(9:00 a.m.)

CHAIRMAN:

Q. Are there preliminary procedural matters? Well then, I guess, Mr. Kelly, it's over to you.

KELLY, Q.C.

Q. Thank you, Mr. Chairman. Mr. Chairman, the next witness will be Mr. Karl Aboud of the Hay Group and his report has been previously filed. We had, in the letter, proposed to mark it as Exhibit 11 to be included in Volume 2, but it can be marked in any fashion the Board considers appropriate.

MS. GLYNN:

Q. We'll mark that as Exhibit KA-1.

KELLY, Q.C.

Q. KA-1, thank you, and Mr. Aboud is ready to be sworn, Mr. Chairman.

MR. KARL ABOUD, SWORN, EXAMINATION-IN-CHIEF BY IAN KELLY, Q.C.

KELLY, Q.C.

Q. Thank you, Mr. Chairman. Mr. Comerford, if we could turn to Appendix A of the report first? Mr. Aboud, you are the National Director of Hay Group Canada's Reward Consulting Practice?

MR. ABOUD:

A. Yes, sir, I am.

KELLY, Q.C.

Q. And you've prepared this report on an executive compensation review for Newfoundland Power, dated September 21st, 2009?

MR. ABOUD:

A. I have.

KELLY, Q.C.

Q. And do you adopt the report as your evidence in this proceeding?

MR. ABOUD:

A. I do.

KELLY, Q.C.

Q. Your qualifications are set out there in Appendix A, and I understand they include a Masters of Business Administration from the University of Western Ontario in 1982?

MR. ABOUD:

A. Correct.

KELLY, Q.C.

Q. Okay. When did you join the Hay Group?

MR. ABOUD:

A. I joined Hay Group in 1990, so it's been just about 20 years.

KELLY, Q.C.

Q. Okay. Now perhaps you could provide an overview of your report and how you intend--wish to explain your report for the Board?

MR. ABOUD:

A. I shall do that, thank you. So if I may, I'd like to describe the report in four steps. The first step is something that I'll call job comparison or job evaluation. That's the manner by which we compare jobs to the market. The second step will be a discussion of the market, the comparator group, why we chose the comparator group that we did choose. The third step will be what we'll call percentile level, the statistical level that we match against to the market, and then the fourth step will be a discussion of the results of the report specifically Table 2 on page seven. So if that's okay with everyone, I'll go through that four-step process and that will describe the report findings.

KELLY, Q.C.

Q. Okay. If you could begin then with the methodology?

MR. ABOUD:

A. So the methodology, thank you, is a methodology called job evaluation. So Hay uses an evaluation tool, not surprisingly called the Hay Method of Job Evaluation, to compare jobs to the market and to determine the competitive pay of jobs to the market. The method of job evaluation is one that recognizes all the component elements of a job and puts a point score to them, so that when we compare jobs of the same points to other jobs in the database, we know we're comparing to jobs of comparable skill, effort and challenge.

Now that's not the only way to compare jobs to the market. The other common method is something called title match, but to use title match means you're not adjusting for the differences in companies and their jobs to your own jobs. So when you do title match, there have to be three important conditions. One is that you have to have an inventory of common organizations. They have to do the same thing. They have to be of the same size. They have to have similar ownership. They have to have a similar geographical footprint.

So your comparator group has to be a like group. Secondly, the condition is their data have to be available to use and thirdly, their composition of jobs has to be comparable to your own, so that when you finally title match your CEO to the inventory of CEOs in the market, you know you have a comparable inventory of jobs. Very difficult to title match well, so that the boards of directors, any regulator of concern, can honestly say we're doing a proper match. Because, if that was a very easy thing to do and if the inventory of jobs was available, we wouldn't do job evaluation. We would absolutely do title match, but because it's so hard to meet those conditions, we go to job evaluation.

So job evaluation is a representation of the skill, effort, responsibilities of a job translated into a point score. Once we've translated a job into a point score, we can compare jobs of similar points into our database, knowing that all those important nuances of company differences and job differences have been accounted for because we're comparing to jobs of similar evaluation.

So that's what we've done.

We've measured the job content of each of the Newfoundland Power jobs and their job evaluation points are illustrated on the screen in front of us, which I believe is page three of the report. So the president of Newfoundland Power's score is 2448 points; the vice-president engineering at 1708; the vice-president of finance at 1500 points; the vice-president consumer and corporate affairs at 1418; and regulatory and general counsel at 1418. So what we're now doing is pricing the job to jobs of comparable points in our database. Our database is of many hundreds of organizations of many hundreds of thousands of jobs. So when we go to price the pay competitiveness of the president, it's not on a CEO to CEO basis, but rather on a 2448 point to 2448 point basis, and that way we know we're comparing the jobs of comparable skill, effort, responsibility.

