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October 15, 2009
(9:00 a.m.)
CHAIRMAN:
Q. Are there any preliminary matters before we turn it over to Mr. Johnson again to continue with his cross-examination. No, back to you, sir.
MR. JOHNSON:
Q. Thank you, Mr. Chairman. Good morning, Mr. Chairman, Commissioners. Good morning, Mr. Ludlow and Ms. Perry.
MS. PERRY:
Q. Good morning.
MR. LUDLOW:
Q. Good morning.
MR. JOHNSON:
Q. Mr. Ludlow, I note yesterday you indicated that it appeared that Newfoundland and Labrador Hydro will be before the Board within the next 12 to 18 months. You indicated that was your understanding, and I take it you're referring to a general rate application by Newfoundland and Labrador Hydro, are you?
MR. LUDLOW:
A. Mr. Chairman, it's my understanding from

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discussions, nothing confirmed or anything else, but it's my impression that they will be in front of this board within the next year or so, two years.
MR. JOHNSON:
Q. Okay, and you would have that from pretty high sources as to Newfoundland and Labrador Hydro?
MR. LUDLOW:
A. I suggest Mr. Johnson might be better to address that to Newfoundland and Labrador Hydro.
MR. JOHNSON:
Q. Now let me talk about your executive team for a moment, Mr. Ludlow. I think you indicated yesterday that you've been part of the Fortis family, I guess, right from the time you became an engineer, would that be about right?
MR. LUDLOW:
A. That's correct, I joined Newfoundland Power in 1980.
MR. JOHNSON:
Q. Yeah, I guess it predates Fortis, and, for instance, Mr. Phonse Delaney, who is your VP of Engineering Operations, he would likewise have been someone who started off with

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Newfoundland Power and remained within the Fortis family?
MR. LUDLOW:
A. I can't confirm that he started with Newfoundland Power, but he did join us shortly after graduation from Memorial University, that is correct.
MR. JOHNSON:
Q. Yes, and in terms of, I understand, Carl Smith, who is the previous President, your predecessor, he's left Newfoundland Power and he's gone to Fortis, Alberta?
MR. LUDLOW:
A. That's correct.
MR. JOHNSON:
Q. And prior to him coming to Newfoundland Power as President, was he also affiliated with a Fortis organization?
MR. LUDLOW:
A. Carl would be Vice President of Finance, and Chief Financial Officer for Fortis Incorporated.
MR. JOHNSON:
Q. And Mr. Gary Smith, who is your current President, prior to him coming here, he was

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with Fortis Alberta. Had he been with Fortis Alberta for a period of time?
MR. LUDLOW:
A. Mr. Smith is the current Vice President, Engineering and Operations, and he was with Fortis Alberta for two years.
MR. JOHNSON:
Q. And prior to that, had he been with a Fortis Company?
MR. LUDLOW:
A. He was with Maritime Electric prior to that, that is correct.
MR. JOHNSON:
Q. And you had been with Maritime Electric at one point as well, is that correct?
MR. LUDLOW:
A. Yes, I have, that's correct as well.
MR. JOHNSON:
Q. And Mr. Alteen was with Newfoundland Power when you joined the executive team of Newfoundland Power, would that be right?
MR. LUDLOW:
A. When I joined the executive team in 1997 at Newfoundland Power, Mr. Alteen was there at that point, yes.

MR. JOHNSON:
Q. But at that point, he wasn't a member of the executive, I take it?
MR. LUDLOW:
A. That is correct.
MR. JOHNSON:
Q. So, I guess, the point I'm driving at, and I know there's probably some exceptions to it, but by and large, a lot of the executive ranks of Newfoundland Power and the other Fortis companies, it seems to me comes within the Fortis family. Like, for instance, you wouldn't see many ads in the Globe and Mail seeking an executive to join one of the companies, it's sort of internal. Would that be a fair assessment of mine?
MR. LUDLOW:
A. It would be a fair assessment from your description of Newfoundland Power, but I would not broaden that to the Fortis Group of Companies, no, I would not.
MR. JOHNSON:
Q. I'm content that it's a fair assessment for Newfoundland Power. I'd like to turn to an issue of secondments, Mr. Ludlow, and for that

purpose, would you please turn to CA-NP-150. Mr. Ludlow, in this RFI, we requested to provide details as to Newfoundland Power personnel just over the past three years, including the present year, who've been seconded to other Fortis Inc. companies, and in that table, obviously, your Company has indicated four such secondments to other Fortis companies, and I just note, first of all, the engineering technologist who was seconded to FortisBC from February, '07 to August '07, and how would that secondment work from a money point of view? Like, would he come -- would Newfoundland Power receive compensation for that particular engineering technologist going out to FortisBC to perform duties for that operation?
MR. LUDLOW:
A. Yes, they would.
MR. JOHNSON:
Q. Pardon me?
MR. LUDLOW:
A. Yes, we would.
MR. JOHNSON:
Q. We would, okay, and that engineering

technician would be charged out at a market rate?
MR. LUDLOW:
A. The rate charged the engineering technologist -- the actual rates I will defer to Ms. Perry, but the secondment -- I'm not sure of the actual rate at this point, Mr. Johnson. Ms. Perry can answer that question for you.
MR. JOHNSON:
Q. But are you aware of whether or not it's charged out on a market rate? I appreciate you may not know the detail of what the rate is, but is it a market rate?
MR. LUDLOW:
A. What I do know, Mr. Chairman, the executive, when seconded, are seconded at 1.2 times fully loaded cost. Engineers are 2 times cost, which is as per the, I guess, PEGNL, or the Professional Engineers and Geoscientists of Newfoundland and Labrador, and where market rates are available, they basically are applied. That's my understanding of the process.
MR. JOHNSON:
Q. Could I just turn your attention to 151, which

is the next RFI. In this RFI, Mr. Ludlow, I asked the Company to compare the markup rate used in respect of inter-corporate charges for managers and executives to the markup applied to Newfoundland Power's personnel who provide services under contract with Aliant Telecom Inc, and at Table 1, the technologist from Aliant Services is charged out at 1.45 times cost, whereas the executive and manager component of your Company, when they're put out for Fortis duties, it's 1.2 times cost, correct?
MR. LUDLOW:
A. That's correct.
MR. JOHNSON:
Q. So would the amount being charged, and I guess I'll address this with Ms. Perry is probably what you're going to tell me next, which is okay --
MR. LUDLOW:
A. It depends on what you ask me, I guess.
MR. JOHNSON:
Q. Now in terms of the Treasurer of the Company, that individual, as I understand it, was seconded to Fortis Inc, and I'm back at 150

now. Yes, the Treasurer was seconded to Fortis Inc. from December, 2007, to June, 2009. Mr. Ludlow, who is the Treasurer of Newfoundland Power?

MR. LUDLOW:

A. I'm thinking, Mr. Chairman, because if my memory serves, we do not have a position of Treasurer at the present time.

MR. JOHNSON:

Q. So do you remember who the Treasurer was from December, 2007, to June, 2009?

MR. LUDLOW:

A. I can basically in this circumstance, between December 2007, and 2009, if my memory serves right, we reorganized the Accounting and Finance Department at that point, and Mr. Jamie Roberts took over as the Manager of Finance during that period, and that included the Treasurer duties. Whether he was called Treasurer or whether he was called Manager of Finance, but that was his role during that period, and he later left the Company.

MR. JOHNSON:

Q. When he left the Company, did he go with the Fortis Company?

(9:15 a.m.)

MR. LUDLOW:

A. He did, actually. He was promoted to the position of CFO with Fortis Properties.

MR. JOHNSON:

Q. And the Director of Financial Reporting and Treasury who was seconded to again Fortis Inc. from March, '07 to December, '07, who is that individual, Mr. Ludlow?

MR. LUDLOW:

A. I'm struggling on this one for the actual name, but I know the young lady that's now with Fortis -- she's not with us, she's with Fortis Inc. at this point in time. Her name escapes me, Mr. Johnson.

MR. JOHNSON:

Q. When I see the secondment period of December, 2007, the assumption I had in reading it was that that individual came back to Newfoundland Power, but that would not be accurate, I take it?

MS. LUDLOW:

A. That is correct. Neither did the Treasurer.

MR. JOHNSON:

Q. And how do these secondments, such as we're

seeing here, come about? I mean, does Newfoundland Power initiative the secondment or does Fortis say, look, we need some people over here?

MR. LUDLOW:

A. Well, usually, Mr. Chairman, the way this would work is Fortis, although it's a big Company, Fortis Inc. itself is probably only 14/15 employees, and the subsidiaries, for example, let's go to FortisBC as an example, and the engineering technologist, there would be a request go out to probably within the Fortis Company, say, if there's one that has the skillset and could avail of this short term, and the way I personally look at these opportunities for employees is it's an opportunity to grow, learn, and have someone else pay for the training. In that case, and that one is before my time returning, but in general is where I would speak to, Mr. Chairman, a call may very well come into our Human Resources Department or an e-mail to me directly, and that would be -- it's not a grandiose formal process, and in particular, if there's an opportunity, and that's the way

we look at it. That's roughly how it would work, Mr. Johnson.

MR. JOHNSON:

Q. For instance, the Treasurer who was gone from December, '07 to June, '09, I mean, that's a rather long engagement, Mr. Ludlow, unless you're saying that you just didn't need the Treasurer at Newfoundland Power. Is that what you're indicating?

MR. LUDLOW:

A. No, I wouldn't indicate we didn't need the person, but at the same point in time when we reorganized in -- actually, the reorganization occurred after the 2008 rate application, and the hearings were completed in November, and we reorganized and the Treasurer at that point seconded to Fortis. So we looked at it, and we said, well, can we keep going, and one of the things we're always looking for in this Company is a way to consolidate, reorganize, and reduce costs. When the opportunity came up, we had an opportunity here that someone else picked up the rates, and when we were able to go through for a period to this year, we said, well, we don't need that position,

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and they said, well, we'll keep it, and that's what happened. To us, it seems to be an effective way to operate.

MR. JOHNSON:

Q. With respect to the Director of Environment, do you know any details about that secondment to Fortis Alberta, Mr. Ludlow?

MR. LUDLOW:

A. Yes, Mr. Chairman, that would be Mr. Bernie Ryan, and Bernie was our Director of Environment, and at that point there was a request went where the 14,000 series, the MS System was being installed in companies. Actually, we were on that, and have been on it now since probably mid 90s. So again the request came. We had a very strong, what I would call, 2 IC (phonetic) in the Environmental Group, so it was an opportunity here for Mr. Ryan to gain exposure in another utility, grow our internal person, and still have the benefit of what I would -- to coin my phrase, is fly under Bernie's wing, and that's what we did. When Bernie came back, Bernie did not go into the Environment side any more because that group had grown, and is now moved

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over into a support role with Mr. Smith, and that's the same type of thing.

MR. JOHNSON:

Q. Can I ask you a question that relates to helping out other Fortis affiliates, regarding hurricane, storm, and damage relief. I understand that traditionally -- well, I can't say traditionally, but I can say since Fortis got involved in the Caribbean, in that area, that Newfoundland Power seems to have played a pretty active role in reconstruction of other Fortis utilities properties, and in that regard, I wonder if I could turn you to CA-NP-148. In this question, we asked to describe Newfoundland Power's role in assisting Fortis Turks and Caicos in 2008 in respect of the hurricane damage and power outages down there. This reply indicates that a total of 20 Newfoundland Power staff were involved in the relief effort to Fortis Turks and Caicos, and of this 18 staff were actually deployed to the Turks and Caicos between the 9th of September and October 31st, while two provided a coordination role from Newfoundland and -- it's there for the record. How did that come

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about, Mr. Ludlow?

MR. LUDLOW:

A. I guess it came about as a result of two hurricanes hitting the Turks and Caicos within one week, and the names escape me right now, but I know one of them as a "H" name, and from there, there was a request went out across the Fortis Family to assist a country that's been devastated. So when the request came, we responded, and under those circumstances, as we've done pre-Fortis, at least to other non-Fortis companies, I would state it that way, Mr. Chairman -- it was one year after, I guess, Fortis was formed, that we did our first Jamaican disaster relief as well. So that's the way it would happen. It wouldn't be a request for 20, 30, or 40 people. It would be a request to say, can you help, and if we responded, yes; how can you help, and that would go that way.

MR. JOHNSON:

Q. And I take it in addition to -- in that particular relief effort, there were 41 other Fortis subsidiary staff that was sent to assist in Turks and Caicos, would that be

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correct, Mr. Ludlow, and I'm referring to CA-NP-270?

MR. LUDLOW:

A. Yes.

MR. JOHNSON:

Q. And as we've said, Newfoundland Power actually played the coordination role for all of these people?

MR. LUDLOW:

A. Yes, we did.

MR. JOHNSON:

Q. Now you indicated that this was -- the way you made it sound, it was almost like a humanitarian mission in aid of a sovereign country, but would you have rendered a bill, an account, to the Government of Turks and Caicos?

MR. LUDLOW:

A. The actual billing and circumstances around this, again Ms. Perry and Ms. Smith can speak to in detail, but from my end, what I would comment there is we would have charged our costs back to Fortis T & C, not to the country.

MR. JOHNSON:

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Q. Yes, that's right, so it was a request to help a Fortis utility, not a territory, correct?

MR. LUDLOW:

A. It was a request to help a utility that works in Turks and Caicos, I agree with you.

MR. JOHNSON:

Q. Okay, and I won't quibble with that, and I understand that according to CA-NP-273, that there were two supervisors and -- well, they're all considered Powerline Technicians II, which have supervisory responsibilities. So a total of 14 Powerline Technicians spent 4000 hours on this particular project, and as you've said, I can talk about the details of how the charging went with Ms. Perry, okay. Now I just want as well to bring you to 269 because that refers to another hurricane reconstruction effort, this time affecting the Caribbean Utilities Company in, I take it, the Cayman Islands, and that comes out of this question which I asked, "To provide details of all instances over the past 15 years where Newfoundland Power has provided assistance to other utilities outside of the province, and (b) where Newfoundland Power has been provided

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assistance by utilities from outside of the province, please provide the number of person hours expended". I take from this response that over the past 15 years, the only companies that Newfoundland Power has provided assistance to outside the province have been other Fortis Utilities, correct?

MR. LUDLOW:

A. That is correct.

MR. JOHNSON:

Q. And we've already talked about Hurricane Ike, which was Fortis Turks and Caicos, but there was also Hurricane Ivan in 2004 that affected the Caribbean Utilities Company. Do you recall that event, Mr. Ludlow?

MR. LUDLOW:

A. I do, however, I was not at this Company, but I am familiar with Hurricane Ivan and its devastating impact, yes.

MR. JOHNSON:

Q. And the number of person hours involved really dwarfed the Fortis Turks and Caicos effort, there was some 16,984 hours expended in support of that utility, correct?

MR. LUDLOW:

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A. Yes, that is correct.

MR. JOHNSON:

Q. Now, you know, the people who are dispatched from Newfoundland Power to go down to help out this other utility, do they receive a bonus or anything for, you know, being away from their families, you know, in a pretty tore up area for an extended period of time?

MR. LUDLOW:

A. I'm not aware of those details, Mr. Chairman. We can answer that to the detail level, either Ms. Perry or Ms. Smith. I just don't know, sorry.

MR. JOHNSON:

Q. Now Newfoundland Power had its own much more moderate problem with the Bonavista issue in late 2007, and as I understand it, Newfoundland Power had to expend about $212,000.00 on labour, materials, equipment, and travel in response to that December 27th ice storm, and that's borne out -- you needn't go there, but that's borne out in CA-NP-100, and Mr. Ludlow, would your Company have availed of private contractors to deal with that situation?

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(9:30 a.m.)

MR. LUDLOW:

A. Yes, we would have.

MR. JOHNSON:

Q. And would they have said, you know, sorry for your troubles, but we're only going to charge cost for our services?

MR. LUDLOW:

A. I would suggest that our contractors would be charging no more or no less than they would for a normal day's work, and that's typically the way we work with our contractors.

MR. JOHNSON:

Q. Exactly my point. So when Newfoundland Power has a problem, like on the Bonavista Peninsula, Newfoundland Power's rate payers, you know, bear the full actual cost of what it takes to put the system up and running, correct?

MR. LUDLOW:

A. That's correct.

MR. JOHNSON:

Q. Right, but down in these hurricane prone areas, the Fortis affiliate that our people are doing the work for, they're not paying the

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market rate, are they?

