BROWNE, Q.C.: Or if Mr. Perry is better off,  
77 maybe he knows it better, whichever ...

78 MR. HUGHES: Well, let me give a general answer, and  
79 if I'm a little bit off, Mr. Perry will bring me back. The  
80 \$900,000, as far as I understand it, was an amount of  
81 money that was over the return allowed by the Board,  
82 or set out in the orders. This amount, as I understand  
83 it, is sitting in abeyance and will be distributed to the  
84 customers' benefit, or used for the customers' benefit as  
85 the Board determines. How am I doing, Mr. Perry?

86 MR. PERRY: That's correct. I would add one thing,  
87 that you used the term "excess earnings". In fact, the  
88 \$900,000 number is excess revenue, a little different, but  
89 I just want to clarify that.

90 MR. HUGHES: Thank you, Mr. Perry.

- 1 MR. BROWNE, Q.C.: And one of the things that ... are  
2 you looking for all of that \$928,000, that's the number,  
3 to go towards your revenue requirements, is that your  
4 position, as opposed to it being rebated to the  
5 consumers?
- 6 MR. HUGHES: What we're saying, Mr. Browne, is that  
7 that, whatever that \$900,000 number, is obviously to the  
8 benefit of customers. The Board can choose its  
9 disposition as they think fit.
- 10 MS. BUTLER, Q.C.: Mr. Chairman, I just might say  
11 again that the disposition of the excess revenue  
12 account is one of about seven different matters which  
13 we have asked you to specifically address in the  
14 general rate application. It has no bearing on the  
15 capital budget.
- 16 MR. BROWNE, Q.C.: Mr. Chairman, that's contrary to  
17 what the witness just told us, but anyway ...
- 18 MS. BUTLER, Q.C.: And how is that contrary to what  
19 the witness just ...
- 20 MR. NOSEWORTHY, CHAIRMAN: I think the, excuse  
21 me, I think the witness just responded to the question  
22 that was being asked. What I heard from the witness  
23 was the fact that indeed the capital budget does  
24 contribute, along with other things, to the, to the 1.39  
25 percent. The excess earnings is really not an item that  
26 I'm aware of that I've read in terms of the capital budget,  
27 and it's likely an issue that will be addressed more  
28 specifically in the general rate application, so I would  
29 again, Mr. Browne, try and keep the questions ...
- 30 MR. BROWNE, Q.C.: I'm sorry, Mr. Chairman, I can't  
31 hear you.
- 32 MR. NOSEWORTHY, CHAIRMAN: I would like to try  
33 and keep the questions, again, recognizing there are  
34 linkages and there are grey areas that will certainly give  
35 some leeway in relation to the questions, but I would  
36 like to keep the issue focused on the capital budget,  
37 thank you.
- 38 MR. BROWNE, Q.C.: In terms of the capital budget,  
39 and I'll address this question to Mr. Perry ... Mr. Perry,  
40 in terms of the capital budget application, you're  
41 looking for an approval in your rate base for 2001 of  
42 \$545,162,000, is that correct?
- 43 MR. PERRY: No, Mr. Browne, I think it's \$545,162,000.
- 44 MR. BROWNE, Q.C.: Yeah, that's right, 545.
- 45 MR. PERRY: Okay.
- 46 MR. BROWNE, Q.C.: And that's what you're looking  
47 for, you're looking for the Board to approve that, is that  
48 correct?
- 49 MR. PERRY: That is correct.
- 50 MR. BROWNE, Q.C.: What are the ramifications of the  
51 Board approving that?
- 52 MR. PERRY: The ramifications, I don't understand your  
53 question, Mr. Browne.
- 54 MR. BROWNE, Q.C.: Okay, your ... I gather that your  
55 rate of return on rate base is built into that figure,  
56 \$545,162,000, is that correct, Mr. Perry?
- 57 MR. PERRY: No, I think that's a separate calculation,  
58 Mr. Browne. The rate of return is prescribed by the  
59 Board and, you know, is a calculation based on what  
60 the average rate base is.
- 61 MR. BROWNE, Q.C.: Yeah, is it based on that amount  
62 there, the \$545,162,000?
- 63 MR. PERRY: That's what it's applied to.
- 64 MR. BROWNE, Q.C.: Sure, and ... okay, so it's done on  
65 a rate base percentage, and if the Board were not to  
66 approve that \$545,162,000 for 2001, how would that  
67 affect your return on rate base for that particular year?
- 68 MR. PERRY: Well, I would add that, just the ... if the  
69 Board were not to approve the return on rate base,  
70 obviously 2001 is over, first of all ... you know, the  
71 Board's auditor has approved the company's approach  
72 in calculating both the average rate base and the return  
73 on rate base for that year, so I think it would create  
74 somewhat of a difficult circumstance for the company  
75 if the Board did not approve that number that has been  
76 signed off by the Board's auditors for the year and we'd  
77 be into some retroactive adjustment, I suppose.
- 78 MR. BROWNE, Q.C.: But isn't there a problem with  
79 2001? Doesn't the auditor say that there's a specific  
80 problem with your return for 2001, and I point you to  
81 page five of the auditor's report, the Grant Thornton  
82 report for 2001.