KELLY, Q.C.:

Q. Okay. Now perhaps next then is to explain the comparator group that you use and how that works.

MR. ABOUD:

A. So in the database, in Hay's 2009 database, there are 532 organizations, all with current points and current pay values for the jobs in the database. You can cut, slice and dice that database in any manner that you'd like. Our cut for Newfoundland Power was to suggest the index called commercial industrial organizations. So those are organizations whose business sector is industrial oriented, that being chemical, pharmaceutical, natural resource utility, and the commercial part of that definition means private sector ownership, not government ownership. So we've excluded the public sector, the government owned organizations and we've excluded the financial sector organizations, banks and insurance, and we're left with 292 commercial industrial organizations.

So the natural question is why that--and those organizations, by the way, are spread out across the country. So the natural question is why that group as opposed to some other. Firstly, the industrial set includes, as I said, varieties of sectors and some

sectors are naturally richer payers, sectors like mining or real estate development, and some sectors are naturally lower payers, sectors like retail and forestry. The broad middle contains most of the business sectors. The manufacturers would be average payers. Utilities, in fact, are average payers. Service organizations are average payers. So we have a broad spectrum of types of payers. We haven't just chosen high paying sectors, nor just low. In fact, the assembly of so many organizations suggests that it's a reflection of the Canadian industrial landscape. Most large organizations would choose to price to such a perspective. They know that they gain executive talent and they lose executive talent to a business of any sector. If we were talking about not the executive jobs, if we were talking about a clerical job, we might likely choose pay values from more locally located organizations, but when we're talking about executive jobs, these people are typically transferable anywhere across the country and to any type of organization in the country.

So it is extremely common that most large organizations in Canada price their executive talent to a broad Canadian index of organizations and that's what we've done here.

The reason that we--so that's why we price to a broad index. The reason why we excluded the public sector organizations is that public sector has a different pay principle than private sector, and I'm not debating right or wrong. I'm just saying that public sector salaries are absolutely lower. The public sector short term incentives are noticeably lower, and the public sector long term incentives are virtually non-existent. So if you are a private sector organization, as Newfoundland Power is, it would not help your efforts to attract, retain and motivate senior executive talent if your pricing mechanism was to the public sector. So we excluded the public sector organizations.

Again, coming back to the Canadian perspective, there isn't that much regional differentiation, if there is any at all, for executive jobs across the country. It used to be that Toronto and Vancouver paid more at the

executive levels. Most other cities paid less. As Montreal's pharmaceutical industry grew, as Albertan energy sector grew, as other--as mining grew in Saskatchewan, and of the last two years, the province with the second highest salary increases has been Newfoundland. So as all regions of the country have grown, there is virtually no regional differentiation for executive jobs of large companies. So it's natural to take the Canadian index, as opposed to just the local index for executive jobs.

So that's why we chose the commercial industrial Canadian market. Even if we had wanted to choose a more local market, even if we had wanted to have chosen a market of the four eastern provinces, our database of 292 commercial industrials doesn't have enough depth and breadth of organizations to provide valid data for a private sector utility. So it would have been the wrong thing mathematically, statistically, to choose a very small set of organizations from the Maritimes, so we couldn't have, had we wanted to, but the right thing to do was to choose a

broad Canadian index. So that's why we have.

(9:20 a.m.)

KELLY, Q.C.

Q. Okay. Next, perhaps you could explain the percentile level and where you've positioned Newfoundland Power?

MR. ABOUD:

A. So, thank you, any of our executive job points, we have a couple of executive scored at 1418 points. These 292 organizations will offer many comparable observations at the 1418 point level. We could have 200 comparable observations at 1418 points. You rank those in descending order and the natural question is well, which of those 200 observations do you choose to set your salary midpoint for your 1418 point job. Do you set a very high--the highest payer, a middle payer, a low payer? Who's to say at what statistical level or at what percentile you choose the data?

An example of a high statistical level is stereotypically the 75th percentile. That's a level at which fully 75 percent of observations are less than and only 25 are higher than. So that's a pretty high level of

pay. Conversely, the 25th percentile, 25 percent of the observations are less, 75 percent are lower so that's a pretty low level of pay. So the natural start point is let's look at the middle. Let's look at the 50th percentile, the level at which half the observations are less and half the observations are more, as a mechanism to set our base salary standard or our base salary midpoint and unless we've got reasons to vary from the average, let's set our pay principles relative to the average. Now we have suggested setting pay principles relative to the average. So let me discuss why that is.