MR. LUDLOW:

A. They are paying the cost in the humanitarian effort to respond to a country and a utility that have been devastated, and basically that's what has been paid. As we said, we would recover all our costs, and that's the way it was billed is my understanding. We did not go there with the intent of making money.

MR. JOHNSON:

Q. I'm not being coldhearted about this. I'm just looking at the practicalities of the situation. Here we have Fortis, which has these utilities -- like, I've never been to the Cayman, but I understand that it's a fairly well to do locality. Would that be correct?

MR. LUDLOW:

A. It's probably one of the better Caribbean Islands. That I'd agree with.

MR. JOHNSON:

Q. That's my understanding, and I'm just curious as to why Fortis would expect, or should they expect, that they would be able to draw upon Newfoundland Power and Fortis to have, you

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know, a first class crew come down without paying any markup on what these crews are bringing.

MR. LUDLOW:

A. I don't know if there's a question in there, Mr. Johnson.

MR. JOHNSON:

Q. Well, I'm wondering what justifies that, that sort of benefit being conferred to the parent Company essentially, because the parent Company, in a sense, the shareholder is being insulated from the full cost of getting its infrastructure fixed?

MR. LUDLOW:

A. Let's take an example like last night, if you want to bring it close to home. We have not had the occasion, and we got through last evening, and I would say we skated through fairly well, and it is not beyond the realm of possibility that 1958, 1984, 1992, or 1994, and these numbers will trigger in people's memories here that have been around the city for a while, would I call on other Fortis utilities for assistance; yes, I would. Who would I expect to respond? My order would be

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most likely Newfoundland and Labrador Hydro, which is not a Fortis utility. I would be calling on Maritime Electric, I would be calling on Fortis Alberta, and Fortis Ontario. I would also call on other utilities, as these countries did as well. So to even suggest that we're beyond the realm of assistance is not reasonable, and to me, I would take great exception if I had companies coming to me and charging me what I would call premiums over and above during a time of catastrophe.

MR. JOHNSON:

Q. But, Mr. Ludlow, I know that there's a certain appeal when you put it that way to what you're saying, but these utilities in the Caribbean, I mean, that's a business risk of carrying on business in the Caribbean, right? I mean, isn't that a bit of apples and oranges in the sense that, you know, the situation with a Nova Scotia utility and Newfoundland Hydro, that strikes me as running across the yard to get a cup of sugar, and, you know, today is your day and it might be the shoe on the other foot, but, I mean, we're talking -- I can understand a reciprocity relationship, but

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isn't this different in your mind?

MR. LUDLOW:

A. No, it's not different. I mean, hurricanes are certainly a business risk. Ice and wind is a business risk here as well, and I can tell you I worked in 1984 here, and I can remember when there were days there was not a kilowatt hour for delivery in this city. I can remember nights up in the Goulds Substation. So the fact that we haven't called speaks to likely change in weather patterns, it might be the system, but we can be humbled very, very quickly. So my point here is that I would not hesitate to call on other utilities, both within and outside the Fortis Group. In these disaster reliefs your mentioned, Belize is in CA-NP-269, there were other utilities involved. So this here, you know, I just feel that from my personal experience that when the chips are down, that's when you have to call on people that you know and respect and have the same type of work methods and responsibilities. That's the way it is, Mr. Johnson.

MR. JOHNSON:

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Q. Could I ask you to turn to CA-NP-275 for a moment?
MR. LUDLOW:
A. Just a second now. I want to clear up a couple of these. 275?
MR. JOHNSON:
Q. Yes.
MR. LUDLOW:
A. Okay.
MR. JOHNSON:
Q. Because I found this answer really curious. It said, "Further to CA-NP-148, prior to Fortis establishing Fortis Turks and Caicos, what external utilities provided services to Turks and Caicos in such restoration and repair efforts? Had these external utilities continued to provide such services since the establishment of Fortis Turks and Caicos? Newfoundland Power does not have the information requested". I guess what I was getting at, you know, was there anybody else besides Fortis affiliates down assisting the Turks and Caicos?
MR. LUDLOW:
A. I don't know, and I honestly don't know. I

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did answer you a little earlier when I spoke of Belize, I was there, and there were other utilities. That I do know.
MR. JOHNSON:
Q. I just want to address for a moment, Mr. Ludlow, the Mobile River Watershed dispute.
MR. LUDLOW:
A. Just bear with me one second. Okay.
MR. JOHNSON:
Q. I take it that this is a matter ongoing, as we've heard, but, Mr. Ludlow, there has been monies and efforts of Newfoundland Power deployed to this particular issue over both 2009 and expected again in 2010, correct?
MR. LUDLOW:
A. That's correct.
MR. JOHNSON:
Q. And I understand, according to CA-NP-138, for instance, that $275,000.00 is anticipated to be expended on this arbitration litigation case. I'll wait for you to get there.
MR. LUDLOW:
A. Please.
MR. JOHNSON:
Q. Do you see that, Mr. Ludlow?

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MR. LUDLOW:
A. CA-NP-138, yes, I have it.
MR. JOHNSON:
Q. Okay, so $275,000.00 in '09, and then another $100,000.00 expected in 2010, and if I heard your counsel correctly yesterday, that matter could yet go on for another period of time before it's resolved, at further expense, one would presume, correct?
MR. LUDLOW:
A. That is correct.
MR. JOHNSON:
Q. And that $100,000.00 in 2010, that's being proposed to be built right into customer's rates, right?
MR. LUDLOW:
A. That is correct.
MR. JOHNSON:
Q. And if at the end of the day - let's say compensation were to be paid to Newfoundland Power from the city, and we don't know what will happen, but if that were to be the case, who would receive the compensation, Mr. Ludlow, do you know whether it would be the Newfoundland Power shareholder or the

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customers?
MR. LUDLOW:
A. My understanding, Mr. Chairman, of the Mobile Water System and the current situation with the City of St. John's, is that prior to any disposition of those assets, or the acquisition of those assets by the City, that would have to be heard before this Public Utilities Board as per the appropriate legislation, and that's my understanding that any disposition would occur at that point, Mr. Johnson.
MR. JOHNSON:
Q. Okay, that's fair play under the Act. Mr. Ludlow, if that's your take on it, fine, but if at the end of the day compensation would be held at the end of the day by this Board to properly go to the shareholder and not the customer, I'm wondering why would customers have to incur the money cost of -- and as well the cost of having management time distracted on the issue for this proceeding? I mean, surely it can't be fair or appropriate that customers pay the cost, but don't get any of the benefits at the end of the day. If that

were to turn up without a deferral account, isn't that what would happen?

KELLY, Q.C.:

Q. With respect, Mr. Chairman, if I may, and if you would, my friend is really asking the witness for a whole bunch of really (a) suppositions, and (b) legal conclusions, (c) without a factual basis because you can't get to the factual basis until they're going to be much further down the line, at which point this Board will potentially have to grapple with a whole bunch of knotty issues as to how this should be dealt with. As my friend well knows there's a flock of legal issues that come into play in all of that, which at this stage is hugely premature. I don't know where this exchange can effectively take us, but, I mean, I'm in the Board's hands as to how far down this road you wish to explore.

MR. JOHNSON:

Q. Maybe, Mr. Chairman, I'll move on, and I'll discuss how the deferral account would operate with Ms. Perry when I come to her.

CHAIRMAN:

Q. I mean, you are asking hypothetical questions,

aren't you?

MR. JOHNSON:

Q. Yes, that's truly hypothetical, because, Mr. Chairman, at this point I don't think it would be appropriate in this setting for the consumer advocate to start getting into what the merits of the litigation are, who is right, who is wrong, because that could prejudice the case, that wouldn't be appropriate. I want Newfoundland Power to do as well as they can on it, but by the same token the concern is that if there's money being expended for legal fees that customers are going to have into their rates, but at the end of the day there is even a possibility that all the benefits of the litigation will go to the utility, that's what's driving that issue, but I'm happy to take it under advisement and see whether I want to query Ms. Perry on it.

CHAIRMAN:

Q. I think that would be questions for another day.

MR. JOHNSON:

Q. I'll move on, Mr. Chairman, to another issue

pertaining to the sale of Kenmount Road property. If you could turn up CA-NP-184, Mr. Ludlow, and in particular this deals with -- we asked the Company to provide details on the sale of property up at the Kenmount Road area. I understand that that property was basically behind where the headquarters are on Kenmount Road, would that be correct?

MR. LUDLOW:

A. Not quite. The land that was disposed of -- there's two pieces. There's an odd shaped piece of land. It sits between Newfoundland Power and the adjacent property. There's a strip of land that goes up through there, and then it goes up, and there's a piece of property behind the adjacent property.

(9:45 a.m.)

MR. JOHNSON:

Q. Maybe we could turn to the survey then, Attachment "A". This is the outlying piece, the 3.34 hectare piece, Mr. Ludlow. That's the piece we're talking about.

MR. LUDLOW:

A. And, Mr. Chairman, the piece of land that goes down between both pieces of property.

MR. JOHNSON:

Q. Yeah, that's all part of --

MR. LUDLOW:

A. That's what I was referring to.

MR. JOHNSON:

Q. That's all part of the big parcel, okay. So now we understand, and we see Bradmor Holdings. I take it that's the Toyota Plaza business?

MR. LUDLOW:

A. I assume so, yes.

MR. JOHNSON:

Q. And that's the people who bought the parcel?

MR. LUDLOW:

A. Personally, I'm not certain who bought the property, but it was somehow connected with that landowner or that person -- I don't know if it's Bradmor Holdings, Mr. Chairman, or some other company, but it was that group.

MR. JOHNSON:

Q. Now this property, Mr. Ludlow, I take it, was never useful in regulatory parlance? It was put to --

MR. LUDLOW:

A. I'll try, Mr. Chairman, to explain my understanding how this land came around, and from there as we move on, I'm going to defer the discussion if I may to Ms. Perry on this one. This land started as an amalgamation of properties back, I do believe, as late as the 60s, as early as the 60s, even pre-amalgamation of Newfoundland Power, and right up through to the last piece being added roughly in the late 80s, give or take a year, late '89 or '89 range, and it was pulled together on the premise that it would -- parts of the land would form a portion of almost like a centralized depot/head office style of position for Newfoundland Power. Now that's my recollection and understanding. I can't go back to '61, but I can go up to the 80s, and from there decisions were subsequently made to construct Duff Place within the Industrial Park, and a Control Centre on Topsail Road, and to leave Kenmount Road as the building that it is today, which is the administrative head office. That's my understanding of how the land was pulled together.

MR. JOHNSON:

Q. And I guess my question, and I think CA-NP-281

shows the date and price of the acquisition of the land that you're referring to, from 1961 onward.

MR. LUDLOW:

A. 281?

MR. JOHNSON:

Q. 281, I'm sorry.

MR. LUDLOW:

A. All right, that's my mistake. So roughly that sort of gives the time frames of what I was trying to say a minute ago there.

MR. JOHNSON:

Q. Okay, and I guess the point being that the land was assembled from 1961 to 1989. It had a total book value cost, according to that answer of $234,000.00. The $234,000.00 was the amount that went into your rate base. You've earned a return on your rate base all those years up until the property was finally sold for $618,000.00 in 2009. Are we correct so far?

MR. LUDLOW:

A. With respect to the sale price, I think you are correct.

MR. JOHNSON:

Q. Okay, but it was included in rate base right from the time of acquisition, but my point being, Mr. Ludlow, that the land never got used as intended, would that be correct?

KELLY, Q.C.:

Q. With respect, Mr. Chairman, I'm going to interject because my friend is asking for a legal conclusion. The witness has described how the land was assembled, and Ms. Perry can speak to this in much more detail, but it was assembled, as the witness has said, as part of the Kenmount Road property. So whether it is used and useful, it's part of that Kenmount Road property and the conclusion to whether it's used and useful is, in fact, a legal conclusion that my friend is trying to have the witness draw. The witness can explain how the property was assembled. It was used and useful in the sense it's part of the Kenmount Road property, that head office building is there.

MR. JOHNSON:

Q. It's not my intention, Mr. Ludlow, to get you into the legalities. I was rather -- Mr. Kelly gets upset over these things, but it's

just my question of what it was used for. Like, was it vacant, was there trees on it, you know?

MR. LUDLOW:

A. Mr. Chairman, this is, and acknowledging my counsel's point, this as I said earlier was an amalgamation of pieces of property from 1961 to the late 80s, and it was done at a time -- there were decisions made in the 80s, 90s, and even into 2000 regarding where we would set up in the City of St. John's, where would the Control Centre be built, where would it be best positioned. So with respect to definitions of used and useful, it's beyond me to even begin to discussion, but from my end when this was pulled together and it was thought about as to where we would build even Duffy Place in 1990, there was considerations given to using properties around this area, and with any utility there's property that is pulled together for different purposes and reasons, and that's basically all I can speak to on that topic, Mr. Chairman.

MR. JOHNSON:

Q. Well, Mr. Chairman, I don't agree with the

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witness on that because while I understand he doesn't want to get into legalities, I'm just interested in what physically was done with the property, was it landscaped, was there anything done with it. Was it cleared?

MR. LUDLOW:
A. Parts of it were, there's trees on parts, and there's shrub on other parts, Mr. Chairman.

MR. JOHNSON:
Q. Basically it was banked for future possible use, wasn't it?

MR. LUDLOW:
A. That's exactly what it was, yes.

MR. JOHNSON:
Q. When did Duffy Place get established?

MR. LUDLOW:
A. Duffy Place was opened in 1990.

MR. JOHNSON:
Q. So the year after the final acquisition that's referred to in 281?

MR. LUDLOW:
A. 1990, yes.

MR. JOHNSON:
Q. All right, and I take it -- it's an obvious point, but there would have been municipal

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taxes as well payable by Newfoundland Power in relation to that big parcel in the normal course?

MR. LUDLOW:
A. The parcel we're referring to here, I would assume there were municipal taxes, yes.

CHAIRMAN:
Q. Modest.

MR. JOHNSON:
Q. Modest.

MR. LUDLOW:
A. Modest taxes.

CHAIRMAN:
Q. Of course, it depends on what it was zoned. Was it zoned for commercial use, or, I mean, was it vacant -- was it --

MS. PERRY:
A. It was rural, part of it was rural.

CHAIRMAN:
Q. Rural. Not worthwhile talking about, boy. It wasn't sold for rural, though.

MS. PERRY:
A. No.

MR. JOHNSON:
Q. Highest and best use. Okay, Mr. Ludlow, I

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think we've got a record, we've got as far as you're prepared to say about it, and so I think I'll just leave it there. Thank you very much.

MS. GLYNN:
Q. Mr. Johnson, you want to start your cross-examination of Ms. Perry, I guess, is it?

CHAIRMAN:
Q. I thought if there was going to be any re-direct questions of Mr. Ludlow --

MR. JOHNSON:
Q. I'm happy to go, but --

CHAIRMAN:
Q. I thought we'd finish both of them off and then, but I don't -- doesn't matter to me.

MR. SIMMONS:
Q. Mr. Chairman, since they're presented as a panel, my presumption has been that although Mr. Johnson wanted to do a cross-examination of each witness separately, that he would do both those examinations and then as hearing counsel, I would address them as a panel in the matter in which Mr. Kelly presented them.

CHAIRMAN:
Q. So you're agreeing with me?

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MR. SIMMONS:
Q. Yes.

CHAIRMAN:
Q. Well, boy, that's it then.

MR. SIMMONS:
Q. I am hearing counsel, yes.

CHAIRMAN:
Q. I forgot that, yes. It's a good idea to agree with me, that's what you're saying, is it? I think we can proceed. All right, Mr. Johnson.

MR. JOHNSON:
Q. All right, thank you very much. Sorry about the confusion there.