- 1 MS. BUTLER, Q.C.: I wonder, can I have the reference  
2 and I'll get it put on the screen?
- 3 MR. BROWNE, Q.C.: Page 5, the automatic adjustment  
4 formula.
- 5 MS. BUTLER, Q.C.: Yeah, can you give me the CA  
6 number, the CA ...
- 7 MR. BROWNE, Q.C.: 124.
- 8 MS. BUTLER, Q.C.: Thank you, page 5. I'm told it's not  
9 available electronically yet so we'll have the hard copy.
- 10 MR. BROWNE, Q.C.: That's not available  
11 electronically?
- 12 MS. BUTLER, Q.C.: Not yet.
- 13 MR. BROWNE, Q.C.: Okay, that's fine. Now this is  
14 CA-124 for members of the Board, I'm a bit rusty  
15 starting out here. We'll get all our numbers down after  
16 a while.
- 17 MR. HUGHES: I have in front of me, Mr. Browne, CA  
18 ... do you want me to go to the question, or do you  
19 want me to go to the report ... what ...
- 20 MR. BROWNE, Q.C.: Okay, I was asking Mr. Perry,  
21 thank you Mr. Hughes. The, in terms of the rate base,  
22 page 5 of the 2001 return on rate base, the second  
23 paragraph, can you read that out for us please, Mr.  
24 Perry?
- 25 MR. PERRY: Sorry, Mr. Browne, can you repeat your  
26 reference?
- 27 MR. BROWNE, Q.C.: Okay, page 5, 2001 report, the  
28 second paragraph.
- 29 MR. NOSEWORTHY, CHAIRMAN: Excuse me, Mr.  
30 Browne.
- 31 MR. BROWNE, Q.C.: Mr. Perry.
- 32 MR. NOSEWORTHY, CHAIRMAN: Mr. Hughes, I  
33 wish to acknowledge Mr. Hughes, he would like to  
34 make a comment.
- 35 MR. HUGHES: I thought the rules were that we are a  
36 panel, and that we can, we, our obligation is to answer  
37 questions to the best of our ability. Mr. Perry has some  
38 knowledge, I have some knowledge, and that's why  
39 we're a panel. If it is a policy question or about the  
40 business, I would tend to answer it. If it is a more  
41 mechanical or accounting, or more detailed, Mr. Perry  
42 will answer it, and if it's even more detailed, then Ms.  
43 Duke, Mr. Collins, or Mr. Ludlow will answer it.
- 44 MR. NOSEWORTHY, CHAIRMAN: I guess there is a  
45 fundamental question here, either the preference, I  
46 guess, I haven't run into this before, rests with the  
47 witnesses in terms of the decision, it's who is best  
48 equipped to answer the question, or indeed  
49 alternatively who the question is addressed to. Are  
50 there any particular comments on that?
- 51 MR. BROWNE, Q.C.: I certainly have a comment on it.  
52 I thought that we raised this during our meeting among  
53 counsel and it was discussed in those meetings, and  
54 Ms. Newman is shaking her head ... maybe she can tell  
55 us what the proposal was.
- 56 MS. NEWMAN: Well, the understanding I think of the  
57 counsel involved is that each counsel when they had a  
58 question would pose it to a specific member of the  
59 panel, the panel member that they thought would be  
60 most appropriate. I think that we didn't have a detailed  
61 discussion flowing from that but the natural  
62 consequence of that would be that the witness would  
63 have to comment whether they were the person, the  
64 appropriate person to respond to that question or not,  
65 or at least where their limitation and their knowledge  
66 began and end on these particular issues, so that  
67 initially the counsel is to put a particular question to a  
68 particular member of a panel.
- 69 MS. BUTLER, Q.C.: Specifically, Mr. Chairman, I can  
70 tell you that it's very easy, of course, to confuse the  
71 counsel meetings that were held on the GRP with the  
72 counsel meetings that were held on this, but certainly  
73 in the counsel meetings that were held on the GRP,  
74 following which we had the procedural order issued,  
75 which procedural order we are now guided by today,  
76 although we didn't agree that it was going to be cast in  
77 stone. Section 12(b) does apply directly to the  
78 question, I'm sorry, 12(c), direct evidence may be  
79 presented by way of a panel of witnesses, etcetera,  
80 when examining a panel counsel shall put each  
81 question to a particular witness on the panel. That only  
82 addresses half of the question though. McCaulley  
83 (*phonetic*), on Administrative Tribunals, which is a  
84 textbook I'm sure we're all familiar with, does provide  
85 that when you have a panel, notwithstanding that a

1 question is put to a particular witness, boards are  
2 looking for the correct facts as quickly as possible, and  
3 therefore questions put to the panel may involve an  
4 appropriate response by another member of the panel,  
5 so I think that although we are obliged to put our  
6 questions to one member of a panel, there is nothing to  
7 prevent another member of the panel either adding or  
8 taking responsibility for the question if the answer  
9 cannot be answered by the witness to whom it was put,  
10 and I think that is basically a common sense rule which  
11 results in the panel, that's yourselves, ultimately having  
12 the fullest and most complete answer to a question,  
13 which is after all what we are here for.

14 MR. BROWNE, Q.C.: Mr. Chairman, I have to state that  
15 once we addressed this during our meetings among  
16 counsel, it was our understanding we could put the  
17 question to a particular witness, and the other witness  
18 was not to interrupt, because otherwise it's a  
19 smorgishboard (*phonetic*). I just throw a question out  
20 and whoever wants to can answer. I'm trying to get the  
21 best evidence as well. If a witness cannot answer the  
22 question, he would say I can't answer that and it's best  
23 off in this instance, maybe if he can't answer, that Mr.  
24 Hughes can answer, but if he can answer I think he's  
25 obligated to answer. We can't change the rules that we  
26 all agreed upon when we met together. If we start  
27 doing that there's no point to these pre-counsel  
28 meetings.

29 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, do  
30 you have a comment on this?

31 MS. GREENE, Q.C.: Thank you, Mr. Chair, Hydro's  
32 experience with panels is limited. We tried it ourselves  
33 for the first time in our capital budget hearing and it is  
34 to give, and to ensure that the most accurate  
35 information is before the Board. In this particular case,  
36 yes, we did agree that questions would be put directly  
37 to a witness, because that assists also the witnesses  
38 when they're there, they're not quite sure who should  
39 answer the question, so if a counsel addresses the  
40 question to a witness, that's helpful. But also, I do  
41 agree that Ms. Butler has explained the law correctly in  
42 the sense that once the question has been phrased that  
43 way, that it is, it makes imminent sense and it is actually  
44 the best practice that the other member on the panel can  
45 address the question to add additional information or to  
46 clarify, and I think that process is helpful and with our  
47 limited experience, in our own hearing and with our  
48 observation of the previous Newfoundland Power

49 hearings, I think that is the best practice that would  
50 work for this particular panel.

51 MR. NOSEWORTHY, CHAIRMAN: I think that we  
52 shouldn't deny either the rules contained in the  
53 procedure, or indeed Newfoundland Power's position in  
54 terms of add-ons. I think clearly in relation to the rules  
55 of procedure, it was contemplated that indeed counsel  
56 would address the question to a witness, but it doesn't  
57 deny that the remaining witness, or the other witness  
58 on the panel certainly can add or clarify any particular  
59 comment that might be made or add to the response to  
60 the question. Okay, Mr. Browne.

61 MR. BROWNE, Q.C.: Okay, thank you, Mr. Chairman.  
62 Mr. Perry, page 5, 2001, CA-124, the second paragraph  
63 and the third paragraph, can you read those into the  
64 record please?

65 MR. PERRY: Sorry, Mr. Browne, is it the top two  
66 paragraphs you're looking at?

67 MR. BROWNE, Q.C.: Yes, the return on rate base,  
68 paragraph two beginning with "In PU-30".

69 MR. PERRY: In PU-30, 2000/2001, the Board ordered  
70 that a just and reasonable return on rate base to be in  
71 the range of 10.10 to 10.46 percent, with 10.28 percent as  
72 the midpoint of the range. As noted above, the  
73 company's actual return on rate base for 2001 is 10.56  
74 percent which was in excess of the upper limit of the  
75 approved range. In order to comply with the regulated  
76 maximum return on rate base allowed by the Board, the  
77 company provided for excess revenue of \$948,000. As  
78 a result, net income was reduced by \$557,000 after tax,  
79 which reduced the return on rate base to 10.46 percent,  
80 the maximum allowed.

81 MR. BROWNE, Q.C.: Okay, now when we take that  
82 return on rate base to which you are referred, and the  
83 \$545,162,000, which you're seeking approval for, and  
84 you turn that into a return on equity, can you go down  
85 and read the second paragraph after "automatic  
86 adjustment formula"?

87 MR. PERRY: The forecast 2001 information submitted  
88 by the company for the purpose of setting the allowed  
89 range of return on rate base of 10.10 to 10.46 included  
90 a forecast return on equity in the range of 9.99 to 10.72  
91 percent, and a cost of equity for the purpose of the  
92 automatic adjustment formula of 9.25 percent. Based on  
93 the actual results for 2001, the company was able to

1 earn a rate of return on equity of 11.35 percent, while  
2 staying within the allowed range of rate of return on the  
3 rate base.