We've already discussed stereotypical sectors that pay high and low. Real estate pays high. Retail pays low. Utilities pays medium. But that's not the only reason we're choosing the P50 level. You can describe a low payer via a number of attributes. A low payer would be an organization that has a very high labour intensive structure. Pay is by far their biggest, most dominant expense item and they have to be very careful on how they manage pay. They would typically not be a

Page 13

high payer. Or an organization where the time it takes to train people to be competent is a very short time period. It's not a highly skilled work force. They would not be a high payer. An organization that has high turnover is not a high payer. They're not going to invest in people so as to lose those people to the competition. Those organizations would not be a high payer. An organization early in its life cycle where it's trying to retain its cash to continue the long term success of business would not be a high payer.

On the other end of the spectrum, the discussion of who's a high payer, capital intensive industry. Payroll is not a big item on the expense, on the P&L and they need absolutely top talent to manage that huge portfolio of assets. So capital intensive industries would be high payers. High skilled sectors, high payers. An organization well into its life cycle such that it can afford to pay competitive compensation, higher payer. So there's a stereotypical description of what makes a high payer, what makes a low payer, and I have no reason to say from that that

Page 14

Newfoundland Power should be a low payer. I'm willing to say it should be a medium payer. Some might even say from that it could be higher than P50, but I think P50 is the right level.

The last perspective that I'll offer in terms of why P50 or not is whether or not you have all the available types of compensation. The four types of compensation are base salary, short term incentive, long term incentive, stock options, and a whole package of non-cash items and that package includes your benefits, your perquisites, your pension and your time off. So of those four main packages, salary, short term incentive, long term incentive, non-cash, if you're missing one of them, the most typical one to miss is long term incentives, but you want to be P50 on an all-in basis. Of the other three elements, one of them has to be at a premium to make up for a shortfall in the one you're missing, long term incentives. Newfoundland Power is not missing any of the four items. They have them all. So given that they have the whole inventory of compensation elements,

Page 15

given the business sector they're in, the life cycle that they're at, we believe that the proper percentile at which to price to the all Canadian industrial market is at the middle, the P50.

KELLY, Q.C.:

Q. Okay. Let's turn next then and look at the particular compensation analysis that you did, and I understand that's largely set out at page seven.

MR. ABOUD:

A. It's set out on page seven, Table 2. Thank you. So Table 2 is a composite of the levels of market pay illustrated by the P75, the P50, the P25. So we've gone through a long discussion that rationalizes why P50 and yet, we've also illustrated P75 and P25 and that's just for informative purposes. You get to see how much richer a P75 value is and how much lower a P25 value is. But the variance row, where we say NP versus P50 is obviously the Newfoundland Power values as a ratio to the market's P50.

So let me go across these columns so we understand what the data illustrate, and if I

Page 16

may, I'll use the president and CEO as the illustrative example. The president's salary is 370,000. The P50 level of market salaries is 356,100. The president's salary is 3.9 percent higher than the market's P50. I'm going to move one column to the right. Total cash is the addition of base salary plus target bonus. Now we don't show you the target bonus item in and of itself. We're showing you the sum. So target total cash is base salary plus target bonus. Target bonus is the bonus you earn if all performance conditions occur exactly as planned. If performance is below plan or above plan, your bonus payout may be below or above target ,but this analysis assumes performance at plan for both Newfoundland Power and for the market. There will be an additional bonus which will bring the salary up to a total cash level of 518,000 for the president, which by the way is inclusive of a 40 percent bonus, so 518 is 370 plus 40 percent, and the market goes up from a salary of 356 to a total cash of 540. That bonus percent is, I think, 52 percent. So it's higher than 40 percent. So what we see happen, and we see this happen for every job at Newfoundland Power, is whatever is their variance in the salary column, 3.9 percent, that variance becomes less competitive on a total cash basis because Newfoundland Power's target bonuses are less than the market's target bonuses, so the chief executive has now gone from a competitive position of four percent above the market to effectively four percent below the market on a total cash.