MS. PERRY - CROSS-EXAMINATION BY MR. JOHNSON:

MR. JOHNSON:
Q. Ms. Perry, I guess a lot gets thrown to you. You know, you're a real go to person, I think, up there. Ms. Perry, I guess, first of all, can you shed any light on the -- maybe I'll come back to that, and I'll just go where I was intending to go. I just want to clear up some of the matters that I had upon reviewing the transcript from yesterday, and at one point, Ms. Perry, in your direct, you referred

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to Exhibit 3 in the Amended Application.
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. And in particular, you were bringing us through the 2010 E column, and the transcript indicates that you stated that 2010 revenues in the last column would be reduced by approximately 3 million dollars, and this is reflected in the forecast revenue line shown at line 1?
MS. PERRY:
A. Yes, that's correct.
MR. JOHNSON:
Q. Okay, and could you just explain where the 3 million dollars shows up in this particular revised exhibit, Ms. Perry, what you're referring to, in particular?
MS. PERRY:
A. On line 1, the revenue from rates here is the total revenue for 2010. So that's the estimated revenue that we're forecasting for 2010. The 3 million that I referred to in my opening was with respect to the operation of the Automatic Adjustment Formula. If, in

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fact, that had to have kicked in, the revenue for Newfoundland Power would have decreased by about 3 million. So that's included in that 508 number.
MR. JOHNSON:
Q. You also referred, Ms. Perry, to the, how you termed it, the conclusion of a number of revenue and cost amortizations that were approved by the Board in Newfoundland Power's 2008 GRA, and you brought this up in connection with a forecasted revenue shortfall in 2011, and I'm just wondering if it might be of assistance if we could bring up PU-32 2007, which is the Board's last GRA decision and order?
MR. COMERFORD:
Q. I don't think I have that here.
MR. JOHNSON:
Q. I think, Mike, we'd have to go to the PUB site itself, I presume.
MR. COMERFORD:
Q. I don't think I have internet connection right now.
MR. JOHNSON:
Q. Oh, okay. Okay, if it's not convenient to

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bring it up.
MR. SIMMONS:
Q. I have a paper copy, if that will--a print out the witness can use, if that'll help.
MR. JOHNSON:
Q. Okay.
KELLY, Q.C.:
Q. Do you have a page reference?
MR. JOHNSON:
Q. Page 16.
MS. PERRY:
A. Yes, I have it, Mr. Johnson.
MR. JOHNSON:
Q. Yeah. You indicated--what I'm referring to is there is a passage on page 16 where the Board notes that "as part of the settlement agreement, the parties agreed that the following regulatory deferrals and reserves should be amortized over three years, commencing in 2008," and there are listed, number one, the 2005 unbilled revenue net of the 2008 one-time tax effect; number two, municipal taxes; number three, the deferred depreciation costs; number four, deferred replacement energy costs; number five, the

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balance in the purchase power unit cost variance reserve; and number six, application and hearing costs. Would these be the matters that you're referring to, Ms. Perry?
(10:00 a.m.)
MS. PERRY:
A. Yes, those are the deferrals, yes.
MR. JOHNSON:
Q. Okay, and just explain how these concluding in 2010 is affecting the 2011 in terms of the projected revenue shortfall?
MS. PERRY:
A. The amortizations that were agreed, I guess, as a part of the 2008 settlement agreement served to reduce the revenue that we require from customer rates, because we did have a number of liabilities that we were amortizing into revenue at the time. So at that time, we did believe we were going to be out for three years and we considered it appropriate to amortize them over three years. So when that is finished, there's obviously going to be a revenue shortfall because we're no longer amortizing that net revenue into revenues. So there will be a revenue shortfall of about 1.8

million.

MR. JOHNSON:

Q. Now you said as well yesterday that it may be possible to deal with the expiring amortizations through some form of regulatory relief. Could you provide us with what you had in mind in that regard, Ms. Perry?

MS. PERRY:

A. These particular amortizations that are ending during the settlement agreement the last time, in terms of it was included as part of the whole tested 2008 costs. When these particular amortizations expire, they're clearly not going to be in rates going forward. We have, I think it was in 2005 and 2006, filed an accounting application whereby when we're looking at certain amortizations or deferrals that are clearly not in rates, the Board has deferred recovery of such amortizations when they're finished. So it is possible in these particular instances, for these particular deferrals, because they have been tested, that it is possible that we could deal with them through some form of regulatory deferral.

MR. JOHNSON:

Q. In a stand-alone type application?

MS. PERRY:

A. Potentially.

MS. GLYNN:

Q. Mr. Johnson, if I could interrupt just for one second? We have copies here of PU-32 2007, if the Commissioners would like to have a look. I don't know how much further you're going with that.

MR. JOHNSON:

Q. No, I'm not--I don't think it's necessary to go looking at that. Okay. And you also indicated yesterday that if the cost, the third party or external cost associated with this application, that it would be better from the standpoint of a 2011 shortfall for that to be amortized all in one year, and just run us through the thinking on that.

MS. PERRY:

A. Are you referring to the 750,000?

MR. JOHNSON:

Q. Correct, yes.

MS. PERRY:

A. Well, if we look forward, as I went through in my opening yesterday, '05 year forecast is showing a shortfall for 2011. So the cost associated with this application, we propose to amortize over one year and that's premised off of the fact that right now, based on what we know today, you know, we're seeing a shortfall for 2011, so it's reasonable to expense those costs over one year.

MR. JOHNSON:

Q. And Ms. Perry, if Newfoundland Power manages to come up with some form of regulatory relief and stays out, so that 2011 does not become another test year, what will be the effect of the fact that we amortized the external cost all in one year?

MS. PERRY:

A. Well, I guess a good way to look at that, Mr. Johnson, would be that if we chose something other than one year, we would be looking at a bigger shortfall for 2011. So we would have more to contend with in 2011.

MR. JOHNSON:

Q. But let us say that you're able to clear up the shortfall by one of these stand-alone applications, I guess the upshot would be that consumers' rates would be reflecting a cost of $750,000 on an ongoing basis until you came back in again. Would that be correct?

MS. PERRY:

A. Technically, it's correct. However, we are looking at a shortfall for 2011 and we're not sure how we're going to address that two million as of yet, let alone, I guess, another addition of application costs.

MR. JOHNSON:

Q. Ms. Perry, you referenced as well yesterday the credit spread that existed when Newfoundland Power issued its secured bond in May of this year?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. And what did you indicate that that spread was in May '09?

MS. PERRY:

A. 2.75 percent.

MR. JOHNSON:

Q. Okay, and would it be fair to say that the spread today would be considerably less than a 275 basis point spread over the long Canada?

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MS. PERRY:
A. Yes, I would agree that the spreads have tightened somewhat, still higher, however, than our 2007 debt deal.
MR. JOHNSON:
Q. And when you say that it would be fair that they had tightened somewhat, could you provide specifically to what degree you think they've tightened?
MS. PERRY:
A. Well, you never know what it's going to be, I guess, until you go to market, but we do get indicative pricing from banks about Newfoundland Power's bond issues or potential bond issues, and the most recent one that I have was early October, and that was at 187.
MR. JOHNSON:
Q. 187, okay, and so is this in documentary form, Ms. Perry, that you received this information?
MS. PERRY:
A. Yes, I believe I received an e-mail from the Bank of Montreal.
MR. JOHNSON:
Q. Could you undertake to provide that as an information item? Mr. Kelly?

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KELLY, Q.C.
Q. We'll have a look for it, Mr. Chairman, see what there is.
MS. PERRY:
A. If I still have it, I guess.
MR. JOHNSON:
Q. Okay, fair enough.
KELLY, Q.C.
Q. We'll have a look and see what's there.
MR. JOHNSON:
Q. Now, Ms. Perry, you've also referred to the fact that that 275 basis point spread was certainly higher compared to credit spreads associated with the issuance of first mortgage bond issues in 2007 and I believe 2005. Is that correct?
MS. PERRY:
A. Yes, that is correct.
MR. JOHNSON:
Q. Would you be able to confirm whether my understanding is correct that I think back in the fall of 2002, Newfoundland Power issued a 75 million dollar bond, at which time, at that time, your predecessor, Mr. Perry, was the occupier of your position, but that he

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indicated at the last--in the 2003 GRA that the spread then was 185 basis points over the risk-free rate? Would that be correct?
MS. PERRY:
A. I would have to check, but it's around there, yes.
MR. JOHNSON:
Q. If you could check and perhaps your counsel could confirm it for us later?
KELLY, Q.C.
Q. But Mr. Chairman, if my friend has a reference that speeds the whole process, he could provide the reference.
MR. JOHNSON:
Q. I didn't provide this to the witness in documentary form prior to, but I'm happy to provide the reference to the testimony of Mr. Perry in this regard. It's at page 139 of the March 10th, 2003 transcript of Mr. Brian Perry. Thank you.
KELLY, Q.C.
Q. If my friend has it, Mr. Chairman, he can simply file it. We'll take no objection to him filing it.
MR. JOHNSON:

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Q. That's fine, thank you. I'll move on from that area, Ms. Perry, and talk about PEVDA.
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. Obviously, Ms. Perry, this is a new account for Newfoundland Power, and I would just refer you, in this regard, to PEVDA, to the application at page 327, and I'm referring specifically to the paragraph starting at line 10 which states that "the uncertainty of pension expense forecasting and current financial market conditions presents potential risks for both the company and its customers. On one hand, a one percent increase in the discount rate used to calculate pension expense could result in the company achieving earnings in excess of its allowed return, solely due to fluctuations in pension expense. On the other hand, a one percent decrease in the discount rate could result in the company not having a reasonable opportunity to earn its allowed return solely due to fluctuations in pension expense." So I just want to spend some time developing this issue with you.

Would you elaborate in terms of your summary of what the benefits are of a PEVDA account, from the perspective of Newfoundland Power?

MS. PERRY:

A. The benefits for Newfoundland Power are the same benefits for the consumer, for the customer. This year, we've seen a lot of movement with a couple of factors that really impact our pension expense. We've seen discount rates fly around in the last quarter of 2008 and they've also--they've had some movement in 2009 as well, and that causes a lot of fluctuations or a lot of unpredictability with respect to where our pension expense is going to land to a big magnitude, as we've done it out in the evidence that a one percent decrease could expand pension expense by 2.3 to 3.4 million. So that's a pretty significant impact. So what the PEVDA account was proposed for was to ensure that given the volatility that we've seen with the pension expense, to ensure that what is in the rates reasonably reflects the appropriate pension expense, because at this point in time, the pension expense that we may

forecast to go in rates may not look a bit like what we actually incur. So for Newfoundland Power, certainly we could be earning in excess of our allowed return or earning well below, and the customers, with the PEVDA, will actually only be charged in rates for the pension expense that we incur.

MR. JOHNSON:

Q. So the PEVDA removes a risk relative to Newfoundland Power's earnings?

MS. PERRY:

A. No, I don't see it that way. It obviously does provide some element of reduced risk with respect to pensions, but this is new. We never did have this amount of pension risk at Newfoundland Power. The movement in discount rates this past year is a new thing. So I look at the PEVDA as bringing Newfoundland Power back to fundamentally square one with respect to where we were with respect to forecasting pension expense.

MR. JOHNSON:

Q. I'm not quite following that, Ms. Perry. I do accept the point that there has been some volatility in discount rates and not only

discount rates, but in the market generally, which also affects pension expense, correct?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. And I am having trouble understanding why just because that is new that that takes away from my suggestion to you that the PEVDA removes risk as regards Newfoundland Power's income at the end of the day.

MS. PERRY:

A. Yes, I will agree with you, Mr. Johnson, that it does--with a PEVDA account, the actual pension expense, we take away the element of forecast risk with pension expense, but this was the reason why we proposed the PEVDA now, is because the forecasting of the pension expense is subject to a lot of moving factors. So that is new. Whether this PEVDA account is required into the absolute future, that will only be known in the future, in terms of how the markets restabilization. So, I believe the PEVDA account is necessary for today and it protects consumers.

(10:15 a.m.)

MR. JOHNSON:

Q. Now I take it, just to put a circle around the volatility that we've seen, that initially when you filed your--the company filed its application at the end of May 2009, there was a material change in the discount rate to that which is forecast now, as in your Amended Application, correct?

MS. PERRY:

A. That is correct.

MR. JOHNSON:

Q. And it went from 7.5 percent to 6.5 percent?

MS. PERRY:

A. That is correct, yes.

MR. JOHNSON:

Q. And so, again, that would be, as you say, about a three million dollar impact in and of itself, correct?

MS. PERRY:

A. Around there, yes.

MR. JOHNSON:

Q. But I take it though that we're not seeing the full extent of the three million dollar impact because a countervailing consideration is the fact that the underlying pension assets

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themselves have done better in 2009 than had been previously expected when Newfoundland Power filed its general rate application in May? Would that be correct?

MS. PERRY:

A. That is correct, yes.

MR. JOHNSON:

Q. And the amount of that countervailing effect is about $600,000, correct?

MS. PERRY:

A. That seems about right, yes.

MR. JOHNSON:

Q. Okay, and that--and again, just to clarify then, that this PEVDA account, with this PEVDA account, though perhaps initiated because of issues of volatility in discount rates, the PEVDA doesn't only neutralize discount rate changes, does it? It also neutralizes the effect of pension asset value? Would that be correct?

MS. PERRY:

A. The PEVDA account will capture all elements of pension expense, yes.

MR. JOHNSON:

Q. Exactly, so for as long as we have the PEVDA,

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Newfoundland Power doesn't have to concern itself with how--and don't get me wrong, I'm not saying you're indifferent to how the pension plan is doing, but you don't have to concern yourself as to whether, how your pension plan is doing and how the discount rate is playing out is going to affect your earnings?

MS. PERRY:

A. To your point that we don't have to concern ourselves, I disagree. The PEVDA account will--if in fact our pension expense is a lot higher than what we're forecasting, customers will see a rate impact because of that. So we are still going to be quite concerned and we're going to continue to manage our pension asset during this time.

MR. JOHNSON:

Q. Okay. Could you please--you indicated that the volatility in the discount rate was--that was known at the end of 2008 for sure, right?

MS. PERRY:

A. The discount rate did move around in the last quarter of 2008, yes.

MR. JOHNSON:

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Q. Right, and could Newfoundland Power, Ms. Perry, have mitigated this risk that was known in late 2008 by making a stand-alone application for a PEVDA, say taking effect in 2009?

MS. PERRY:

A. File a PEVDA account for 2009's earnings?

MR. JOHNSON:

Q. Yes. You know, come to the Board and say look, there's a lot of volatility out there right now, and we think that it would be advisable to set up a PEVDA account whereby the variation in pension expense from the test year tested figures would be picked up in the following year?

MS. PERRY:

A. The way that pension expense works is by the--all the variables are known by the end of 2008. So we know our discount rate. We know how the assets have performed. So we know exactly what the 2009 pension expense is going to be, because you use those December 31st values to determine your pension expense. So when we did our look forward as to where we were going for 2009, there was a decision--

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there was no--there wasn't a necessity to file an application with the Board for 2009 and practically speaking, it probably would have been a bit hard to pull that together because the markets continued to move around in the last quarter of 2008 and certainly the first half of 2009. So there wasn't a need to file any application in 2009.

MR. JOHNSON:

Q. Okay, and could I direct your attention, Ms. Perry, to CA-NP-189?

KELLY, Q.C.

Q. Mr. Chairman, Mr. Hayes is just going to see if we can get Ms. Perry's microphone to pick up a little better.

MR. JOHNSON:

Q. Okay, Ms. Perry, are you at CA-NP-189?

MS. PERRY:

A. Yes, I am.

MR. JOHNSON:

Q. Okay, and the question posed there was that for each year--part A actually. "For each year from 2006 to 2009, please provide the amount of the charge or credit that would have resulted if the pension expense variance

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deferral account had been in place during those years," and I noticed that I even got a more expansive answer from Newfoundland Power than I had asked for, because I asked for 2006 to 2009, but I was given the details from 2004 to 2009. Do you know why I was told about 2004 and 2005?

MS. PERRY:

A. Not specifically, Mr. Johnson, but I recall that when we were looking at this particular request, to actually create a PEVDA account or an account to adjust pension expense, you tend to go back to your last test year.

MR. JOHNSON:

Q. Yeah, that's what I thought, okay, and so the last test year in your case would have been '03, I guess. Would that be right?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. And so then, okay, all right, and so then, I guess, what we're seeing there, Ms. Perry, could you translate to us what we should be taking out of this Table 1, in terms of the transfers?

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MS. PERRY:

A. Well, I guess, if you look at 2004, and this is a hypothetical situation because this account did not exist back in 2004, but if we did peg the PEVDA account to the pension expense in 2004, the difference between the pension expense and the test year pension expense would have resulted in transfers that are shown just above line 18, a total of 490, 1.5 million for 2006, 2.9 million--I can go on, Mr. Johnson, I guess.