4 MR. BROWNE, Q.C.: And the last sentence in that, in  
5 the last paragraph, can you read this out?

6 MR. PERRY: Still, the differing results for the two  
7 measures of rate of return are unexpected and merit  
8 further analysis and review.

9 MR. BROWNE, Q.C.: Now, how could it happen that  
10 the rate of return on rate base, the rate base of \$545  
11 thousand (*sic*), for which you are seeking approval,  
12 could be with, just outside the range, not really within  
13 the range, but it's way over the range of what the Board  
14 allowed on rate of return on equity? How could that  
15 possibly happen?

16 MS. BUTLER, Q.C.: Mr. Chairman, once again, the  
17 calculation of the 2001 rate base was the subject of Mr.  
18 Browne's question, and you recall that he premised that  
19 question on the basis that there was something wrong  
20 with that calculation. He did not have the witness read  
21 the very paragraph on that page that addresses that  
22 calculation, which is bolded, and which states, as a  
23 result of completing these procedures, we can advise  
24 that no discrepancies were noted.

25 MR. BROWNE, Q.C.: Just one moment, I object to this.  
26 If Ms. Butler wants to give evidence, let her get sworn  
27 in. She has every opportunity, the witness will come  
28 back to her. She has every opportunity to rehabilitate  
29 her witness after my cross-examination, but she can't,  
30 she can't take the question I'm asking and try to fork an  
31 answer over to the witness and then bounce it back at  
32 me. That's an incorrect procedure.

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

34 MR. BROWNE, Q.C.: She'll have every opportunity to  
35 rehabilitate these witnesses after we are through.

36 MS. BUTLER, Q.C.: Mr. Chairman, in fairness the  
37 question was, and in fact it was put as a statement,  
38 there was something wrong with the 2001 calculation.  
39 Now Mr. Browne has conveniently skipped over that  
40 very paragraph on that page and asks now about the  
41 difference between the calculation of return on rate  
42 base and return on equity. That has nothing to do with  
43 this capital budget application, Mr. Chairman.

44 MR. BROWNE, Q.C.: Mr. Chairman, it has everything  
45 to do with this capital budget application because until  
46 this mess is sorted out where the rate of return on rate  
47 base and the rate of return on equity have fallen out of  
48 line, and it's happened for two consecutive financial  
49 reviews, there's little you can do to approve what they  
50 are looking for by way of the approval of their rate  
51 base, something has occurred that's dramatically wrong  
52 here, and we bring experts in to testify on rate of return  
53 on equity, and the Board makes a ruling and sets an  
54 automatic adjustment formula, only to find out in these  
55 reports that they are pretty close on rate base, but  
56 they're way out of whack on equity. This has cost the  
57 ratepayers millions of dollars. There's some kind of  
58 mistake or miscalculation going on here which we have  
59 to get to the bottom of and I think these witnesses, it's  
60 incumbent upon them to answer it if they are seeking  
61 approval for that actual average rate base for 2001 of  
62 \$545,162,000. Something has gone awry here seriously.

63 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene, do  
64 you have any comment?

65 MS. GREENE, Q.C.: Yes, Mr. Chair, and I will speak to  
66 the relevancy of the particular questions that have been  
67 asked. I had said earlier that there is some relevancy  
68 with respect to the 2003 capital budget in terms of the  
69 2003 revenue requirement, and I would think it relevant  
70 to ask what impact the approval of this budget may  
71 have on that revenue requirement, however, the nature  
72 of the questions in the last few minutes I believe have  
73 gone beyond the scope of the capital budget hearing  
74 and are truly into matters with respect to the  
75 appropriate return on rate base and the automatic  
76 adjustment formula, which are properly issues for the  
77 general rate application and are not properly issues for  
78 this particular capital budget application.

79 MR. NOSEWORTHY, CHAIRMAN: We seem to be at  
80 odds certainly in relation to what is to be incorporated  
81 in this capital budget application and the delineation, I  
82 suppose, between the capital budget application that's  
83 before us and the general rate application. It seems to  
84 me to be an issue which is creating a fundamental  
85 problem, and is likely to persist in terms of, throughout  
86 this, throughout the course of this hearing. I would like  
87 counsel actually to address this, Ms. Butler, by way of  
88 your particular objection and what sort of remedy that  
89 you are seeking. I'd like to hear more information on  
90 that, and I'd like to hear, Mr. Browne, it is a fairly ...

1 MR. BROWNE, Q.C.: Mr. Chairman, I'm sorry, I can't  
2 hear you.

3 MR. NOSEWORTHY, CHAIRMAN: I'm sorry, sir. It is  
4 a fairly complex area when one talks about the return on  
5 rate base and how that relates to the rate of return and  
6 the issues that are contained in the general rate  
7 application. Clearly we will have to make a decision on  
8 what's allowable and what's not here, and I'd like to hear  
9 more by way of, by way of clarification on this and Ms.  
10 Butler, if you could address the specifics of your  
11 objection, I'll give Mr. Browne the opportunity to  
12 respond and any comment as well that Ms. Greene  
13 would like to make, and certainly we'll consider it at that  
14 point in time, and Board Counsel, as far as that goes,  
15 but I think this is fundamental. We're going to be, I  
16 think, clearly at this throughout the course of this  
17 hearing unless we try and establish some ground rules  
18 up front in terms of what has been, and is likely to  
19 continue to be a difficult issue in relation to the  
20 relationship between this capital budget application  
21 and the general rate application.

22 MS. BUTLER, Q.C.: Mr. Chairman, I can do that now  
23 for you now if you wish.

24 MR. NOSEWORTHY, CHAIRMAN: Sure.

25 MS. BUTLER, Q.C.: Okay, I wonder if Mr. Wells might  
26 aid me by bringing up to the screen, first of all, the  
27 actual front page of the amended application. Thank  
28 you. The style of cause, quite evidently, Mr. Chairman,  
29 seeks two specific things, approval of the 2003 capital  
30 budget, and affixing and determining of the average rate  
31 base in the amount of \$545,162,000, as Mr. Browne has  
32 indicated. I gave you the statutory references for that  
33 in my opening address this morning. Now, Mr. Wells,  
34 if you could go to Schedule A. This is what we are here  
35 to have the Board address. It is the capital spending in  
36 each of the ten, I believe, categories, which are on the  
37 screen, and these proposed expenditures are to be made  
38 in the year 2003. Moving now to Schedule F, which is  
39 the second portion of the relief sought, and Mr. Wells,  
40 would you indulge me by putting the entire matter on  
41 the screen. You can leave the heading off, just scroll  
42 down to see if you can get the whole thing on there.  
43 You might have to minimize it again. There you go.  
44 When it comes to the second issue which we've asked  
45 the Board to address on this application, we're talking  
46 about the approval of the rate base in 2001. The  
47 average rate base at year end of \$545,162,000, is the  
48 number to which return on rate base is applied, and

49 that's where I draw the line, I guess, in the sand, Mr.  
50 Chairman. To the extent that plant investment shown  
51 at the top of the column would be for 2003, if we can  
52 imagine it, involve some capital expenditures, that's the  
53 first element of what we're dealing with, and to the  
54 extent that average rate base at the end of 2001 has  
55 been calculated at \$545 million, addressed by the  
56 Board's auditors, once we pass that number and get  
57 into the calculation of return on rate base, which  
58 becomes one element of many that go into revenue  
59 requirement, we are into the territory of the general rate  
60 application, so once you've actually left the number of  
61 \$545 million and gotten into the calculations of return  
62 on rate base or return on equity, we are not into subject  
63 matter which is before the Board, and that's what I  
64 would say relative to the parameters that we should be  
65 guided by relevant to questions that are put to any  
66 witnesses in this proceeding. Thank you.