So we're going to keep going to the right, if we may. We're going to add the next element called long term incentive to get to accumulative value called total direct. So total direct is plus the value of long term incentives when added to total cash to equal total direct. Long term incentive is a bit of a trickier vehicle to value. Organizations have all kinds of long term incentive programs. Newfoundland Power has the market's most traditional long term incentive program and that is called stock options. So we have to value the future expected cash flow impact of an option granted today, discount that back to present and that discounted value is the

value shown in the long term incentive column.

(9:30 a.m.)

CHAIRMAN:

Q. Kind of like a DCF, ain't it?

KELLY, Q.C.

Q. You're learning fast, Mr. Chairman.

MR. ABOUD:

A. That's exactly--yes, absolutely, that's exactly what it is, and then the magic is on what parameters are you forecasting future cash values, and so there are renowned economic models. The very first one was called Black Shoals and the newest one is called Binomial distribution. We now use binomial distribution. So we are valuing current grants, future values, discounted to present on an annualized basis and by that I mean one organization may only grant--issue grants once every five years. Another organization might issue grants every year. Well, that one that issues once every five years, we don't give them zero values four years and a massive value in the fifth year. We average that mega grant over the five years. So annual present value of LTI grants

and for Newfoundland Power, the binomial assumed value of annual grants for the president is 227,300. For the market P50 is 198,500. So the long term incentive value at Newfoundland Power is above that of the market. So when we look at the total direct column, we see that where the incumbent was minus 4.1 percent to the market's total cash, they have now risen to .9 percent above the market on a total direct basis.

KELLY, Q.C.

Q. As I understand it, that's not an actual cash amount received in the year?

MR. ABOUD:

A. That is not. Thank you. That is not the cash amount. The cash amount received this year for stock awards ten years ago could be the value that those awards have hopefully risen, possibly fallen, and the incumbent's decision on when to cash out. So actual received value is based on incumbent decisions of historical grants. This is an analysis of the future value of this year's grants present valued back to today.

KELLY, Q.C.

Q. How does that enable you to compare between companies then?

MR. ABOUD:

A. So most companies have stock options and the mechanics of the tool, the binomial distribution tool, are the same, but companies will have different vesting provisions. They will have different terms of their options. They'll have different prices at which they offer options. So even within those that have stock options, we have to use the tool to uniquely value the product. But companies have different products for long term incentives. Some will have full value restricted shares. Some will have phantom unit. Some will have effectively a long term version of their short term incentive plan. It's a cash-based plan for the achievement of three-year objectives rather than the short term incentive plan as a cash-based plan for the achievement of one year performance objectives.

So all of those different plans have to be valued unique to their structure. The binomial distribution or any model will allow

Page 21

us to recognize and commonize the value of any different kind of long term incentive plan from our clients.

KELLY, Q.C.

Q. Okay. Now, in this jurisdiction, long term incentive or the stock options are treated as a non-regulated expense, as you've indicated on page six. So I think we can move on then to the next one.

MR. ABOUD:

A. Right. So, I mean, I thought it was--personal opinion, I thought it was somewhat gracious of the company to show long term incentive because, I mean, it's not a rate payers issue, so but it's illustrated anyways to get a reflection of total compensation.

So to go between the second to last column and the last column is to add the package of non-cash compensation opportunities, and again, non-cash is the sum of four things and they are the standard medical, dental, disability benefits. They are the perquisites, which the biggest one is company cars. They are retirement or pension and they are time off, vacation and statutory

Page 22

holidays. So the sum of all that non-cash package, when added to total direct, becomes a cumulative value we call total remuneration. The total remuneration value for the president is 881,000. For the market, it's 882,000. The president's variance to market is almost non-existent. The president is .1 percent below market. So it suggests that--well, it suggests that the president went from a long term incentive--sorry, a total direct position that was .9 above market to a total REM position that's .1 below market. It suggests the president's non-cash package must be very similar to the market's non-cash package.

Now the valuation of the four subitems of non-cash, benefits, perquisites, time off and pension, there are complications in those calculations. I'll go into that discussion, if you'd like, but this illustration suggests that the cumulative non-cash package of the president is equal to the market because the total direct variance is similar to the total REM variance.

KELLY, Q.C.

Q. Okay. Now the LTI value is a non-regulated

Page 23

expense. Can you give us a sense of the proportion borne by rate payers?

MR. ABOUD:

A. The math is relatively easy. If we take the 881 all in president's value and we reduce the 227 LTI from it, you get a number that's 660 something, 650 something. That number, by coincident, this is coincident, so this is coincidental, it's very similar to the P 25 total REM value of the market at 650. So by coincidental calculation, the rate payer covers the cost of the president at the 25th percentile of the market. So maybe some might say good deal for the rate payer, but that's the way the math works.