MR. JOHNSON:

Q. So these would have been transfers that would have went back to the company? For instance, take 2005, about 1.5 million dollars. That would have been an amount that the company could have counted on to pick up in a July 1st adjustment? Would that be correct?

MS. PERRY:

A. If in fact it was in operation and we used the 2004 -

MR. JOHNSON:

Q. Yeah.

MS. PERRY:

A. - yes, we would have recorded 3.855 in pension

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expense as opposed to 5.357.

MR. JOHNSON:

Q. Yeah, and understand, Ms. Perry, the question was aimed at sort of an illustration of, you know, how the account would have operated had it been in place, and I just--I would note though that there are fairly material amounts in, for instance, 2004, half million dollars just about; 2005, a million and a half; 2006, 2.86 million; 2007, 1.8 million. So in terms of those periods of time, would that amount--would that figure be fairly material, in terms of a variance?

MS. PERRY:

A. Yes, there could have been a material variance, but this is also at a different time. When we look at pension expense going up from '04 to '06 particularly, that was at a time when there was an early retirement program offered. So our pension costs were going up, but our operating costs were coming down at the same time, and these things, so the pension expense and the impact of the pension expense was not necessarily a discount related change. This is a change that, to

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some degree, was started by management because it was--there was an early retirement program offered. So pension expense would go up accordingly. Some of it would have been discount. Some of it would have been asset performance, but there's a whole bunch of things that go into pension expense.

MR. JOHNSON:

Q. And I take your point on that, but that's the beauty, I suppose, of the PEVDA as Newfoundland Power now has, because the PEVDA is--doesn't care how the variance arises. It's meant to track the whole variance, correct?

MS. PERRY:

A. Yes, the PEVDA account is proposed for a purpose. Our pension cost, our forecasting ability with respect to pension cost has diminished from where it was. So in the past, pension costs would float around, but we could forecast where it was going. You could see it coming. So we're always looking forward. If we could deal with the rising pension cost with decreasing operating costs, well then, there wasn't a necessity for Newfoundland

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Power to come in to file a general rate application. Today, to forecast pension costs is--I really do not know where discount rates or asset values are going to be by the end of December of this year. So without the PEVDA right now, there is a lot of risk with respect to what in fact Newfoundland Power's pension costs are going to be for 2010.

MR. JOHNSON:

Q. Yes, but just let me develop the point a bit further though. Let's take 2006, for instance, had the PEVDA been in place. Newfoundland Power could have picked up 2.86 million dollars by way of this PEVDA, right?

MS. PERRY:

A. Yes, if it was in effect, yes.

MR. JOHNSON:

Q. And so really, if it was in effect, the 2. 86 million dollars was an amount of real hard cash that the company was at risk for, correct?

MS. PERRY:

A. Yes, I agree.

MR. JOHNSON:

Q. And now, with the PEVDA, you will not be at

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risk any more, will you?

MS. PERRY:

A. The PEVDA will true up pension expense to the forecast, yes, Mr. Johnson, that is correct.

MR. JOHNSON:

Q. I think, Ms. Perry, that it's obvious though that that risk has been removed. There was a risk there, always there, but now the risk has been removed, and that's what I'm seeing if you're acknowledge.

(10:30 a.m.)

MS. PERRY:

A. I will acknowledge that there's an element of risk that has been removed, but there's an element of risk that is new with respect to Newfoundland Power's pension expense.

MR. JOHNSON:

Q. Which is?

MS. PERRY:

A. The two--the primary factor that goes into the determination of the obligation, which is the discount rate.

MR. JOHNSON:

Q. Okay. All right, well, can I refer you to CA-NP-45? In this question, Ms. Perry, we asked

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the company, at part A, to provide a list of regulated Canadian utilities which have the benefit of an account or mechanism in the nature of the proposed pension expense variance deferral account, and when it was established, and I take it from this response that there are certain investor-owned utilities, regulated utilities including Terasen Gas Inc., Terasen Gas (Vancouver Island) Inc. and Fortis BC, which have rates adjusted each year under performance based regulation to reflect actual pension costs incurred for the year, so they wouldn't need a PEVDA, I take it is what you're saying there, right?

MS. PERRY:

A. Yes, it's adjusted every year.

MR. JOHNSON:

Q. Okay, and you say "this approach has been in place since 2004 for Terasen Gas Inc., 2003 for Terasen Gas (Vancouver) Inc., and 2005 for Fortis BC," but it's only Fortis Alberta, and Fortis Alberta has proposed the creation of a PEVDA account as well in its most current general rate application?

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MS. PERRY:

A. Yes, I believe they have.

MR. JOHNSON:

Q. And has it been approved, do you know?

MS. PERRY:

A. I don't believe it's approved yet, no.

MR. JOHNSON:

Q. Okay. It's still in the works?

MS. PERRY:

A. That's my understanding.

MR. JOHNSON:

Q. Okay, and Hydro One, which is a Crown in Ontario, has a deferral account which has been approved in December of '08?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. Okay, and so not a lot of utilities have this PEVDA, I take it, Ms. Perry?

MS. PERRY:

A. Well, these are the utilities that we are aware of.

MR. JOHNSON:

Q. And would the creation of a PEVDA, like Fortis Alberta is proposing and like Newfoundland

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Power has proposed in this application, would that be considered as best practice of a utility to seek to reduce risk, to look for risk mitigation within a regulated utility?

MS. PERRY:

A. I can't speak to utilities across Canada. The PEVDA was proposed for Newfoundland Power because we were at a point where the market was moving around. Markets have changed. Markets were very volatile, and we could, I guess, not put a pin in the assumptions that we were putting forward for the test year. So what the PEVDA is aimed at achieving is trying to reasonably reflect--is trying to reflect pension costs that we are actually going to incur, because we actually may end up in a situation where if we proposed a 6.5 percent discount and that discount just, like it did in the last quarter, moved back up to seven and a half or eight percent, Newfoundland Power's pension costs would decrease by over three million. So when we're seeing that type of volatility, we thought it would be a reasonable approach to propose a PEVDA account that would capture these differences, given

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the market volatility of such.

MR. JOHNSON:

Q. Okay. Now, Ms. Perry, I take it that we are in agreement that the amounts that we saw in that previous RFI response regarding, you know, what transfers would have been made into the PEVDA, had been one set up, that these amounts were fairly material amounts, ranging from a half a million to a million and a half to even more. Would that be fair on my part?

MS. PERRY:

A. Yes, but that is only looking at just pension expense in those years, so I'm not sure what impact that would have had on Newfoundland Power for those years.

MR. JOHNSON:

Q. But let's put it this way, a million and a half bucks is usually material?

MS. PERRY:

A. It's certainly material, yes.

MR. JOHNSON:

Q. Okay. Now Ms. Perry, I understand that, as we all know, that in the 2008 GRA, there was an Energy Supply Cost Variance account set up, correct?

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MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. And could you explain the purpose behind the Energy Supply Cost Variance account?

MS. PERRY:

A. Yes. The Energy Supply Cost Variance reserve was implemented, proposed and accepted in 2008 to allow Newfoundland Power the opportunity to recover its supply costs, and that would be with respect to supply costs as it relates to customer load growth above the test year forecast. As Mr. Henderson explained during the 2008 proceeding, we're in a position where the marginal cost is exceeding the average cost for supply costs in rates. So when we have load growth, we're in a position where we're not recovering our supply costs. So the energy supply cost reserve was set up to take care of that.

MR. JOHNSON:

Q. Okay, and I guess, you're always trying to be as accurate as you can for the test year, in terms of what your energy supply costs are going to be, based upon your demand energy

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requirements of your customers, right?

MS. PERRY:

A. Yes, I would agree with that.

MR. JOHNSON:

Q. And so the--and then as you go beyond that test year, it becomes harder to predict but we don't have to worry about that because the Energy Supply Cost Variance now picks it up?

MS. PERRY:

A. The Energy Supply Cost Variance allows us to recover our supply cost, yes.

MR. JOHNSON:

Q. Okay, and again, was this an opportunity on Newfoundland Power's part to reduce risk?

MS. PERRY:

A. No, I believe that, my understanding is most utilities across Canada are provided the opportunity to recover its costs and that includes supply costs.

MR. JOHNSON:

Q. But without this account, you would have been at risk as regards those supply costs?

MS. PERRY:

A. Absolutely, yes.

MR. JOHNSON:

Q. Okay, and could I refer you to page 516 of the Amended Application? Starting at line one, where it states "for 2009, there is forecast to be a 1.7 million dollar energy supply cost variance transfer to be recovered through the RSA. The Energy Supply Cost Variance results from the addition of new customers and it can be expected as long as load growth continues and the marginal supply costs." So in 2009 alone, that was a 1.7 million dollar figure, right?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. Okay, and I guess without that account, you would have to come back for a GRA essentially to pick that up, that cost up or find it somewhere else? Would that be right?

MS. PERRY:

A. We certainly would have to address a shortfall of 1.7 million, yes.

MR. JOHNSON:

Q. Yes, okay, and regarding this energy supply cost mechanism, this replaced a previous mechanism called the purchase power unit cost

variance reserve. Ms. Perry, are you familiar with that reserve?

MS. PERRY:

A. Yes, I'm familiar with that reserve.

MR. JOHNSON:

Q. Okay, and as I understand it, what the company proposed last time was to--and was accepted--was to eliminate the purchase power unit cost variance reserve and to introduce a demand management incentive account and also add an Energy Supply Cost Variance component to the rate stabilization account? Have I got that correct?

MS. PERRY:

A. That was what was agreed during the last rate case, yes.

MR. JOHNSON:

Q. Okay, and I understand, Ms. Perry, that with the PPUCVR--and we're worst than the military here for war acronyms--but with the "pucker", I guess, the "puckfer", with that account, the company was at risk for variances up to one percent in the effective unit cost associated with both demand and energy charges? Is that how that account--would that be accurate?

MS. PERRY:

A. Yeah, that's my understanding, but the details of that particular account would be best asked of Mr. Henderson.

MR. JOHNSON:

Q. Okay, and that is very fair on your part. Do you--could I ask you this? Do you have an understanding as to what--maybe I'll just leave this with Mr. Henderson, it'd probably be better. Do you have a sense though, from the financial point of view, maybe this is fair, of, you know, what the dollar value was of the risk that was eliminated by switching from the PPUCVR to the new regime of the demand management incentive account and the Energy Supply Cost Variance account?

MS. PERRY:

A. I believe it was similar, but again, I would revert those questions to Mr. Henderson.

MR. JOHNSON:

Q. Okay. Ms. Perry, at page 23 of the Board's decision and order from the last GRA, the Board quoted you as saying as follows: "I also believe the rating agencies' assessment of the company's credit worthiness will be positively

influenced by other proposals in the amended application. In particular, the Energy Supply Cost Variance clause will ensure that the company recovers its purchase power," and why were you of that belief that that would have a positive impact on your company's credit worthiness?

MS. PERRY:

A. Credit rating agencies are very concerned about recovery of costs. So to have Newfoundland Power exposed to one of its biggest costs, which is supply costs, would certainly be a red flag for, I would think, all credit rating agencies.

MR. JOHNSON:

Q. Okay, and I think that your prediction on that probably turned out to be correct, because it did get referenced in the credit ratings subsequently, didn't it?

MS. PERRY:

A. Yes, it did.

MR. JOHNSON:

Q. Okay, and we'll come to that. One of the accounts that the Dominion Bond Rating Service mentions in its credit opinion of Newfoundland

Power is the Weather Normalization Reserve, and can I bring you to Exhibit 4 in that respect? And in particular, I'm referring to page two, and the second last paragraph on that page, where they state "Newfoundland Power operates in a stable and supportive regulatory environment," etcetera, and then the last sentence is "the company has a PUB-approved WNR account that stabilizes earnings by adjusting revenue and purchase power expenses for variances in weather and stream flow when measured against long-term averages." Could you tell us how it stabilizes Newfoundland Power's earnings as DBRS indicates?

MS. PERRY:

A. The Weather Normalization account fundamentally serves to eliminate the volatility with revenue and purchase power associated with weather. So DBRS does consider that to be a stabilizing impact on Newfoundland Power, so that we don't see the volatility with abnormal weather conditions as we do in Newfoundland.

MR. JOHNSON:

Q. And so, in particular, you don't see the volatility in your earnings because of our weather?

MS. PERRY:

A. Well, ultimately, it would have an earnings impact, yes.

MR. JOHNSON:

Q. But yet that's what the Dominion Bond Rating Service talks about. With respect to these credit rating agencies, Ms. Perry, what's your--are you the person at Newfoundland Power that has the most contact with these people?

MS. PERRY:

A. Yes, that would be me.

MR. JOHNSON:

Q. Okay, and just explain, practically speaking, what that relationship consists of.

MS. PERRY:

A. Each year, at least annually, we will meet with both DBRS and Moody's and we will take them through the operations of Newfoundland Power and things that are happening, our capital program, things like demographics, cradle to grave stuff with them from an operations point of view. They're also very

interested in the economy in Newfoundland, what's happening, what our challenges are. As Mr. Ludlow talked about yesterday, the tale of the two economies, credit rating agencies are particularly interested in our operations in rural Newfoundland versus in St. John's, in terms of how we deal with that kind of limited growth in areas. We will take them through the financials of Newfoundland Power, the outlook. They are particularly interested in general rate proceedings because that fundamentally dictates the recovery of costs, the return of Newfoundland Power. So obviously the financial strength of Newfoundland Power, they're interested in, coming out of a general rate proceeding.

MR. JOHNSON:

Q. So do these folks come down and meet with you or do you go up and meet with them? How does that work?

MS. PERRY:

A. For the last couple of years, I've went to meet with them.

MR. JOHNSON:

Q. And how often do these meetings take place?

MS. PERRY:

A. We will meet annually, face to face, but I'm always communicating with Moody's and DBRS. When we file applications, we will give them a copy. Any press releases that we have, we will give them a copy. Our quarterly earnings, we give them a copy.

MR. JOHNSON:

Q. And Newfoundland Power's relationship with DBRS has been a lengthy one, I take it?

MS. PERRY:

A. Yes, it has.

MR. JOHNSON:

Q. They've been around longer, much longer, I think, than Moody's. Would that be correct?

MS. PERRY:

A. Moody's, I believe, was around 2005. DBRS is before the 1990s, I believe.

MR. JOHNSON:

Q. Yeah, okay, and in terms of the people, how long have you been in your position, Ms. Perry?

MS. PERRY:

A. Since 2005.

MR. JOHNSON:

Q. And so since 2005, are you dealing with the same people at Moodys?
(10:50 a.m.)
MS. PERRY:
A. At Moodys, I am, yes.
MR. JOHNSON:
Q. And DBRS, not so?
MS. PERRY:
A. I believe they've changed out one since I've been there, yes.
MR. JOHNSON:
Q. Okay. So there is a fairly good continuing relationship. Would that be fair?
MS. PERRY:
A. Yes, that would be fair.
MR. JOHNSON:
Q. And when Moodys came on the scene in 2005, why did they come on the scene?
MS. PERRY:
A. At the time, we had two credit rating agencies following us. One was S & P and the other was DBRS. We were looking to have two stand-alone credit ratings. S & P actually were reluctant to provide a clear stand-alone credit rating. They had moved to a consolidated ratings

approach, so they would bring in the Fortis fold with respect to the rating, and I believe all of that was discussed in front of this particular Board. But we were looking for a stand-alone rating for Newfoundland Power and Moodys provided that.
MR. JOHNSON:
Q. Okay, all right, and I guess that was never an issue with DBRS, I take it?
MS. PERRY:
A. No, DBRS provides a stand-alone rating as well, yes.
MR. JOHNSON:
Q. Okay, and did all of the Fortis family go to Moodys?
MS. PERRY:
A. I'm not sure.
MR. JOHNSON:
Q. Okay, all right, and I wonder, Ms. Perry, if you could turn up Moodys credit opinion for Newfoundland Power dated March 6th, 2009, at Exhibit 4, and in particular, could I refer you to the second page? They're not numbered, but the second page, and I'm referring specifically to the last paragraph of that

credit opinion. It says "Newfoundland Power Inc.'s relatively weaker financial profile is offset by the company's location in a supportive regulatory environment with a regulatory construct that permits it to over or under earn within a band of plus or minus 18 points of its allowed return on rate base. Historically, Newfoundland Power Inc. has been able to achieve returns in excess of its allowed ROE. Two key features of NPI's regulatory regime which facilitate timely recovery of the company's costs are the Rate Stabilization clause, which includes: one, a mechanism for tracking energy supply cost variances; and two, a Demand Management Incentive account which includes a mechanism for tracking demand supply cost variances. Together, these mechanisms limit Newfoundland Power's ultimate exposure to fluctuations in purchase power costs related to volatility in commodity prices and variations in customer demand to approximately $500,000 annually. In the absence of the rate stabilization mechanism, Newfoundland Power Inc. would be exposed to, among other things, volatility in

the price of power purchased from Hydro, due principally to fluctuations in the price of fuel burned at Holyrood, Hydro's Holyrood thermal generating station. Among other things the rate stabilization clause permits NPI to recover or refund variations in the energy component of power purchased from Hydro on a lag basis. Recognizing that purchase power is Newfoundland Power's single largest expense, the rate stabilization and demand management incentive mechanisms are significant risk mitigants. Moodys notes, however, that the Energy Supply Cost Variance mechanism is approved to the end of 2010, at which time Newfoundland Power will have to apply for an extension or request an alternative mechanism."
And I'd just like to talk about this passage for a second, because it brings up a few themes, and the first one I'd like to talk about is this idea of the supportive regulatory environment, and what do you take that notion as entailing, Ms. Perry?
MS. PERRY:
A. Through our discussions with Moodys, in their

assessment of our credit rating, they place a lot of emphasis on the qualitative things that can impact a business and as a regulated utility, regulation and the regulatory environment is certainly a big risk that they see. So they look to consistency with regulatory decision making, stability in or consistency, I guess, with respect to how things have been treated in the past. I call it the no surprises coming out general rate proceedings. They look to the ability of a utility to recover its cost and earn its return, and they do look at the risks that are posed on the utility, and when this particular item came up, when the whole marginal cost exceeded average cost, this was a big thing for me to explain to Moodys and explain to DBRS coming into the last application that we were having to ask for recovery of purchase power costs. So they were particularly interested in Newfoundland Power getting these mechanisms such that allow for the recovery of supply costs, because it's our single biggest cost, and that would have put Newfoundland Power in a league of its own if in fact we

were actually subject to energy supply cost variation.