67 MR. NOSEWORTHY, CHAIRMAN: Mr. Browne, do  
68 you have any comment?

69 MR. BROWNE, Q.C.: I can't let this opportunity go by.  
70 The application of Newfoundland Power, and if we can  
71 put it up on the screen please, Mr. Wells, is it? Yes,  
72 thank you. And we can go to item 10(b).  
73 Newfoundland Power requests that the Board make an  
74 order, 10(b), the letter (i), fixing and determining  
75 Newfoundland Power's average rate base for 2001 in the  
76 amount of \$545,162,000. That is the relevant number,  
77 that's the relevant number for everything here, because  
78 the rate of return on rate base is dependent on that  
79 number and the translation of that into equity is  
80 dependent on that number as well. We had the auditor  
81 for the Board stating that the two measures of rate of  
82 return are unexpected and merit further analysis and  
83 review. Prior to having that further analysis and review,  
84 Newfoundland Power is coming forward to seek  
85 approval of this number. Something has gone awry  
86 here. We have never seen this before where the rate  
87 base is actually outstripped ... the rate of return on rate  
88 base is actually outstripped by the rate of return on  
89 equity by several basage points. It's right up to 11  
90 percent, and we saw it in two successive years.  
91 Interestingly enough, and I find this passingly strange,  
92 as to why the study wasn't done in 2000 when the  
93 auditor said it merited further analysis and review, why  
94 we have to wait and see it again, and further analysis  
95 and review in 2001, and in the meantime, Newfoundland  
96 Power is laughing all the way to the bank because they  
97 got a rate of return on their equity that exceeds what the  
98 Board set, and it all comes down to this number. Has



1 too much gone into this, this \$545,162,000? Now, it's an  
2 easy thing to do, Mr. Chairman, all we have to do is  
3 delete this from their application and say we'll put that  
4 over for the general rate application, we'll put over that  
5 approval for the general rate application. That's all they  
6 have to say, and then it could be dealt with at that time,  
7 and presumably the Board or someone is going to order  
8 that the further analysis be done pronto because once  
9 this hits the public that Newfoundland Power is out  
10 there getting 11, nearly 12 percent in one case, when  
11 their rate of return is 9.25, there's going to be a lot of  
12 explaining for a lot of people to do.

13 MS. BUTLER, Q.C.: Mr. Chairman, before my learned  
14 friends get the opportunity to respond, I can't let that  
15 pass. The comment by Mr. Browne that Newfoundland  
16 Power will be laughing all the way to the bank, I think  
17 that's most unacceptable. We are dealing about, or  
18 dealing with an issue of relevancy of the questions,  
19 there is no need for that kind of a rhetorical comment in  
20 this hearing.

21 MR. NOSEWORTHY, CHAIRMAN: Ms. Greene?

22 MS. GREENE, Q.C.: Thank you, Mr. Chair, this is one  
23 of the issues that Newfoundland Hydro does have an  
24 interest in because the procedure to be applied by the  
25 Board for approval of the capital budget application in  
26 the year there's also a general rate application will be  
27 one of the issues for us for next year. We have just  
28 finished our own capital budget hearing, so this is one  
29 of the issues and why we are here today to express our  
30 view on the process because it may impact us for the  
31 future. With respect to the particular issue before the  
32 panel right now, I come back to my earlier comments,  
33 the issue before the panel is the approval of the 2003  
34 capital budget for Newfoundland Power. The issues  
35 that Mr. Browne has gotten into with respect to the rate  
36 of return on rate base, and the automatic adjustment  
37 formula, in my view are beyond the scope of a capital  
38 budget application. They certainly are issues if Mr.  
39 Browne wishes to pursue them in the general rate  
40 application and I believe that that is the appropriate  
41 forum for them. The issue of the rate base and how that  
42 is calculated and what goes into the rate base may be  
43 subject for questioning if Mr. Browne wishes to pursue  
44 them, and they may be relevant, but the issue of the  
45 appropriate return or the automatic adjustment formula,  
46 or the return on equity, surely are issues for expert  
47 witnesses that will be addressed in a general rate  
48 application and will unnecessarily delay this hearing  
49 and the time of all the people involved in the hearing if

50 we are to get involved in them at this time as well, so in  
51 summary, we agree with the position of Newfoundland  
52 Power with respect to this particular issue and we  
53 believe that counsel for Newfoundland Power has  
54 properly articulated what the correct position should  
55 be.

56 MR. BROWNE, Q.C.: With all due respect, Mr.  
57 Chairman, Ms. Greene is not taking our point. All we  
58 are stating at this time is that there's a problem with that  
59 \$545,162,000 figure, a potential problem with it, and I'm  
60 asking ... they're looking for approval and all I'm saying  
61 is how can you get approval when the auditors are  
62 saying there might be a problem there. That's all we're  
63 stating. We're not delving into it any further than that.

64 MR. NOSEWORTHY, CHAIRMAN: I understand that,  
65 Mr. Browne. Ms. Greene is entitled to her opinion.  
66 Board Counsel, are there any comments?

67 MS. NEWMAN: No comments.

68 MR. NOSEWORTHY, CHAIRMAN: Okay, are there  
69 any final comments, Mr. Browne?

70 MR. BROWNE, Q.C.: No, you know, it's relevant by  
71 their own standard, paragraph 8 states the number and  
72 you see what the auditors have written and it all comes  
73 from that.

74 MS. BUTLER, Q.C.: I'm sorry, Mr. Chairman, I wonder  
75 could I just get clarification of one small point?

76 MR. NOSEWORTHY, CHAIRMAN: Sure.

77 MS. BUTLER, Q.C.: Is Mr. Browne actually suggesting  
78 that there is a problem with the calculation of the  
79 \$545,162,000?

80 MR. BROWNE, Q.C.: We don't know what the problem  
81 is because the auditor says it merits further analysis  
82 and review. He cites what the problem is, it comes on  
83 the rate of return, it comes from these numbers because  
84 he uses these numbers, and he's saying there's  
85 something amiss here, that's all we're stating. I don't  
86 think, given that circumstance, until the Board gets that  
87 report, that they can approve that number.

88 MR. NOSEWORTHY, CHAIRMAN: But isn't that a,  
89 isn't that an issue for the general rate application in  
90 your opinion?

1 MR. BROWNE, Q.C.: As long as you don't approve the  
2 number prior to the general rate application. That's the  
3 answer to that, Mr. Chairman.