MR. JOHNSON:

Q. Yes, because like in 2009, I think the figure, what was it, 1.7 or 1.9 million?

MS. PERRY:

A. 1.7

MR. JOHNSON:

Q. So a pretty high figure, and so would you--they call them significant risk mitigants. I guess you would agree with Moodys?

MS. PERRY:

A. It's a risk mitigant, yes. It allows us to recover our cost.

MR. JOHNSON:

Q. But you don't want to agree to the significant part?

MS. PERRY:

A. I look at purchase power cost, Mr. Johnson, as a, which it is now, a flow through to our customers. I think the--to provide Newfoundland Power the ability to recover its cost is a reasonable proposition.

MR. JOHNSON:

Q. And in terms of the dollar amount, because

like the significance really comes in the dollar amount, right?

MS. PERRY:

A. And the volatility in the dollar amount.

MR. JOHNSON:

Q. Okay, but like wouldn't--like the PEVDA, that must also be regarded as a significant risk mitigant now, a risk mitigant that is new for Newfoundland Power?

MS. PERRY:

A. No, I think we disagree on that one. I don't believe that the rating agencies will see the PEVDA account as a significant risk mitigant for Newfoundland Power. The fact that our pension expense actually has been so volatile is a concern to them, but it's a new concern for rating agencies. The impact that the financial markets have had on our post employment benefits and our pension plans has been significant, and this is new. We haven't seen those kinds of forecast variances before. So forecast risk is a big thing that they look at, and we've had forecast risk in the past, but if we could see it coming and we can predict it, then we can deal with it. In this

particular case, it's moving too fast. So the PEVDA was proposed because this is a new risk to Newfoundland Power.

MR. JOHNSON:

Q. How did you deal with the risk in 2006? You just ate it, didn't you?

MS. PERRY:

A. No, in 2006, when we looked forward and we looked at what our pension costs were going to be, we looked at it in combination with all of our costs. So at that particular time, if operating costs were going down, then we could manage our way through that risk. We could see it coming. We could forecast forward and so we knew if there were other moving parts within our business that allowed us an opportunity to earn our return, then we didn't have to file a general rate application. In this particular case, we may forecast one thing and be completely wrong on our forecast assumptions.

MR. JOHNSON:

Q. What was the big determinant in '06 then, in terms of what--you know, because we saw, you know, there was a fairly sizable figure in '06 if you had the PEVDA account that the company could have recouped, right? What drove that variation?

MS. PERRY:

A. Just give me a minute, Mr. Johnson. I would have to go back through and look at all the moving pieces with respect to the pension costs, but that was coming off of the early retirement program in 2005, so we did amortize in, and I would have to get the exact numbers, but we did amortize in some past pension obligations as a result of this early retirement program in 2005.

MR. JOHNSON:

Q. But like your 2003, like your test year was 2003?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. Like were you guys at that time forecasting an early retirement in '05, do you know?

MS. PERRY:

A. I can't say. I wasn't at Newfoundland Power then.

MR. JOHNSON:

Q. Okay. So it'll be a matter of what's on that record. I guess it's 11:00, Mr. Chair.

CHAIRMAN:

Q. Okay, we'll break until 11:30.

MR. JOHNSON:

Q. Thank you.

(BREAK - 11:00 a.m.)

(RESUME - 11:30 a.m.)

CHAIRMAN:

Q. Mr. Johnson, we're back to you, sir.

MR. JOHNSON:

Q. Thank you, Mr. Chairman. Ms. Perry, the last line in that passage that I'd refer to you from that Moodys report where they say that "Moodys notes that the energy supply cost variance mechanism is approved to the end of 2010, at which time they'll have to apply--NPI will have to apply for an extension." So of course, Moodys was aware that you're applying for an extension, I take it?

MS. PERRY:

A. Yes, they are.

MR. JOHNSON:

Q. Okay, and would the creation of the Energy Supply Cost Variance account and the Demand

Management Incentive account, would that be evidence of further regulatory support for Newfoundland Power? Would that fall under that rubric?

MS. PERRY:

A. I'm not sure I understand your question, Mr. Johnson.

MR. JOHNSON:

Q. You referred to the idea of regulatory support and you gave some indication of what your notion was of regulatory support, and I'm interested in knowing whether or not you would view the approval of these accounts, the Energy Supply Cost Variance account and the Demand Management Incentive account, as being evidence of the supportive regulatory environment in which your company operates?

MS. PERRY:

A. Yes, I would agree with that.

MR. JOHNSON:

Q. And similarly, would the creation of the PEVDA also be--would that be an enhancement of Newfoundland Power's supportive regulatory environment, in your view?

MS. PERRY:

A. In light of the new market conditions or changed market conditions, I will agree that Moodys will see that the PEVDA is an account that will limit the forecast variability in pension expense, yes.

MR. JOHNSON:

Q. But tying it into the regulatory support piece, is there a tie in or am I wrong on that?

MS. PERRY:

A. No, I agree that would be a regulatory support, given market conditions today, yes.

MR. JOHNSON:

Q. And regarding the--the major consequences, what are the major consequences for Newfoundland Power of the recent financial market circumstances that you've been talking about?

MS. PERRY:

A. Well, I think the big one for us is the cost of financing. Earlier in 2009, we did issue first mortgage bonds and as we spoke of earlier, Mr. Johnson, the credit spreads on the bond issue increased materially in the first part of the year. At the same time, the long Canada bond yields are at historical low levels. So when we were looking forward earlier in 2009, that was actually serving to reduce Newfoundland Power's return on equity for the upcoming year. So from a cost of debt and cost of equity perspective, that certainly did play into Newfoundland Power's financial position for the upcoming year.

MR. JOHNSON:

Q. Would pension expense variability be one of the other significant consequences of the recent financial market situation?

MS. PERRY:

A. Yes, I would agree.

MR. JOHNSON:

Q. And so the PEVDA straightens that out, correct?

MS. PERRY:

A. Yes, I would agree.

MR. JOHNSON:

Q. Okay. Now I understand, Ms. Perry, that you have a first mortgage bond that's the--your first mortgage bond rating is A with DBRS. Is that correct?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. And it's been A for a long time with DBRS?

MS. PERRY:

A. Yes, it has.

MR. JOHNSON:

Q. And regarding--perhaps we could turn to the August 3rd media release from Moodys at Exhibit 4. Michael, that's at the very last page. I'm sorry, the very last document in the--okay. And I take it in this document, this is where, on August 3rd 2009, Moodys announced that it was--had upgraded your first mortgage bonds from Baa1 to A2?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. Okay, and in that regard, would you turn to the passage-- it's about five or six lines down in the second paragraph, and--actually, the fourth line. "In Newfoundland Power's case, Moodys had not historically recorded a full notch of lift to Newfoundland Power Inc.'s senior secured debt because other than its unsecured bank credit facility, not rated

by Moodys, all of NPI's debt was and continues to be senior secured. However, Moodys has reconsidered this approach, given the elimination of the material adverse change clause from the current bank credit agreement and determined that the benefit of the security afforded to NPI's FMB holders, relative to its bank lenders and other secured creditors, combined with the strengthening of NPI's financial profile, warrant a distinction between its unsecured and secured ratings."

So the first thing is that there's two sets of ratings. One is an issuer rating, I take it, that's unsecured?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. And the other rating, which is usually higher, is your secured rating, right?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. And they refer there to the removal of the material adverse change clause?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. And could you indicate why Moodys would consider the removal of that clause significant?

MS. PERRY:

A. In Newfoundland Power's short-term credit facility, there was a MAC clause or the material adverse change clause, which allowed the lenders, each time Newfoundland Power were to draw down on the facility, to make an assessment of whether or not they felt there was something that had materially changed within the confines of Newfoundland Power that would allow them, I guess, to get out of the short-term credit facility. That adds an element of exposure, given that the lenders could reassess whether or not an adverse condition had occurred or not. So to eliminate that clause from a short-term facility provided further assurance of liquidity for Newfoundland Power. So Moodys did see that as a positive.

MR. JOHNSON:

Q. Okay, and what's the on-the-ground benefit of

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that assurance of liquidity, from Newfoundland Power's perspective?

MS. PERRY:

A. It's the assurance that we will have short-term facilities available to us, so that we can finance the poles going into the ground.

MR. JOHNSON:

Q. Okay, and I understand that all of your first mortgage bonds that have been issued for many decades have been issued under the original trust deed of 1966. Is that correct?

MS. PERRY:

A. That is correct, yes.

MR. JOHNSON:

Q. Okay, and I take it that Newfoundland Power's ability to issue first mortgage bonds under its trust deed is dependent upon the availability of earnings to pay interest on any additional bonds that Newfoundland Power wishes to issue? Would that be correct?

MS. PERRY:

A. Yes, there is an earning coverage test on the inside of the trust indenture that we have to ensure is met before we can issue new bonds.

MR. JOHNSON:

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Q. And do I understand that Newfoundland Power, under the terms of this condition that you're referring to, requires interest coverage or interest coverage ratio of two times or higher in order to issue additional bonds under this trust deed?

MS. PERRY:

A. Yes, that would be correct.

MR. JOHNSON:

Q. Okay, and so the interest coverage, and you know, interest coverage ratios, Ms. Perry, that would be concerned, in essence, with the amount of revenue you have available to cover interest charges? Is that the essence of it?

MS. PERRY:

A. Can you repeat that, Mr. Johnson?

MR. JOHNSON:

Q. The interest coverage issue, that is concerned in essence, essentially, with the amount of revenue you have available or Newfoundland Power has available to cover interest charges?

MS. PERRY:

A. Yes, I would agree that that's the fundamental of it. The earnings coverage test that is inside of our trust indenture is a little more

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restrictive than the pre-tax interest coverage ratio that we talked about as one of our financial metrics. Under the trust indenture, we actually have to include the new interest on the new bonds as well. So not just how our financial statements are looking with respect to pre-tax interest coverage. We're to take that and also add the new interest to make sure that it's still two times.

MR. JOHNSON:

Q. Okay. So you got to be able to show to someone, not only do we have an interest coverage now, but even once we float this bond issue, we're still going to have enough revenue to meet the interest requirements on that proposed bond?

MS. PERRY:

A. Yes, we have to be over two times to issue bonds.

MR. JOHNSON:

Q. Okay. So it's a stricter--more restrictive I think is your term?

MS. PERRY:

A. Yes.

MR. JOHNSON:

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Q. Okay, and more restrictive than what, in terms of the methodology?

MS. PERRY:

A. More restrictive than the pre-tax interest coverage ratio that is shown on Exhibit 3. If you go to Exhibit 3 -

MR. JOHNSON:

Q. Okay.

MS. PERRY:

A. - so you see on line 38 -

MR. JOHNSON:

Q. Yes.

MS. PERRY:

A. - that for 2010 right now, our interest coverage is reducing to two times.

MR. JOHNSON:

Q. Yeah.

MS. PERRY:

A. If in fact we were to issue bonds in 2011, we would have to take 2010 earnings, as shown here, and apply the new interest and that number would be lower than two times. So it's more restrictive in that you have to consider the new interest as opposed to the interest that you're recording in your financial statements.

MR. JOHNSON:

Q. Okay. So this, line 38, interest coverage times, you're saying that 2010E column, that-- in 2010E, let's say, you would meet the requirement of your trust deed of two times?

MS. PERRY:

A. No.

MR. JOHNSON:

Q. You wouldn't?

MS. PERRY:

A. Well, what would have to happen, I would have to know first how much the bond issue was going to be and how much the interest was actually going to be on that new bond. I would have to apply--so in 2011, if we were to issue bonds, we have to consider the previous year's financial statements. We have to take earnings before interest and taxes and divide that by total interest, but the total interest would also have to include the interest on the new bond. So in a hypothetical situation, if in fact we had to issue bonds in 2011, looking at 2010, I would estimate--I don't have a calculator--we would be below two times.

MR. JOHNSON:

Q. But doesn't that two times figure in 2010E, doesn't that indicate that for 2010E, you're meeting the terms of your trust--of that ratio in your financing condition, that stricter test?

MS. PERRY:

A. No.

MR. JOHNSON:

Q. No?

MS. PERRY:

A. No. No, with the earnings test, you have to take what you have and apply the additional interest on the additional bonds. So we would be below the two times interest coverage as noted here.

MR. JOHNSON:

Q. Okay, I think that's where we're missing each other. You're talking about the idea of floating a new issue and I'm talking about covering the interest on everything that's already out there. Is that right?

MS. PERRY:

A. Yes, that would be this particular metric right here, the pre-tax interest cover.

MR. JOHNSON:

Q. Okay, all right. Could I refer you to the August 3rd media release again, Ms. Perry? It states in the second last or the third last paragraph, "the principal methodology used in rating Newfoundland Power is the March 2005 Global Regulated Electric Utilities rating methodology which can be found at" such and such, and just for convenience, I know it's on the electronic record, but I've provided paper copies. Do you have those? Do you have a copy of that document, Mr. Chairman, Commissioners?

CHAIRMAN:

Q. I don't know. Do we?

MS. GLYNN:

Q. Are you entering all four of those documents, Tom?

MR. JOHNSON:

Q. We might as well, because I was going to question her on these. I could identify them for the record, Mr. Chairman. The first document is dated March 2005. It's a document called the "Rating Methodology, Global Regulated Electric Utilities," issued by

Moodys. And the second document is a August 2009 document from Moodys called "Regulated Electric and Gas Utilities." The third document is "Newfoundland Power's Management Discussion and Analysis, June 30th, 2009" and the final document, the fourth, is Moodys credit opinion dated March 5th, 2007 in respect of Newfoundland Power Inc.

MS. GLYNN:

Q. We'll mark those as information items, number one through four.

MR. JOHNSON:

Q. Information items. I guess it doesn't make a difference. It's evidence.

KELLY, Q.C.

Q. That's fine.

(11:45 a.m.)

MR. JOHNSON:

Q. Yeah. Ms. Perry, I take it that you've seen this rating methodology before? You're familiar with the document?

MS. PERRY:

A. Yes, I am.

MR. JOHNSON:

Q. Okay, and now I understand that, in fact, though I'm going to first start addressing the March '05 document with you, that that rating methodology has been replaced as of August 2009?

MS. PERRY:

A. Yes, that is correct.

MR. JOHNSON:

Q. Okay, and I'd like first to get your understanding of what this document is supposed to be about. What is the purpose of it?

MS. PERRY:

A. The credit rating agencies will issue methodology reports as a general guide to specific industry areas, such as regulated utilities. It's their ratings methodology. It's how--the things they consider, the financial things they consider and also the, as I said earlier, the qualitative items that they consider as a part of their rating. So this is meant to give a guide, not a one-glove-fits-all for all utilities, but certainly a general guide as to the things that they review with respect to their rating of a utility.

MR. JOHNSON:

Q. Okay, and Ms. Perry, you've referred to qualitative factors and on that, why don't we just kick off there at page four of the document, and that's at the top under "general rating methodology," and just for the record, I'll just read it. "Moodys framework for rating regulated electric utilities is constructed around a number of credit risk factors, rather than on any one particular metric, such as financial ratio. The first step is to assess the extent of a 'regulated' company's exposure to unregulated businesses. The strongest position is enjoyed by those companies operating in a wholly regulated business. However, the majority of the companies we consider in this sector have additional exposure to unregulated businesses, whether those are unregulated power generation or supply activities or non-electric unregulated businesses." So, just to stop there for a moment, and so according to Moodys, this document, they're saying that the majority of utilities that they look at have unregulated aspects. So I take it from this,

that does not apply to Newfoundland Power because we are totally regulated, right?

MS. PERRY:

A. Yes, we are regulated.

MR. JOHNSON:

Q. Okay, and so I guess, immediately, that would put Newfoundland Power in the minority of the universe of utilities that Moodys is looking at?

MS. PERRY:

A. I don't know if I would make that broad observation, Mr. Johnson. The 2005 credit ratings methodology report, my take on it and with discussion from Moodys, is that they do park different groups of utilities into two separate categories, one being the pure regulated utility and then the other being the regulated plus some unregulated activity. So with respect to Newfoundland Power, yes, we are regulated, so we are in that category.

MR. JOHNSON:

Q. I was just simply following up on the sentence "however, the majority of the companies we consider in this sector have additional exposure to unregulated businesses." So I

thought the corollary of that was that you would fit into the minority, which didn't have exposure to unregulated businesses. Would that be fair?

MS. PERRY:

A. I'm not sure. I mean, this is what Moodys is saying here, but my understanding from discussion with Moodys is that they would consider Newfoundland Power in the context of other regulated utility.

MR. JOHNSON:

Q. If we go down the page a little bit, Ms. Perry, to where the heading states "assessment of the extent of regulation around a business," you'll see there that Moodys say that they classify companies into four categories to determine how much their business risk is influenced by regulated activities and they say "this is a measure of the relative weight of regulated to unregulated businesses within a rated entity. Weighting is based on the element of earnings, cash flows and assets, et cetera." In the final sentence, they said "this then allows us to derive the regulated business percentage and to assign the entity to one of the four categories as below." Category one would be a wholly regulated business. Category two would be 80 to 99 percent of the business is regulated. So under that definition, would Newfoundland Power be a category one?

MS. PERRY:
A. Yes, under that definition we would.

MR. JOHNSON:
Q. Okay, and so then--so that was the first step, is to try to define regulated and non-regulated. So the second step in the methodology comes under the rubric "assessment of the supportiveness of the regulatory framework." Do you see that? Okay, and it says "we also classify entities into the following four categories based on a comparative assessment of the predictability and stability of regulated cash flows for a company operating under a particular regulatory framework, or the supportiveness of regulatory environment, SRE," okay, and you'll see that they have a gradation, I suppose, of SRE1, 2, all the way down to SRE4. Like for instance, SRE4 would be a regulatory framework

that is still being developed, is unclear, is undergoing considerable change or has a history of being unpredictable. Now SRE1 is where a regulatory framework is fully developed, has shown a long track record of being highly predictable and stable, and there is a very high expectation of timely recovery of costs and investments. Do you see that? Are you familiar with the SRE classifications?

MS. PERRY:
A. I'm familiar because I've read this report, but Moodys assessment and rating of Newfoundland Power is not down to that they have defined us as a specific SRE1, 2, 3 or 4.

MR. JOHNSON:
Q. Well, let's put it this way, if you're the chief financial officer of Newfoundland Power and you said "how do we fit into this framework that Moodys has?" what framework for SREs would you say that you fit into?

MS. PERRY:
A. Between 1 and 2.

MR. JOHNSON:
Q. Between 1 and 2, okay.

MS. PERRY:

A. But I can't say with certainty as to which one Moodys--this is Moodys defined categories, I guess, so I haven't actually assessed how much would be needed to fall within each of those categories.

MR. JOHNSON:
Q. Okay. Have you--are you familiar with this document, Ms. Perry?

MS. PERRY:
A. Very familiar.

MR. JOHNSON:
Q. Okay. Moodys considers the Public Utility Board of this province, of Newfoundland and Labrador, to be one of the more supportive regulators in Canada. Is that correct?

MS. PERRY:
A. Yes, I believe that was noted on their assessment of us.

MR. JOHNSON:
Q. Okay. Now just turn the page then to page five, and then you'll see around halfway down the page, they give examples of regulatory frameworks in each category. You see that?

MS. PERRY:
A. Yes.

MR. JOHNSON:
Q. And SRE1, would that include Canada?

MS. PERRY:
A. Yes, it would.

MR. JOHNSON:
Q. Okay. Newfoundland Power would be SRE1?

MS. PERRY:
A. If I follow through this methodology, yes, it would, yes.

MR. JOHNSON:
Q. Okay. So if by inference, and the other countries there is Australia, Canada, Iceland, Finland, Hong Kong, Japan, United Kingdom, and you'll notice SRE2 and SRE3 has--all of the United States are either in SRE2 or SRE3, correct?

MS. PERRY:
A. Yes, that's what I see here.

MR. JOHNSON:
Q. Yeah, and just did you notice the other countries that are in SRE3, along with about 25 other US states?

MS. PERRY:
A. Yes, I see it here.

MR. JOHNSON:

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Q. Chile, Czech Republic, Estonia, Greece, Korea, Israel, Latvia. So Moodys would view these as not having anywhere near the regulatory support of Newfoundland Power, I take it falls out of this.
MS. PERRY:
A. But I can't speak for Moodys with respect to their views, compared to Newfoundland Power.
MR. JOHNSON:
Q. Could I ask you this? If Canada, being 1-2-3-4-5-6-7, being one of seven countries on the face of the earth in SRE1 and Moodys has called this regulator one of the more supportive in Canada, I guess there could be no doubt that Newfoundland Power would be in the very upper percentiles of SRE1? Would that be correct?
(12:00 p.m.)
MS. PERRY:
A. Yes, I believe that Moodys considers this regulatory jurisdiction to be very supportive.
MR. JOHNSON:
Q. Okay, and we'd be in the upper percentiles of SRE1?
MS. PERRY:

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A. I have no idea, Mr. Johnson.
MR. JOHNSON:
Q. Okay, so that's the second step. Then the third step is at the top of page four. The third step, going back again to the qualitative factors. "The third step is to consider the exact level of risk posed by the unregulated business. Note that a relatively small but high risk unregulated business has the capacity to cause a major credit deterioration for the entity as a whole." So that's the third step, so let's just confirm then that we do not have to concern our self with this, because Newfoundland Power is wholly regulated, right?
MS. PERRY:
A. We are fully regulated, yes.
MR. JOHNSON:
Q. Okay. So then I'd like for you to turn to page 7, and there about two-thirds of the way down, they have "conclusion on qualitative factors", and it says, "This analysis of qualitative factors, dispute of regulated versus non-regulated activities, and the respective risk analysis of those businesses,

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allows us to determine how stable and predictable we feel the cash flows of the Company should be. The lowest business risk will be a company with wholly regulated activities in a supportive regulatory framework. The highest business risk will be a company with a high degree of exposure to non-regulated businesses when those businesses are viewed to be relatively high risk". Then the next sentence, "Companies with a lower business risk can have weaker financial metrics than one with higher business risk for the same rating category". Do you see that?
MS. PERRY:
A. Yes, I do.
MR. JOHNSON:
Q. Now, Ms. Perry, would you take that last part there which I just mentioned, where Moody's in that previous little paragraph there says that, "The analysis of qualitative factors allows us to determine how stable and predictable we feel the cash flows of the company should be", and then they go to talk to the fact that companies with a lower business risk can have weaker financial

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metrics, and I'm wondering do you see the predictable cash flows as being of assistance in terms of allowing a utility to have weaker financial metrics, if qualitatively we have predictable cash flows?
MS. PERRY:
A. I'm not sure I get the full gist of the question. I would like to point out that this is just a methodology that's applied to all regulated and unregulated utilities. When we discuss with Moody's the assessment process for us, it takes into account that we are regulated, that we are in a supportive environment, but then they compare that -- they would assess -- they do rate us a low business risk; low being the fully regulated, medium being the regulated plus unregulated. So they would then assess all of the low risk utilities, which they consider to be the fully regulated utilities together. So to say that they will accept lower financial metrics within our own peer group, I don't believe that to be the case, no.
MR. JOHNSON:
Q. But they do say that companies with a lower

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business risk can have weaker financial metrics than ones with higher business risk for the same rating category?

MS. PERRY:

A. Yes, that is true.

MR. JOHNSON:

Q. Then they turn to quantitative factors, at the bottom of that page, key ratios, and they start off by saying, "Moody's uses financial ratio analysis as part of our quantitative analysis of all corporates, including electric utilities. Ratio analysis is a helpful way of comparing one company's performance to that of another, and the performance in one year to that in another". Could you just read the next paragraph?

MS. PERRY:

A. Starting with "however"?

MR. JOHNSON:

A. Right.

MS. PERRY:

A. "However, the importance of ratio analysis can be overstated. No two companies look exactly alike from a qualitative assessment standpoint, and each company we rate is

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constantly changing. It is impossible to assign an accurate credit rating on the basis of financial ratio analysis alone. Even less so on the basis of any one ratio. Therefore, Moody's does not have any specific hurdle rate to explain which ratio will make the difference between the two ratings categories".

MR. JOHNSON:

Q. And again you've wanted to remind us about your view of this rating methodology, but this is, just to confirm for the record, the principal methodology that Moody's says it used in rating Newfoundland Power, that's referenced in the August 3rd, 2009, press release from Moody's, right?

MS. PERRY:

A. Yes, this is the methodology that they would go by.

MR. JOHNSON:

Q. Okay, and so would -- you read that paragraph. Would a fair way of encapsulating that, Ms. Perry, to be as to say, look, Moody's would tend to look at the overall picture of the organization, there's no real litinous (sic.)

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test, no magic number in terms of the metrics?

MS. PERRY:

A. No, I don't agree with that either. From a practical perspective, each year when we assess our rating, we've been fighting, I guess, to improve our -- particularly our cash flow metrics, because we were coming out of a period where we had a number of cost deferrals and such, so they were really taking a toll on our cash flow metrics. So we were feeling the heat from Moody's. Even though we were in a supportive regulatory environment, there was pressure or concerns voiced by Moody's that our financial metrics were not sufficient.

MR. JOHNSON:

Q. And when was that, Ms. Perry?

MS. PERRY:

A. That would have been 2005, 2006, and 2007.

MR. JOHNSON:

Q. Okay. Can we turn for a moment now to the rating methodology of August '09 that has been recently issued by Moody's.

KELLY, Q.C.:

Q. Which information number is that?

MS. GLYNN:

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Q. Information #2.

MR. JOHNSON:

Q. Okay. In the first paragraph, it notes, "This rating methodology provides guidance on Moody's approach to assigning credit ratings to electric and gas utilities companies worldwide whose credit profile is influenced to a large degree by the presence of regulation. It replaces the global regulated electric utilities methodology published in March, 2005, and the North American regulated gas distribution industry methodology published in 2006", and goes on to say, "While reflecting similar core principles as these previous methodologies, this updated framework incorporates refinements that better reflect the changing dynamics of the regulated electric and gas industry and the way Moody's applies its industry methodologies". Now this document up until this morning wasn't on the record in this proceeding, right?

MS. PERRY:

A. That's correct.

MR. JOHNSON:

Q. Had you seen this document prior to my giving

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it to Newfoundland Power a few days ago?
MS. PERRY:
A. Yes, I've actually discussed this with Moody's.
MR. JOHNSON:
Q. Okay, and at the bottom of the first page, Moody's says again that, "Regulated electric and gas companies are a diverse universe in terms of business model, ranging from vertically integrated to unbundled generation transmission and/or distribution entities".
MS. PERRY:
Q. I'm sorry, Mr. Johnson, I think I've lost you.
MR. JOHNSON:
Q. I'm sorry. I'm reading off the hard copy, which I thought you had.
MS. PERRY;
A. No, I do. I'm just wondering which paragraph.
MR. JOHNSON:
Q. I'm sorry, that final paragraph, the third paragraph.
MS. PERRY:
A. I have it, yes.
MR. JOHNSON:
Q. Okay, "and regulatory environment ranging from

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stable and predictable regulatory regimes, to those that are less developed, are undergoing significant change. In seeking to differentiate credit risk among the companies in this sector, Moody's analysis focuses on four key rating factors that are central to the assignment of ratings for companies in the sector. The four key rating factors encompass nine specific elements or sub-factors, each of which map to specific letter ratings. See Appendix A". Then they list the four factors again; being regulatory framework, ability to recover costs and earn returns, diversification, and financial strength and liquidity. I'd just like to address these with you. Ms. Perry, they get into regulatory framework at page 4, and you'll note that they assign a 25 percent factor weighting to that factor.
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. And just in connection with that regulatory framework, just if you could go to page 6 for a moment, on the bottom, the last paragraph.

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MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. Could you read the last paragraph that's there on that page?
MS. PERRY:
A. "Moody's views the regulatory risk of U.S. utilities as being higher in most cases than that of utilities located in some other developed countries, including Japan, Australia, and Canada". Do you want me to continue?
MR. JOHNSON:
Q. Yes, please.
(12:15 p.m.)
MS. PERRY:
A. "The difference in risk reflects our view that individual state regulation is less predictable than national regulation; a highly fragmented market in the U.S. results in stronger competition in wholesale power markets; U.S. fuel and power markets are more volatile. There is a low likelihood of extraordinary political action to support a failing company in the U.S. Holding company

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structures limit regulatory oversight, and overlapping or unclear regulatory jurisdictions characterize the U.S. market. As a result, no U.S. utilities, except for transmission companies subject to federal regulation, score higher than a single A in this factor".
MR. JOHNSON:
Q. The last part, "No U.S. utilities, except for transmission companies subject to federal regulation, would score higher than a single A". So they would be fully transmission and regulated by, who is that, Burke?
MS. PERRY:
A. I guess, Mr. Johnson.
MR. JOHNSON:
Q. And at page 7, you'll see they do a breakdown of the factors there, and they're going from Aaa, and this is not the ultimate credit rating, this is just how they grade you on the regulatory framework factor, and so at page 7, just before you get to that chart, you'll see the immediate paragraph on top of that, and they say, "The scores for this factor replace the classifications we had been using to

assess the utilities regulatory framework; namely, the Supportiveness of Regulatory Environment, SRE framework, outlined in our previous rating methodology, which we are phasing out. Generally speaking, an SRE 1 score from our previous methodology would roughly equate to Aaa or Aa ratings in this methodology, and SRE 2 score to A", etc, etc. Have you seen that?

MS. PERRY:

A. Yes, I do.

MR. JOHNSON:

Q. SRE 1, they're saying, which would be Canada, and we would be at the higher percentiles, I would submit to you, in Newfoundland and Labrador, and they say that SRE 1 would equate to Aaa or Aa ratings. Would you think -- having looked at those two, would you think that's fair?

MS. PERRY:

Q. Yes, this is what their methodology is saying, yes.

MR. JOHNSON:

Q. If you were reading this as Newfoundland Power's Vice President, and you had to pick

one of those columns, where would you put Newfoundland Power?

MS. PERRY:

A. I haven't went through this to say which ones. I did walk through the methodology with Moody's. This is a guide that they use. This is not a prescriptive link to Newfoundland Power's rating. I would agree that what Moody's has said about Newfoundland Power, that they consider us very supportive thus far, that we operate in a very supportive regulatory environment, and certainly that has been key to us maintaining the credit rating that we have.