4 MS. BUTLER, Q.C.: Mr. Chairman, if I might, the  
5 document that Mr. Browne fairly put to the witness in  
6 terms of the CA-124 deals with numerous different  
7 items. One is the calculation of the figure of the  
8 \$545,162,000. The second is the rate of return on that  
9 figure and the third is the automatic adjustment formula.  
10 The calculation of the \$545,162,000 is show at that  
11 document, I'm sorry, in that document at page 4, and  
12 the auditor's conclusions are on page 4. They say we  
13 do not note any discrepancy in the calculation of the  
14 average rate base. There is nothing raised in the  
15 auditor's report relative to a question on the calculation  
16 of the \$545 million. Mr. Browne's point is in relation to  
17 issues raised on page 5 which get into rates of return  
18 on that \$545 million and the automatic adjustment  
19 formula, both of which are the subject of the GRP.

20 MR. NOSEWORTHY, CHAIRMAN: Final comment,  
21 Mr. Browne.

22 MR. BROWNE, Q.C.: Well, we've stated our case, Mr.  
23 Chairman. All we're asking is that in the final analysis,  
24 if they're not willing to delete that or put it over until we  
25 get an auditor's report as to what's transpired here, then  
26 we will ask the Board at the relevant time to put that in  
27 abeyance until the general rate hearing, but I think it's  
28 incumbent upon me, part of my due diligence to raise  
29 that issue. What was I going to do, just sweep that  
30 under the rug and allow the \$545,162,000 to be  
31 approved and then Newfoundland Power would say  
32 too late now, you should have raised that during the  
33 capital budget hearing. It's part of my due diligence. I  
34 mean something has gone seriously awry here. We've  
35 worked at getting these formulas in place, the Board did  
36 the automatic adjustment formula, it appeared to be  
37 working okay from our initial view of it, and all of a  
38 sudden we find that they're way outside it.

39 MR. NOSEWORTHY, CHAIRMAN: Commissioner  
40 Whalen has a question.

41 COMMISSIONER WHALEN: Just in terms of, I guess,  
42 getting on with this. Ms. Butler is it absolutely critical  
43 that this panel in this proceeding address that issue of  
44 fixing and determining that rate base or can that be held  
45 over to the GRA?

46 MS. BUTLER, Q.C.: I think to give a full and complete  
47 answer, Ms. Whalen, I should consult with my client  
48 directly, but my instincts would tell me that it was put  
49 into this application because obviously the company  
50 had already made a decision that it was critical to have  
51 it addressed.

52 MR. HUGHES: If I'm allowed to comment.

53 MR. NOSEWORTHY, CHAIRMAN: Yes, sure.

54 MR. HUGHES: Just to short circuit that, I can confirm  
55 that it is critical and that we view that it should be  
56 approved.

57 MR. NOSEWORTHY, CHAIRMAN: Thank you. This  
58 is a complicated issue and I guess fundamental to the  
59 proceeding itself, so I would like to sequester with the  
60 panel for a period of time and I will, we will return  
61 hopefully shortly. Thank you.

62 *(break)*

63 MR. NOSEWORTHY, CHAIRMAN: Thank you. I  
64 guess the panel has considered this matter and simply  
65 put, there's seems to be three issues. One is the  
66 calculation of the rate base, the \$545 million. The  
67 second is the rate of return, and the third is the  
68 automatic adjustment formula, and I guess for purposes  
69 of this particular hearing, we would view that the  
70 calculation of the \$545 million in terms of the calculation  
71 of average rate base is certainly an issue which is  
72 before us in relation to the application from  
73 Newfoundland Power, and anything that's contained in  
74 that calculation would be certainly the subject of  
75 questioning and evidence before us. With regard to  
76 the rate of return and the automatic adjustment formula,  
77 both those items suffer, I think, from a couple of things.  
78 One is the fact that where do you stop and where do  
79 you start with that. Certainly, I think the Board in terms  
80 of the general rate application would like to consider  
81 these matters with the full evidence before us, with the  
82 expert witnesses that will lead those arguments, and  
83 certainly we feel that for the purposes of this particular  
84 capital budget application, that indeed questions  
85 surrounding those would be most appropriately left to  
86 the general rate application, and I would ask the parties  
87 to adhere to that with all due diligence. So with that I  
88 will ask Mr. Browne to continue his questions, please?

1 MR. BROWNE, Q.C.: Mr. Hughes, the companies that  
2 you mentioned today, Maritime Electric, are they on a  
3 rate base system?

4 MR. HUGHES: No, they're not.

5 MR. BROWNE, Q.C.: What kind of system are they  
6 on?

7 MR. HUGHES: They are on a, the closest way of  
8 describing it is price cap. The way regulation ... first of  
9 all, Maritime Electric, MECL, is the utility in Prince  
10 Edward Island, for those that aren't aware. The way it  
11 works is that they have a couple of things. They have  
12 price cap compared to NB Power, which is plus ten.  
13 They also have a formula based on energy supply and  
14 energy costs. It's slightly similar to our RSA, but it's  
15 got some bells and whistles that I wasn't going to get  
16 into unless you particularly wanted me to, and also  
17 there is a formula that's ... that is part of a formula, and  
18 also there is a formula that ties into rate of return on  
19 equity and I believe the rate of return equity formula is  
20 based around 12 percent, and those factors go together.  
21 There is not the cost of service regulation that we have  
22 here. It's bottom and top lines, and so all the, if you  
23 like, the middle, the revenue requirement, the  
24 depreciation, the interest, all those things in the middle,  
25 don't really get included. So it's ... I don't know whether  
26 that made it clear, Mr. Browne, or muddier.

27 MR. BROWNE, Q.C.: Yes, what about Belize? Let's  
28 move to Belize, are they in a price cap system or a rate  
29 base system?

30 MR. HUGHES: At the moment they are in a price cap  
31 system. It's sort of part of a transition. When they sold  
32 the company to a strategic investor, and Fortis was the  
33 successful one, there was a report written by some  
34 experts whose name escapes me, their regulator experts,  
35 and they were talking about going onto a more  
36 traditional form of regulation. Whether they actually do  
37 it or not remains to be seen. They have been under this  
38 system which is essentially price capped since 1999,  
39 and it's expected to continue for three years. I suspect  
40 it will continue much that way but there is this report  
41 out there.

42 MR. BROWNE, Q.C.: What about Niagara?

43 MR. HUGHES: Niagara, Niagara is a little bit more  
44 complicated and as Ontario is, and my comments are  
45 pre the last three or four days because it's changed

46 radically, but what happened in Ontario was that all  
47 vertically integrated utilities, if you can imagine Power  
48 and Hydro together as one company, then it would be  
49 split and all the distribution would be one company, all  
50 the transmission and the generation is separate. The  
51 generation is separate. The generation, depending on  
52 what, who you are, you either sell into the pool or you  
53 don't. This is pre the last few days because selling into  
54 the pool has changed in the last few days. Somebody  
55 like Ontario Power generation, I believe, has got a fixed  
56 price. The transmission and the distribution is loosely  
57 on cost of service regulation but this sort of  
58 benchmarks and it's agreed by the Ontario Board and so  
59 on ... I'm trying to get the answer down to two or three  
60 minutes as opposed to two hours.