MR. JOHNSON:

Q. Okay, but just read Aa, what they say there, Ms. Perry?

MS. PERRY:

A. "Regulatory framework is fully developed, has been mostly predictable and stable in recent years, and is mostly supportive of utilities. Utility regulatory body is a sovereign agency, provincial, or independent regulator, with authority over most utility regulation that is national in scope".

MR. JOHNSON:

Q. Having read that, to be fair, is it your assessment that you fit there?

MS. PERRY:

A. Yes, I would agree that we are in a supportive regulatory environment. Like I said, Mr. Johnson, I have not been through and graded these myself as to where we actually fit.

MR. JOHNSON:

Q. Okay, but just read A. I don't think you'd be in B. Just read it and see if you think you'd be in A, having read it?

MS. PERRY:

A. "Regulatory framework is fully developed, has above average predictability and reliability, although is sometimes less supportive of utilities. Utility regulatory body may be a state commission or national, state, provincial or independent regulator".

MR. JOHNSON:

Q. Having read that, do you think you'd fit in A, really?

MS. PERRY:

A. I agree we're in a supportive regulatory environment, so it's probably more Aa today.

MR. JOHNSON:

Q. Now just going back in this document, Ms. Perry, I think we've said that the second factor of the four factors are the ability to recover costs and earn returns, right, and would you like -- Mike, if you could turn up page 4. Ms. Perry, what weighting does Moody's apply to this factor of the ability to recover costs and earn returns?

MS. PERRY:

A. As shown on page 4 of the methodology report, it's 25 percent.

MR. JOHNSON:

Q. So an equal weighting with regulatory framework?

MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. Okay, and then let's go over to page seven, and here they're starting to drill down into what this factor is about, and they say, "The ability to recover costs and earn returns", why it matters. Just read that paragraph, Ms. Perry, if you would.

MS. PERRY:

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A. The full paragraph, Mr. Johnson?

MR. JOHNSON:

Q. I'd say about two-thirds of it.

MS. PERRY:

A. "Unlike Factor 1, which considers the general regulatory framework under which a utility operates and the overall business position of a utility within that regulatory framework, this factor addresses in a more specific manner the ability of an individual utility to recover its cost and earn a return. The ability to recover prudently incurred cost in a timely manner is perhaps the single most important credit consideration for regulated utilities, as a lack of timely recovery of such costs has caused financial stress for utilities on several occasions".

MR. JOHNSON:

Q. And just continue on.

MS. PERRY:

A. "For example, in four of the six major investor-owned utility bankruptcies in the United States over the last fifty years, regulatory disputes culminated in insufficient or delayed rate relief for the recovery of

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costs and/or capital investments in utility plants".

MR. JOHNSON:

Q. And then they go on, "The reluctance to provide rate relief reflected regulatory commission concerns about the impact of large rate increases", et cetera. So that's fair. So now just to set up the framework on that factor, would you agree, as Moody's has indicated in its August '09 opinion of Newfoundland Power, or its -- as I understand it, Moody's has indicated that Newfoundland Power, as we've seen, has strong protections in place to ensure full and timely recovery of prudently incurred costs. Is that a fair statement?

MS. PERRY:

A. Is it in the Moody's release of Newfoundland Power?

MR. JOHNSON:

Q. I'm looking for it. Maybe as opposed to running around looking for what Moody says, do you agree that Newfoundland Power has strong protections in place to ensure the full and timely recovery of prudently incurred costs?

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MS. PERRY:

A. I believe that we do have mechanisms, such as the energy supply cost varies that we talked about earlier, to allow Newfoundland Power to recover prudently incurred costs. That is typical and common, from what I understand, for other Canadian utilities as well.

MR. JOHNSON:

Q. If you could turn to the bottom of page 7 of the August '09 ratings methodology. That's where I got off track. I'm sorry, Ms. Perry. Under the Paragraph, how we measure it for the grid, "For regulated utilities, the criteria we consider include the statutory protections that are in place to ensure full and timely recovery of prudently incurred costs. In its strongest form, these statutory protections provide unquestionable recovery and preclude any possibility of legal or political challenges to rate increases or cost recovery mechanisms. Historically, there should be little evidence of regulatory disallowances or delays to rate increases or cost recovery. These statutory protections are most often found in strongly supportive and protected

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regulatory environments, such as Japan", and then they go on to say, "More typically, however, and as is characteristic of most utilities in the United States, the ability to recover costs and earn authorized returns is less certain and subject to public, and sometimes political scrutiny", etc. I guess what I'm asking you is, has there been little evidence of regulatory disallowances or delays to rate increases or cost recovery in this jurisdiction for Newfoundland Power?

MS. PERRY:

A. I'm not aware of any regulatory disallowances. That's subject to check, but I'm not aware of any.

MR. JOHNSON:

Q. And then if I could direct you to the chart then on the bottom of page 8, where they do a further breakdown of Factor 2, the ability to recover costs and earn returns, again that goes from Aaa down to B. Would you agree -- if you could read Aa, for instance, would you think that you would fall in there at Newfoundland Power? If you could read it, for the record.

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MS. PERRY:
A. Read it out loud again?
MR. JOHNSON:
Q. Yes, if you would.
MS. PERRY:
A. Under A, "rate/tariff reviews and --
MR. JOHNSON:
Q. No, Aa.
MS. PERRY:
A. Oh, Aa, "Rate/tariff formula generally allows full and timely cost recovery. Fair return on all investments. Minimal challenges by regulators to companies' cost assumptions; consistent track record of meeting efficiency test".
MR. JOHNSON:
Q. Would that be more applicable than, say, A?
MS. PERRY:
A. I'd have to read A, Mr. Johnson.
MR. JOHNSON:
Q. I'm not asking you to read A for the record, but just to read it.
MS. PERRY:
A. What I would say here is that in the past, yes, Newfoundland Power has had the

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opportunity to recover its cost, and when we sit down with Moody's, certainly I will probably tend to, as I should, point to the fact that I'm not aware of any disallowances or any issues with any cost recoveries as of today. So I will always be pushing to be in the higher ratings category, but it's Moody's that would have to assess their opinion of Newfoundland Power as to where, in fact, we reside in these particular categories.
MR. JOHNSON:
Q. Yes, okay, and then the third factor that was listed on the first page is diversification, and on page four they give a weighting to that factor as well, Ms. Perry?
MS. PERRY:
A. Yes, it's 10 percent.
MR. JOHNSON:
Q. 10 percent, and market position is 5 percent of that rating? Would that be --
MS. PERRY:
A. That's what it says on page 4.
MR. JOHNSON:
Q. Okay, or it would be, according to the asterisk, 10 percent for issuers that lack

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generation?
MS. PERRY:
A. Yes, that's what it says, yes.
MR. JOHNSON:
Q. Generation and fuel diversity is 5 percent, and again there's an asterisk next to that one indicating 0 weight for issuers that lack generation, okay. So Newfoundland Power has some modest generation. Then if you go to page 9 again, Ms. Perry.
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. They say up at the top, why it matters. They indicate, "Diversification of overall business operations helps to mitigate the risk that any one part of the company will have a severe negative impact on cash flow and credit quality. In general, a balance amongst several different businesses, geographic regions, regulatory regimes, generating plants, or fuel sources, will diminish concentration risk and reduce the risk that a company would experience a sudden or rapid deterioration in its overall credit worthiness

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because of an adverse development". Now on that one, if you could go to page 10, I think as I read that chart, in order to get an A rating, you'd have to have material operations in two or three states, nations, or geographic regions. Would that be your understanding from that chart?
MS. PERRY:
A. That's what I'm reading here, yes.
MR. JOHNSON:
Q. So Baa would be the most that we could get under that sub-category, I take it?
MS. PERRY:
A. I haven't assessed it, and I haven't spoke to that detail with Moody's either.
MR. JOHNSON:
Q. Okay, and then the fourth factor, and again that receives according to the rating -- the fourth factor being financial strength, liquidity, and key financial metrics. That's back on page 4. That's a total of 40 percent, right?
MS. PERRY:
A. Yes.
(12:30 p.m.)

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MR. JOHNSON:
Q. And they break it down further, don't they, Ms. Perry?
MS. PERRY:
A. Yes, they have it broken down by the key financial metrics.
MR. JOHNSON:
Q. And well, liquidity, in and of itself, at 10 percent?
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. And do you notice that the weight that they apply to the individual metrics are all equal?
MS. PERRY:
A. I would agree that's what it's saying there.
MR. JOHNSON:
Q. Yes, and at page 10, again "Why it Matters", they make the point that, "Since most electric and gas utilities are highly capital intensive, financial strength and liquidity are key credit factors supporting their long term viability. Financial strength and liquidity are also important to the maintenance of good relationships with

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regulators to assure adequate regulatory responsiveness to rate increase requests and for cost recovery", etc, and that'll be there for the record for people to read after. I just would ask you to read for the record the second paragraph that appears there, Ms. Perry, starting with the word "although".
MS. PERRY:
A. "Although ratio analysis is a helpful way of comparing one company's performance to that of another, no single financial ratio can adequately convey the relative credit strength of these highly diverse companies. The relative strength of a company's financial ratio must take into consideration the level of businesses associated with the more qualitative factors in the methodology. Companies with a lower business risk can have weaker credit metrics than those with higher business risk for the same ratings category".
MR. JOHNSON:
Q. And if you go to -- we already made reference to the fact that liquidity got its own 10 percent weighting, right. If you'll just go over to page 11, they talk about liquidity for

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a moment, and they say, "Liquidity analysis is a key element in the financial analysis of electric and gas utilities and encompasses a company's ability to generate cash from internal sources as well as the availability of external sources of financing to supplement these internal sources. Sources of funds are compared to company's cash needs and other obligations over the next 12 months. The highest Aaa and Aa scores under this sub-factor would be assigned to those utilities that are financially robust under all or virtually all scenarios, with little to no need for external funding, and with unquestioned or superior access to the capital markets. Most utilities, however, receive more moderate scores of between A and Baa in this sub-factor, as most need to rely to some degree on external funding sources to finance capital expenditures and meet other capital needs". I take it, Newfoundland Power needs to rely on external sources for funding, right?
MS. PERRY:
A. Yes, we certainly do.

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MR. JOHNSON:
Q. And if I could bring you back to the March 6th '09 credit opinion of Moody's. On the third page of that document -- this would be for the record, Exhibit 4. The third page of that one, Michael, under liquidity profile. Would you just read the first paragraph there, Ms. Perry, for the record?
MS. PERRY:
A. "NPI's liquidity arrangements are considered strong in the context of its modest capital spending plan and limited sinking fund requirements. In evaluating the company's liquidity, Moody's typically assumes that the company has access to new debt capital other than credit available under its committed credit arrangement agreements for a period of 12 months. In this context, we then evaluate the company's various sources and uses of cash, including the flexibility to defer or reduce uses of cash such as capital expenditures and dividends".
MR. JOHNSON:
Q. So it's sort of a stress test, if you will, that they apply to look at Newfoundland

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Power's liquidity. Would that be more or less accurate?

MS. PERRY:

A. What they look at with respect to liquidity is our access to short term capital because we have to invest in capital each and every year. Moody's actually had some real concerns with respect to our short term credit facility in that it didn't have a term-out clause, and it was expected not during this rating, but the rating prior, that we try to negotiate with our lenders to improve the liquidity of our short term facility, and we actually did that, so they looked upon that very favourably.

MR. JOHNSON:

Q. So the concern expressed in that regard was in '07?

MS. PERRY:

A. Yes, it would have been '07.

MR. JOHNSON:

Q. And can I refer you, Ms. Perry, to Newfoundland Power's internal interim management discussion analysis of the 30th of June. That would be Information 3. And in particular, I'm referring to page 6.

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MS. PERRY:

A. Yes.

MR. JOHNSON:

Q. Now I guess to put this document in some sort of context, this is a document that Newfoundland Power files with whom, Ms. Perry?

MS. PERRY:

A. It's actually a public document that we post on SEDAR, it's one of our public information disclosure requirements.

MR. JOHNSON:

Q. Okay. And page 6, I wonder if you could read for the record what you say in those first small three paragraphs under "Financing Activities"?

MS. PERRY:

A. The first three paragraphs?

MR. JOHNSON:

Q. Yes.

MS. PERRY:

A. "Cash flow from financing activities for 2009 compared to 2008, increased by 7.5 million for the second quarter and 14.5 million year to date. The increase during the second quarter in the year to date for 2009 was primarily a

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result of lower operating cash flows and higher capital expenditures. This increase was partially offset by higher common share dividends to maintain a capital structure composed of 55 percent debt and 45 percent equity. On May 25th, 2009, the Company issued 65 million 6.606 percent first mortgage sinking fund bonds due May 25th, 2039. The net proceeds from this issuance were used primarily to repay amounts outstanding under the Company's committed credit facility. These amounts were previously borrowed primarily in relation to the Company's Capital Expenditure Program. The Company has historically generated sufficient annual cash flows from operating activities to service annual interest and sinking fund payments on debt to pay dividends and to finance a major portion of its annual capital program. Additional financing to fully fund the Annual Capital Program is primarily obtained through the Company's bank credit facilities and these borrowings are periodically refinanced along with any maturing bonds through the issuance of long term first mortgage sinking fund

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bonds. The Company currently does not expect any material changes in these annual cash flow and financing dynamics over the foreseeable future."

MR. JOHNSON:

Q. And, Ms. Perry, I guess it would be fair to say that 2009 cash flow would be consistent with previous years have been pretty healthy?

MS. PERRY:

A. Could you repeat the question, Mr. Johnson?

MR. JOHNSON:

Q. Well I'm querying whether you would regard your 2009 cash flow as being consistent with previous years and on the whole, you would consider it healthy?

MS. PERRY:

A. I'd have to go back and compare to previous years, but it is certainly as expected, yes.

MR. JOHNSON:

Q. And could I then turn you back--I'm sorry, Mike, for this, but the August methodology document again at page 13.

KELLY, Q.C.:

Q. Information Request 2, back into the -

MR. JOHNSON:

Q. It would be 2, Mr. Kelly, yes. So here is where we have the factor 4, the financial strength, liquidity and key financial metrics which get the 40 percent. And I note that a, single a, in order to get to there on liquidity, I'm only looking at liquidity now, but you would have to be financially robust under virtually all scenarios with little to no need for external funding, superior access to the capital markets and very strong liquidity. So I take it, hardly anybody would be there, would they, in the utility business?

MS. PERRY:

A. If I read what Moody's is saying here, that's what you could interpret, but I haven't discussed that specifically with Moody's.

MR. JOHNSON:

Q. And would a) be a fair assessment of where you, as the vice president of Newfoundland Power, would put your firm, which would be financially strong under most scenarios with summarized and external funding, solid access to the capital markets and strong liquidity?

MS. PERRY:

A. I would agree that we have strong liquidity

within our short-term credit facilities, yes.

MR. JOHNSON:

Q. And do you draw a distinction--you mention strong liquidity within your short-term facilities, are you intending to say that we don't have strong liquidity in another facility?

MS. PERRY:

A. Well with all facilities, short and long-term, liquidity is about having access to the market itself, so access will only come if we are a credit worthy company, so at all times liquidity will be measured by the market, for sure.

MR. JOHNSON:

Q. And again, to put these factors, liquidity, you know, letters into some sort of context, Ms. Perry, would you know of any primarily electrical distribution company that you would be considered to be higher than a) in Canada under this liquidity category?

MS. PERRY:

A. I have no idea, Mr. Johnson, I have not considered that.

MR. JOHNSON:

Q. Would you consider that and advise us?

KELLY, Q.C.:

Q. Mr. Chair, for the witness to go out and engage in an examination of other utilities, that's way beyond what is a reasonable request in an undertaking.

MR. JOHNSON:

Q. Okay, I take it that you have some familiarity with other companies in the country, Ms. Perry, and you don't know--you don't have any evidence that there would be anybody higher than a)?

MS. PERRY:

A. I'm not aware, but I just simply do not know.

MR. JOHNSON:

Q. Okay. And then we should also look to cash flow metrics, so I think we can stay on this table on page 13. And again, as we have noted earlier, they were all given an equal weighting. Now, and would you just explain for the record what we are seeing, what it means--I guess CFO cash from operations, pre-working capital, plus interest over interest, what that translates to in the Queen's English?