61 MR. BROWNE, Q.C.: And are they affected by the four  
62 ... is it 4.3 cents price per kilowatt, Niagara?

63 MR. HUGHES: That 4.3 cents I believe, Mr. Browne, is  
64 the O ... I was going to say OPG, Ontario Power  
65 Generation price because they have 85 percent of the  
66 market. They've been instructed to get down to 35  
67 percent, and if you've got 85 percent of the market,  
68 obviously you totally dominate it and you can sort of  
69 price that so their theory, and I'm going back prior to  
70 the three days, was that if there was a set price for that,  
71 then the deregulated market worked on the other  
72 percents, the 15 percent or whatever it is. It's not quite  
73 15 percent now, it's some different number, but I don't  
74 know because the 85 percent counted the Missisagi  
75 (*phonetic*) plants which they sold to Brasscan  
76 (*phonetic*), so it's less than 85 now.

77 MR. BROWNE, Q.C.: So of all the Fortis companies,  
78 the only one into a true rate base system is this one  
79 here, Newfoundland Power.

80 MR. HUGHES: I don't ... there are many companies who  
81 have cost of service and rate base is normally part of it.  
82 I am only aware of one company in North America, but  
83 that's not to say that there aren't, who is regulated on  
84 return on rate base. Most people are regulated on  
85 return on equity.

86 MR. BROWNE, Q.C.: And why would that be, can you  
87 give us your opinion on that?

88 MR. HUGHES: Well, my memory of it is that ... and I'm  
89 going to stray a bit into legislation and if I get off track  
90 you can pull me back.

- 1 MR. BROWNE, Q.C.: Well, we know the legislation.
- 2 MR. HUGHES: No, but what I was going to ... my  
3 understanding of the matter is that in the  
4 Newfoundland legislation, it talks about return on rate  
5 base, and I believe, Mr. Browne, I'm right in that you  
6 took a case to the Court of Appeal, because the Public  
7 Utilities Board was doing similar to all the other  
8 jurisdictions in setting a return on equity and I believe  
9 you argued that it should be a return on rate base, and  
10 so from that point onward, whenever that court was  
11 heard, it then changed from return on equity to return  
12 on rate base. Now return on rate base is a combination  
13 of return on equity and all those other items, and it's  
14 only at one theoretical moment, it's never in reality,  
15 where the components ever stay what they were set for.
- 16 MR. BROWNE, Q.C.: Yes, I should tell you, the Board  
17 made the reference to the Court of Appeal, I couldn't  
18 take it on my own.
- 19 MR. HUGHES: I was giving you undue credit.
- 20 MR. BROWNE, Q.C.: Yes, and in terms of ... if you're  
21 not into a rate base system like these ... in a rate base  
22 system it encourages the building up of assets, is that  
23 a fair comment?
- 24 MR. HUGHES: No, it's not necessarily true, because  
25 what you have is that, just to bring it ... rate base is  
26 basically all the assets, so whether you have rate base  
27 or whether you have return on equity, you have items  
28 funding it, so you have what's called invested capital  
29 which is the other items. Rate base or assets, and it  
30 doesn't matter which way you really do it, they are one  
31 of the components that goes into revenue requirement  
32 so that revenue requirement really, in simple terms, is  
33 the statement of earnings or statement of income, so  
34 you start at the bottom ... now the bottom number in a  
35 return on equity is done equity times the rate equals  
36 that number. In a return on rate base, what you've got  
37 to do is add more numbers together to get to the same,  
38 so you take the return on rate base has to equal, and if  
39 I get on track, Mr. Perry, you can help me ... net profit,  
40 preferred dividends and interest, and those, roughly  
41 those financing components, whenever you finance  
42 your assets equal the rate base times the return, so  
43 those two come into sync.
- 44 MR. PERRY: That's correct.
- 45 MR. BROWNE, Q.C.: But is it true that the greater the  
46 rate base, the more return that you will get.
- 47 MR. HUGHES: No, that's not true. What it is is the  
48 greater the rate base, the greater the potential earnings  
49 would be in this theoretical world where everything  
50 stays the same because it's one of those things, it's  
51 mathematically correct, and if the rate base is higher,  
52 that one component in revenue requirement is higher.  
53 However, it depends on what the rates are and so on.  
54 All it is is a potential, and for example, in 1992, I believe  
55 I'm right in saying that the earnings were about \$27.8  
56 million which is roughly what the forecast is for this  
57 year, but the reason I bring that up is in this ten year  
58 period, \$400 million has been spent on capital  
59 expenditures, and that's why although the return on the  
60 rate base is one of the items. You can't say well, if rate  
61 base is X plus Y, then these things happen, it's just one  
62 of the components.
- 63 MR. BROWNE, Q.C.: But if your rate base stays the  
64 same and there's no growth in the rate base, there's no  
65 potential, the potential isn't there for extra earnings,  
66 isn't that true?
- 67 MR. HUGHES: No, it's not true because that's what I'm  
68 saying is that ... let's take two scenarios, one scenario  
69 where there's no rate case, and one where there is, and  
70 I'll keep going with your theoretical example. In a time  
71 where there's no rate case, the earnings depend on ...  
72 sorry, there's no rate case and we've somehow fixed the  
73 rate base at whatever we're doing. Earnings depend on  
74 all the normal things. It depends on sales, it depends  
75 on operating costs and so on. There has been no  
76 increase in rates, and presumably in your example,  
77 you're keeping return on rate base the same, I assume  
78 you are, so what happens in the non-rate case years is  
79 that the results are whatever the actions are, so sales  
80 have gone up and that sales increase, because  
81 everything else has stayed the same or whatever, could  
82 translate into greater earnings, or it could be that there  
83 have been storms or various other things, and so it  
84 hasn't, so in a non-rate case year, all those normal  
85 actual items translate into the earnings. In a rate case  
86 year, which is next year, you know, where you've got a  
87 test year, what happens there is all the components of  
88 revenue requirement are at play, so trying to sort of  
89 summarize your question is that you're talking about  
90 one item, and even that one is hard to isolate because  
91 if our 2003 capital budget was less, one of the things I  
92 know for sure is the operating costs are going up. I  
93 also know that reliability is going to be impacted, and

1 I'm not counting safety or environment, so it's just not,  
2 it's just not as ... to use your word, Mr. Browne, as  
3 compartmentalized as you're trying to portray.

4 MR. BROWNE, Q.C.: So that is completely wrong, is  
5 that what I'm saying, that if your rate base increases  
6 your rate of return doesn't necessarily increase, but it  
7 could increase, is that the correct part, it could?

8 MR. HUGHES: No, you've got two components, you've  
9 got rate base and you've got rate of return. The amount  
10 of rate base doesn't affect the percentage return. The  
11 return on rate base is set by the Commission  
12 (*phonetic*). What happens is, and let's say in an  
13 example, we fix the return on rate base, just to make the  
14 example simple. If you change, if you increase the rate  
15 base, it's a higher potential earnings, but whether they  
16 are realized or not will depend on the company's  
17 operating performance and what the numbers are set in  
18 the revenue requirements in the rate case, so that's how  
19 it works.

20 MR. BROWNE, Q.C.: Just before I conclude today,  
21 because I'll need some time to read what's come in over  
22 the last day or two, just on a few notes. You're  
23 President of the company, can you tell me this, how  
24 many computers do you have?