MS. PERRY:

A. These metrics that Moody's has identified in their report is simply a measure of how much cash is in the business to pay for interest, which is fundamentally what a credit report on first mortgage bonds is trying to accomplish, which is what is the loss to a bond holder or probability of loss to a bond holder. So this is about looking at the cash flows of a utility, comparing it to the amount of debt and the amount of interest payments that a utility has. I spoke with Moody's specifically on this particular table and currently, we are rated as a Baa utility as an issue of rating. The particular ranges that are here for a Baa utility and if we take one, for example, of the CFO pre-WC interest to interest, 2.7 to 4.5 times, what we're proposing is within this range. CFO pre-working capital to debt, we're still within the ranges of what's proposed. So we're currently at the bottom of this pack and even with the proposals in this application, we're still within the parameters of these defined ranges.

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MR. JOHNSON:
Q. So the CFO pre-working capital and plus interest over interest, they're showing--you referred to Baa?
MS. PERRY:
A. Yes.
MR. JOHNSON:
Q. And I take 2.7 times to 4.5 times, and what is your application proposing, Ms. Perry under that metric?
MS. PERRY:
A. 3.6 times.
MR. JOHNSON:
Q. And how about the next one, the cash from operations pre-working capital over debt?
MS. PERRY:
A. 19.5 percent is what we are proposing, so still within the Baa category.
MR. JOHNSON:
Q. And cash from operations pre-working capital, less dividends over debt, what are you proposing?
MS. PERRY:
A. We didn't actually put that particular calculation on record.

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MR. JOHNSON:
Q. Why, would there be a reason for that or -
MS. PERRY:
A. No reason, Moody's with us only has ever indicated the CFO to interest and CFO to debt.
MR. JOHNSON:
Q. And then we have the debt to capitalization and I take it you're--that's simply what your capital structure has proposed, 45 percent equity?
MS. PERRY:
A. Yes, yes, equity.
MR. JOHNSON:
Q. Including preferred shares. Now could I direct you then to the March 6th, 2009 opinion again? And in this credit opinion, I notice that Moody's always addresses what could change the rating down and what could change the rating up. And on the last page, what do they say could change the rating down?
MS. PERRY:
A. Do you want me to read it, Mr. Johnson?
MR. JOHNSON:
Q. Yes, please.
MS. PERRY:

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A. "Moody's considers a downgrade revision in MPI's rating to be unlikely in the near term; however, MPI's long-term ratings could be negatively impacted to the extent that Moody's perceived a reduction in the level of regulatory support combined with weaker liquidity and a sustained deterioration in MPI's credit metrics, such as CFO pre-working capital to interest coverage of less an 2.5 times and CFO pre-working capital to debt in the low teens and debt to capitalization in excess of 55."
MR. JOHNSON:
Q. Percent, okay. And it's interesting, Ms. Perry, noteworthy, I think, that Moody's in that paragraph puts emphasis, an expressed emphasis on not only what it calls a "sustained deterioration" in Newfoundland Power Inc.'s credit metrics, but also the--combined with a perceived reduction in the level of regulatory support, is that correct?
MS. PERRY:
A. Yes, that was what was indicated in our last rating.
MR. JOHNSON:

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Q. Okay, now you've indicated that Moody's first started rating Newfoundland Power in what year? 2005?
MS. PERRY:
A. 2005, yes.
MR. JOHNSON:
Q. Ms. Perry, would you have a look at the March 5th, 2007 credit opinion, which would be No. 4, information No. 4?
MS. PERRY:
A. Yes, I have it.
MR. JOHNSON:
Q. And could you, again, turn to the last page and again, the question: What could change the rating down? And just read that for the record.
MS. PERRY:
A. "MPI's rating could be negatively impacted if by 2008 CFO pre-working capital interest coverage is not met or exceeded three times and CFO pre-working capital to debt has not met or exceeded 15 percent."
MR. JOHNSON:
Q. Yes, and indeed in the Board's last GRA decision and order at the top of page 24, I

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don't know if we got the ability to bring that up now? At the top of that decision, would you just read for the record what the Board observed as regard Moody's Investor's credit opinion in that case?

MS. PERRY:

A. "Moody's Investor's credit opinion, Exhibit 6, states that a cash flow interest coverage of three times or higher and a cash flow of debt coverage of 15 percent or higher is required to maintain its investment grade credit rating."

MR. JOHNSON:

Q. Okay. Now, Ms. Perry, I take it, Ms. Perry, that Moody's and other bond rating agencies, they would choose their words carefully when they're expressing opinions regarding the credit worthiness of a company, would that be fair?

MS. PERRY:

A. I guess that would be fair, yes.

CHAIRMAN:

Q. I can't resist, Mr. Johnson. You should tell that to Lehman Brothers, hey or some of that other crowd--excuse me.

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MR. JOHNSON:

Q. Mr. Chairman, I think my expert is going to talk about Lehman Brothers. Do you notice, Ms. Perry, that in 2009 Moody's comes right out and says "Moody's considers a downward revision to be unlikely in the near term." They made no such expressed statement in 2007, did they?

(1:00 p.m.)

MS. PERRY:

A. No, they didn't make an expressed statement.

MR. JOHNSON:

Q. And did you see how in 2009 in answering the question what could change the rating down, they expressly refer to a perceived reduction in the level of regulatory support, combined with weaker liquidity and sustained deterioration and credit metrics. In other words, a triple whammy. Would that be a fair observation?

MS. PERRY:

A. No, I don't think that's a fair observation. The credit rating of Newfoundland Power, when they say a sustained deterioration in the metrics, credit worthiness or your credit

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rating is not something that should change on a monthly basis. This is about setting the company up such that it stays within a relative position, particularly to its peers, to maintain a rating. So there is no expectation of Moody's that we were going to deteriorate from where we were in 2008. As I noted earlier, in 2008, we had made progress with respect to our cash flow metrics because we had a number of cost deferrals that we were dealing with in 2008, so there is an expectation from Moody's that we are certainly going to sustain these metrics. So I believe that was the essence of their comment.

MR. JOHNSON:

Q. But, Ms. Perry, if I were--and it's not even fair for me to say this because I'm not you, but I would have thought, though, that when you read this latest report from Moody's, you would have been a bit bullied by what they're having to say about your company and the difference that they're expressing, in black and white, as to what could change the rating down. Like, they had been saying, boys, if you don't have this by 2008, that could change

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your rating down. But now, they're referring to the need to see a perceived reduction and regulatory support, combined with weaker liquidity and a sustained deterioration. Am I--or am I just reading too much into Moody's?

MS. PERRY:

A. I actually think you're probably reading a bit into it. The rating is not as clear cut as that. They--as we can see from the August methodology report from Moody's, there's a substantive portion of the rating that's non-financial metric and yes, we have done well and we've worked hard at it to get the rating that we have and to maintain these qualitative factors through applications with this Board, recovery of our costs and that has boded well with respect to the rating that we have. The important thing is, is that we sustain the good thing that we have going forward. When we look out to 2010, right out of the gate we are below on our metrics. We are, as in Exhibit 3, we are creeping back down on our CFO to interest coverage down to 2.8 times and in our CFO to debt, it's actually back down to 13 percent. So that's a big concern because

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financial metrics will matter in the long run and we're concentrating on Moody's, we actually have DBRS as well as a credit rating agency and both DBRS and Moody's, both indicate that our financial profile, as it is today, is still relatively weak compared to our peers, so that's important.

MR. JOHNSON:

Q. So you're referring to what they're saying in these credit opinions, correct?

MS. PERRY:

A. Absolutely, yes.

MR. JOHNSON:

Q. And if I could also ask you though, Ms. Perry, that it appears to me as well, in terms of comparing the 2007 Moody's opinion to 2009, that there is a difference, in fact an increase from 2007 to 2009 in Moody's recognition of the support or role of Newfoundland Power's regulator, an increased recognition. That was my reading of the two credit opinions, '07 to '09, would that be fair?

MS. PERRY:

A. I think they've always considered for us to

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have a support of regulatory environment. The approval of the Energy Supply Cost Variance Reserve I believe was a big, I don't know if relief is the right word, but they were concerned that we were going to be a utility that potentially would not have an opportunity to recover one of our single biggest costs, so I do believe that they gave that a lot of attention in their last rating's report for us.

MR. JOHNSON:

Q. Well, let me just draw your attention to the passage from 2007 that I'm referring to in my thinking, at least, and then compare it to what they're saying in 2009. So if we go to the 2007 report--I have to find it myself now. I'm sorry, if you could bear with me, I'm having trouble finding it. Yeah, there it is, under "Rating Rationale" the third paragraph. They say the rating also reflects MPI's low business risk as a cost of service regulated monopoly utility whose operations are predominantly transmission and distribution which Moody's generally believes to be the lowest risk segments for electric utilities.

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The fact that MPI's service territory is geographically isolated and therefore largely removed from competition and exhibits relatively low predictable growth contributes to Moody's view of MPI as a low risk utility." And I read all that to get to this: "Moody's considers MPI's regulatory environment to be relatively supportive and notes that the rate making construct includes measures that largely eliminate MPI's exposure to commodity price and volume risk." And so that was the part that I took out of the 2007, "Moody's considers MPI's regulatory environment to be relatively supportive." Okay? And just compare that, Ms. Perry, to the 2009 credit opinion on this particular issue and in particular, I'd like you to refer to the second page, again, the third paragraph under "detailed rating considerations" and just read that paragraph for the record and see if you see an increase in Moody's recognition of the supportiveness of this Board.

MS. PERRY:

A. Which paragraph would that be, Mr. Johnson?

MR. JOHNSON:

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Q. It would, I'm sorry, it would be the second paragraph.

MS. PERRY:

A. Second paragraph. "All of MPI's operations are located in Canada whose regulatory and business environments Moody's considers to be relatively supportive. Moody's considers the PUB to be one of the more supportive regulators in Canada and note that MPI's 45 percent deemed equity component is among the highest for Moody's rated electric utilities in Canada and that its 2009 allowed ROE remains at 8.95 percent."

MR. JOHNSON:

Q. That's right and I note there, though, that they went from--Newfoundland Power is in Canada which is relatively supportive to now in 2009 saying -

KELLY, Q.C.:

Q. Relatively supportive.

MR. JOHNSON:

Q. No.

KELLY, Q.C.:

Q. It's the same link.

MR. JOHNSON:

Q. No, that Moody's considers the PUB to be one of the more supportive regulators in Canada. Is that a change?
MS. PERRY:
A. I don't believe so, they didn't indicate to us that they believe that there was any more of a regulatory support from one rating to the next.
KELLY, Q.C.:
Q. Well relatively supportive, it's the same words in both documents, with due respect.
MR. JOHNSON:
Q. Well I'm sorry, Mr. Kelly, but you're not reading--you're not giving evidence, first of all and in 2007, the record reflects that Moody's credit opinion talks about Canada being a relatively supportive regulatory environment; whereas, in 2009, Moody's is saying even within Canada, Moody's considers the PUB to be one of the more supportive regulators in Canada. So there is a difference. Do you see the difference Ms. Perry?
MS. PERRY:
A. I'm afraid I don't, Mr. Johnson.

MR. JOHNSON:
Q. I'm not surprised after your counsel's interjection.
KELLY, Q.C.:
Q. With respect, Mr. Chair, we spent a lot of time this morning reading documents which are already on the record and asking the witness to somehow get into Moody's head. The documents speak for themselves and parsing this language is frankly not terribly helpful, in our respective view, in terms of what the Board ultimately has to consider. I haven't objected, but when we got down to how many angels can dance on the head of the relatively supportive pin, boy, we're down into pretty fine nuances at best.
MR. JOHNSON:
Q. Well there will be time for argument, Mr. Chairman, at the end of the day, I'm sure. But I think it should be noted that, you know, we have to be realistic. The president and the vice-president of the Company spent about 45 minutes in direct with this Board as to what the Application was about, and you know, logically there's going to be questions about

what's on the written record and I think that they're fair.
CHAIRMAN:
Q. I'm not telling you to hurry up, am I?
KELLY, Q.C.:
Q. No.
MR. JOHNSON:
Q. And with respect, Ms. Perry, to the 2009 report, of course we've already touched on the fact that there is a reference to sustained deterioration in credit metrics. And as opposed to 2007 where they basically said, look, if it's not in order by 2008, your rating could be affected. And so would that be a difference to the better in your view?
MS. PERRY:
A. I think we're always under the microscope with respect to rating agencies. Leading into the 2008 rate case, we were starting behind the eight ball with respect to financial metrics alone and we did make improvements during that particular proceeding. I still feel like we are under the microscope with respect to our financial metrics. I do not believe that we are in that much of a better place with

respect to having to maintain the financial strength of Newfoundland Power.
MR. JOHNSON:
Q. And regarding the credit metrics, would it also be fair to say based upon the differences between the Moody's document in '07 and the Moody's document in '09, that the credit metrics that Moody's was talking about in terms of affecting your credit rating, were actually stricter in '07 than what they've allowed in '09?
MS. PERRY:
A. With respect to what could change the rating down? They did change the parameters, yes. And that wasn't just for Newfoundland Power.
MR. JOHNSON:
Q. And how did they change the parameters specifically, Ms. Perry, what's the difference?
MS. PERRY:
A. If you go to the exhibit 4, what could change the rating down, they indicated that the interest cover would have to fall below 2.5 times and the CFO to debt would have to fall to the low teens and I believe in the 2007

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report, the interest cover had to be a minimum of 3 times.

MR. JOHNSON:

Q. And how about cash from operations pre-working capital to debt?

MS. PERRY:

A. Had to be 15 percent.

(1:15 p.m.)

MR. JOHNSON:

Q. Now, I understand that Moody's would understand and appreciate that Newfoundland Power and other Canadian utilities have been operating for some time under formulas, such as the Automatic Adjustment Formula, that Moody's would understand that, Ms. Perry?

MS. PERRY:

A. Yes, they would.

MR. JOHNSON:

Q. Okay, and could I refer you to page 27 of the August ratings methodology document? And the very last paragraph, Ms. Perry, I draw your attention to. Could you read for the record what that states in this very recent document from Moody's?

MS. PERRY:

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A. Starting "Within Canada"?

MR. JOHNSON:

Q. Please.

MS. PERRY:

A. "In Canada, regulation of electric and gas utilities is overseen by independent quasi-judicial provincial or territorial regulatory bodies. According, the transparent instability of regulations and the timeliness of regulatory decisions can vary by jurisdiction. However, generally the regulatory frameworks in each jurisdiction are well established and there's a high expectation of timely recovery of cost and investment. Furthermore, Moody's considers the overall business environment in Canada to be relatively more supportive and less litigious than that of the US. Moody's view: a business supportiveness of the Canadian business and regulatory environments to be positive for regulated utility credit quality and believe that these factors, to some degree, offset the relatively lower ROE's and higher deemed debt components typically allowed by Canadian regulatory bodies for rate

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making purposes. As a result of the relatively low ROE's and higher deemed debt levels, there are generally characteristic of Canadian utilities for a given rating category, these entities often have weaker credit metrics than their international peers.

MR. JOHNSON:

Q. And now, Ms. Perry, they refer specifically in that last sentence to the fact that Canadian utilities for a given rating category often have--I'm sorry, I directed you incorrectly. They say--where they refer to higher deemed debt components typically allowed by Canadian regulatory bodies for rate making purposes. Now Newfoundland Power doesn't fall into that camp at all, does it?

MS. PERRY:

A. And I'm not sure of the benchmark that they're using here.

MR. JOHNSON:

Q. Well, not a bad point, but let's put it this way, Newfoundland Power has a good degree more thickness in its equity component in its capital structure than most any other utility in the country, correct?

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MS. PERRY:

A. Moody's do make that point and that certainly has been supportive of keeping our investment grade credit rating, yes.

MR. JOHNSON:

Q. And so that would be a true statement, okay.

MS. PERRY:

A. Right.

MR. JOHNSON:

Q. Mr. Chairman, I think that I would probably be more productive if I could just have a chance to look at the notes overnight and I would expect I'd be a very short amount of time with Ms. Perry tomorrow morning and I think it might be more efficient than me trying to go on for the next fifteen.

CHAIRMAN:

Q. Sure, if that's agreed, we'll adjourn. We are adjourned until tomorrow at 9:00.

Upon conclusion at 1:20 p.m.

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of Newfoundland Power's 2010 General Rate Application heard on the 15th day of October, A.D., 2009 before Commissioners of the Public Utilities Board, Prince Charles Building, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland and Labrador this 15th day of October, A.D., 2009.

Judy Moss

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