25 MR. HUGHES: One.

26 MR. BROWNE, Q.C.: You have one, you have a PC in  
27 your office?

28 MR. HUGHES: It's a laptop, I know this is terrible, I  
29 think it's a Compaq, but I'm not sure what the make is.

30 MR. BROWNE, Q.C.: So you have a laptop.

31 MR. HUGHES: What I've got in my office, I have a  
32 laptop. I've also got a docking station, because I find  
33 it easier to read normally on a screen as opposed to a  
34 laptop screen, so that's what I've got in my office.

35 MR. BROWNE, Q.C.: And do you have a palm pilot?

36 MR. HUGHES: I do.

37 MR. BROWNE, Q.C.: Do you have a computer at home  
38 that is owned by the company?

39 MR. HUGHES: No, I don't, my computer at home is  
40 owned by myself and my wife.

41 MR. BROWNE, Q.C.: In terms of the car, the car that  
42 you drive, is that a company car?

43 MR. HUGHES: It is.

44 MR. BROWNE, Q.C.: Is that leased?

45 MR. HUGHES: No, it's purchased, I believe, Mr. Perry?  
46 Yes.

47 MR. BROWNE, Q.C.: It's purchased?

48 MR. HUGHES: Uh hum.

49 MR. BROWNE, Q.C.: And how long do you use it  
50 before it is replaced?

51 MR. HUGHES: The rules of thumb are about three  
52 years.

53 MR. BROWNE, Q.C.: Every three years?

54 MR. HUGHES: Uh hum.

55 MR. BROWNE, Q.C.: And would that depend on the  
56 mileage and the use?

57 MR. HUGHES: It depends on mileage, use, various  
58 things like that.

59 MR. BROWNE, Q.C.: What is the average mileage  
60 when it is replaced, can you tell us that?

61 MR. HUGHES: What? Of all vehicles or mine?

62 MR. BROWNE, Q.C.: No, your vehicle.

63 MR. HUGHES: Can I ...

64 MR. BROWNE, Q.C.: We have some information on all  
65 vehicles, I'm just wondering how that matches what  
66 executive vehicles ...

67 MR. HUGHES: Can I do ballpark, Mr. Browne?

68 MR. BROWNE, Q.C.: Pardon?

69 MR. HUGHES: Can I do ballpark, I just don't know the  
70 odometer ... I think my mileage in a year is about  
71 between 10,000 and 15,000 kilometers, I believe, it's that  
72 range of magnitude.

- 1 MR. BROWNE, Q.C.: So in three years, that would be  
2 about 45,000, 45,000 clicks and it would be traded in.
- 3 MR. HUGHES: Somewhere in that, 30,000 to 45,000.
- 4 MR. BROWNE, Q.C.: And how about you, Mr. Perry,  
5 how many computers do you have personally that are  
6 owned by the company?
- 7 MR. PERRY: I have one.
- 8 MR. BROWNE, Q.C.: You have one, is that a laptop?
- 9 MR. PERRY: It is the same as Mr. Hughes has.
- 10 MR. BROWNE, Q.C.: Do you have a palm pilot?
- 11 MR. PERRY: I do.
- 12 MR. BROWNE, Q.C.: Do you have a computer at home  
13 that's owned by the company?
- 14 MR. PERRY: I do not.
- 15 MR. BROWNE, Q.C.: Do you have a PC in your office  
16 for your own use?
- 17 MR. PERRY: I have what I indicated which is a laptop  
18 with a docking station and a monitor.
- 19 MR. BROWNE, Q.C.: In terms of your vehicle, is your  
20 vehicle owned by the company?
- 21 MR. PERRY: It is.
- 22 MR. HUGHES: There's a clarification on this ... I mean  
23 I don't know how deep we want to get into that. Mr.  
24 Perry wished to purchase a vehicle that was more  
25 expensive, so Mr. Perry paid part and the company paid  
26 part, so I just want to make that clarification.
- 27 MR. PERRY: It's a pick-up truck actually.
- 28 MR. HUGHES: And it was authorized by myself that if  
29 he paid for ...
- 30 MR. BROWNE, Q.C.: I know a law firm in town that  
31 does that.
- 32 MR. HUGHES: If he paid the personal thing that was  
33 fine.
- 34 MR. BROWNE, Q.C.: And what are the rules for the  
35 executive in terms of ownership of laptops or, or  
36 personal computers or palm pilots, and the like. Is there  
37 a direction given by you as to how many a particular  
38 executive can own?
- 39 MR. HUGHES: I don't think I've ever issued a directive.  
40 I'm not aware of any executive who has more than one,  
41 almost all have a computer at home, almost all of them  
42 use their home computer at times to access the  
43 company systems and phoning in, dialling in, but I'm  
44 not aware of any person that has it. My feeling is is  
45 that it's sort of common sense. It's, you know,  
46 something is needed that's going to make the person  
47 more efficient, then, you know, and it's worthwhile, then  
48 it makes sense. The actual specs of the computers, Mr.  
49 Collins and his team prescribe what it is and that's why  
50 I was a bit shakey whether I've got a Compaq or what it  
51 is.
- 52 MR. BROWNE, Q.C.: So you give no direction as such  
53 as to how many any particular executive can own?
- 54 MR. HUGHES: No, I don't, but I mean if I found out  
55 that Joe or Jane had what I thought was not reasonable,  
56 then I would make inquiries and if necessary do it. I'm  
57 just not aware of anybody who has more than one  
58 company, you know, executive that has more than one  
59 company computer. The only people that I'm aware  
60 that have more than one computer are the control centre  
61 operators, because when you go into their thing, they  
62 have, they have it like a (inaudible) station, so it's like  
63 those that you've seen on the control rooms, you've  
64 got a control room with almost like a horseshoe desk  
65 and they've got two which they both use, but they're  
66 not personal, they're controlling the system, but they're  
67 the only people that I'm aware of that have more than  
68 one.
- 69 MR. BROWNE, Q.C.: Okay, I'll leave that anyway, Mr.  
70 Fitzgerald is going to get into computers with Ms. Duke  
71 and Mr. Collins, is it, later on in the hearing, so I'll leave  
72 that for now, but I was wondering what the policy was  
73 in terms of the, in terms of the executive. In terms of the  
74 policy that is in place for personal use of vehicles by  
75 employees, can you tell us briefly what that policy is?  
76 I think there is a CA I asked on that, and the number  
77 escapes me right now, and maybe you can tell us  
78 basically what the policy is on personal use of vehicles  
79 by employees?

- 1 MR. ALTEEN: Perhaps we should put the CA up on  
2 the screen might be a good idea.
- 3 MR. BROWNE, Q.C.: You don't know roughly what it  
4 is, do you, Mr. Hughes?
- 5 MR. HUGHES: I can speak in general terms but I mean  
6 if you want to ask me a detailed question on the policy,  
7 it's easier if it's on the screen. If you want a general  
8 answer, I'm happy to give a general answer.
- 9 MR. ALTEEN: CA-45(g) please, Mr. Wells? It's the  
10 attachment.
- 11 MR. BROWNE, Q.C.: Okay, when we look at CA-45(g),  
12 attachment A, can you just read the first paragraph into  
13 the record for us, Mr. Hughes, please?
- 14 MR. HUGHES: Do you mean one, or in consideration.
- 15 MR. BROWNE, Q.C.: Number one, please.
- 16 MR. HUGHES: Any employee utilizing a company  
17 vehicle must ensure that they exercise diligent and  
18 discretion in all situations. This is particularly true after  
19 normal working hours. Employees are expected to  
20 consistently act in a responsible manner in the use of  
21 company vehicles. In making the "right", in inverted  
22 commas, judgement on the use of company vehicles,  
23 employees must act with customer expectations and  
24 public perception in mind. This being said, employees  
25 must never compromise the need for safety under any  
26 circumstance.
- 27 MR. BROWNE, Q.C.: Okay, why should the ratepayers  
28 of this province be paying your employees to use a  
29 company vehicle after working hours?
- 30 MR. HUGHES: Because the main ...
- 31 MR. BROWNE, Q.C.: Why should they be paying for  
32 that vehicle?
- 33 MR. HUGHES: Mr. Ludlow can get into the detail of  
34 this. The main people who have these company  
35 vehicles are operations and engineering people. We  
36 are a 24/7, 365 company, and as happened say with the  
37 lightening storm in Grand Falls. That lightening storm  
38 came in, whatever it was, in the evening, early evening.  
39 We need to assemble people as fast as we can. We  
40 also need them, not particularly, they may go to the  
41 building, they may go right out to where the substation  
42 is, they may go to the lines. They need to be in  
43 vehicles where, you know, they can go off road if they  
44 need to ... they need to be in whatever is the most  
45 suitable vehicle, so it's a matter of response, you want  
46 to be able to respond quickly and so that is the purpose  
47 of it, Mr. Browne.
- 48 MR. BROWNE, Q.C.: Yes, but obviously you've seen  
49 around town snow ploughs operated by the City of St.  
50 John's parked by people's homes ready to service the  
51 roads at the call, but you rarely see a snow plough  
52 driver taking the vehicle to a restaurant downtown to  
53 park.
- 54 MS. BUTLER, Q.C.: Is that a question, Mr. Chairman.
- 55 MR. BROWNE, Q.C.: Well, I'm getting to the question.  
56 But you often see or observe a car with the Fortis  
57 insignia, Newfoundland Power, around town at various  
58 venues in what would be considered off hours. Is that  
59 in accordance with that policy, they are allowed to use  
60 those vehicles for personal use?
- 61 MR. HUGHES: I think there's a big difference in that I  
62 would say that the snow plough example, and I don't  
63 want to get into what the City does or doesn't do,  
64 because I really don't know anything about it, but the  
65 vehicles we're talking here aren't line trucks. Line trucks  
66 are parked where they should be, so that's analagous to  
67 your snow ploughs. What we're talking about on these  
68 vehicles is getting our key people, our general  
69 (inaudible) persons, our superintendants, people like  
70 that, we need them there quickly because you need to  
71 stabilize the system, you're going to need to do safety,  
72 you need to do environment, and you also need to get  
73 them quickly and they are, they need to be able to  
74 respond. You cannot have people who are locked in  
75 their homes, 24/7, they need to have a life as well. I  
76 view it, Mr. Browne, as very reasonable. I think the  
77 response times are good, and I think it shows in our  
78 reliability.
- 79 MR. BROWNE, Q.C.: But isn't a vehicle just as  
80 available to them if it's parked in their driveway as  
81 opposed to parked in front of Woolco?
- 82 MR. HUGHES: You're assuming, Mr. Browne, that the  
83 person is in their house. If a storm comes in, and you're  
84 probably talking ... you need to think about it right  
85 across our service territory, not just in downtown St.  
86 John's. We need people to respond quickly and we  
87 have, you have some people on call, and where you

1 have outage situations, they come in, they get called in  
2 and they have radios in the trucks and you respond  
3 faster. I think it is a very different situation. If you had  
4 them in the driveways as you suggest, our response  
5 time would be far less, I believe there would be more  
6 accidents in terms of stabilizing the system, and you'd  
7 lose a lot of time.

8 MR. BROWNE, Q.C.: But you haven't tried that, have  
9 you? You can't ... because that's not your policy.

10 MR. HUGHES: To be honest, Mr. Browne, I think it's  
11 irresponsible what you're suggesting.

12 MR. BROWNE, Q.C.: So if the City of St. John's has  
13 their snow ploughs parked in front of an employee's  
14 house, that is irresponsible, as opposed to letting him  
15 use it for his personal use?

16 MR. HUGHES: Mr. Browne, you're talking about  
17 different things. If you've got ... the commodity we sell  
18 is lethal. We need to stabilize that situation. We need  
19 to be able to respond quickly. If a road gets ploughed,  
20 20 minutes later or an hour later or an hour and a half  
21 later, it hasn't got the same effect as restoring power,  
22 and it hasn't got it from a safety point of view, and it  
23 hasn't got it from the environmental point of view. We,  
24 because vehicles are always such an emotive thing,  
25 we've gone through this. We think from a safety,  
26 environment, restoration (inaudible), this makes sense.  
27 It's a good compromise. Is it perfect? No, it's not, but  
28 I think this gives customers the best chance of, the best  
29 reasonable service, and I think from a safety point of  
30 view, it's paramount. We need those guys there.

31 MR. BROWNE, Q.C.: Do you clock how many  
32 kilometers are used by an employee driving a company  
33 care personally versus how much he's using for  
34 business reasons ... he/she?

35 MR. PERRY: I would say for example, that there's two  
36 types of vehicles. You have vehicles, for example, you  
37 could say for Philip and I, which are, at least for myself  
38 is mostly personal use, in terms of that's a benefit I  
39 have. I would say for General 4 persons, and engineers,  
40 we don't track the actual personal kilometers because,  
41 again, the majority of use of that vehicle is for business  
42 purposes, so we don't track specifically the kilometers  
43 in that case. That's my recollection of that.

44 MR. HUGHES: I'm not sure that's quite right. Can we  
45 just find out what the real situation is, Mr. Browne,

46 because I thought we did an assessment on the  
47 personal, but I could be wrong.

48 MR. BROWNE, Q.C.: Okay, and Mr. Ludlow is the  
49 expert on vehicles and vehicle usage?

50 MR. HUGHES: Mr. Ludlow knows far more than I do  
51 about vehicles.

52 MR. BROWNE, Q.C.: Okay, well we look forward to  
53 hearing from him in reference to the vehicle, personal  
54 use vehicle policy. By the way, when did that policy  
55 come in, do you have any idea?

56 MR. HUGHES: I believe, Mr. Browne, that the one on  
57 the screen is relatively recent. We can find out, if you  
58 want the exact date, we can find it out, but my  
59 recollection is that there's been, for a long time, a  
60 vehicle policy, but I think this is an updated one, and I  
61 can't tell you the exact date, but Mr. Ludlow's in the  
62 room, I'm sure he can rattle them off when he's on the  
63 stand.

64 MR. BROWNE, Q.C.: It's 20 after, so thank you for  
65 today and I will continue tomorrow, is that okay, Mr.  
66 Chair.

67 MR. NOSEWORTHY, CHAIRMAN: Thank you very  
68 much, Mr. Browne, Mr. Hughes, Mr. Perry, we'll adjourn  
69 for today and we'll reconvene at 9:00 tomorrow  
70 morning.

71 *(hearing adjourned to November 14, 2002)*