KELLY, Q.C.

Q. Okay. Can you give us your overall summary and conclusions then?

MR. ABOUD:

A. Okay, so if we--and I think they are summarized on page two, if we could, Mike, please? So they are to say that it's reasonable that we use the broad Canadian industrial market as our comparator group. It's reasonable that we price it P50 of that

Page 24

market to compare compensation competitiveness of our executives and importantly, and maybe I could have discussed this a bit more on page two, the variances that we saw on Table 2 are the type of variances that I expect to see all the time. The fact that we've set pay standards to certain principles, they being a broad industrial market at the P50, doesn't suggest that we're going to price every executive exactly to those standards. We would always expect that incumbent specific pay is reflective of incumbent performance and incumbent years of service. So we would never expect that you're going to have exactly spot on the market numbers. We expect to see variances and the variances I see for all columns, for all rows on Table 2, are easily within the norms that I see. In fact, if anything, they would be a bit conservative in their lack of significant variance.

There is, I've just come to understand, a principle at Newfoundland Power's salary structure that says except for exceptional circumstances, no executive salary should be more than ten percent above the market

Page 25

standard. For a private sector organization, that is very conservative. In my experience, a private sector organization would typically say we don't want to pay an executive more than 20 percent salary above standard and here you folks are using a pay principle of ten percent above standard. In fact, if there's a trend, private sector organizations have pushed 20 percent up to 25 percent. They are not going to incur the risk of losing a key contributor role for the sake of five or ten thousand dollars when it would cost 50 to 100,000 dollars of recruitment fees to replace a person and the huge risk of business continuance when a senior executive leaves is far too important to constrain someone's salary to only ten percent above standard. So the fact that you have a ten percent above standard, I think, is a pretty conservative principle, and none of your people exceed that principle.

So all in, I think the variance percentages are conservative. I think the pay principles are sound. There's nothing in Table 2 that would suggest, from my

Page 26

experience, that is untoward.

KELLY, Q.C.

Q. Thank you, Mr. Aboud. Those are my questions, Mr. Chairman.

CHAIRMAN:

Q. Mr. Johnson.

MR. JOHNSON:

Q. Mr. Earle will be questioning Mr. Aboud, Mr. Chairman.

MR. KARL ABOUD, CROSS-EXAMINATION BY RANDELL EARLE, Q.C.

EARLE, Q.C.:

Q. Good morning, Mr. Aboud.

MR. ABOUD:

A. Good morning.

EARLE, Q.C.:

Q. How long has Hay Group had a relationship with Newfoundland Power?

MR. ABOUD:

A. I'm trying to give you the exact year, but it's been many. So I'm going to assume ten, but I don't know for sure.

EARLE, Q.C.:

Q. So would it be fair to say that this report that you have presented is in fact a review of existing practice?

Page 27

(9:45 a.m.)

MR. ABOUD:

A. We look--in part, yes. We certainly looked at--when we do any piece of work, we start from what is, but we also reflect back to core principles. So concurrently, we're saying is it right in and of itself. We're also saying how similar is it of current reports. We're doing both at the same time.

EARLE, Q.C.:

Q. As I understand it, the decision to use the Canadian commercial industrial index as a comparator group, that's one that has existed for a number of years?

MR. ABOUD:

A. It is. It has existed for a number of years.

EARLE, Q.C.:

Q. And similarly, the decision to position at the 50th percentile, that has existed for a number of years?

MR. ABOUD:

A. It has, yes.

EARLE, Q.C.:

Q. Now if we could go to page three of your report? You have indicated you didn't call

Page 28

it, as it's called in your report, a point score system, but same meaning, I take it. You indicated that there was a point score developed for the positions. So the point scores we see in Table 1, would those have been done for this report?

MR. ABOUD:

A. Yes, and thank you for that question. This is what I meant by we used historical reports and we came back to first principles. So we do certainly look at historical reports and these are the old points, but concurrently for this review, we re-scored the jobs to ensure that the points of record are still valid as points. So concurrently we did first principles, and we looked at old material, and they were the same.

EARLE, Q.C.:

Q. So what would the variance have been between preexisting points scores and the present?

MR. ABOUD:

A. They are the same. These are the preexisting points scores and they are the points --

EARLE, Q.C.:

Q. So the points scores haven't changed?

MR. ABOUD:

A. The point scores haven't changed from the last review.

EARLE, Q.C.:

Q. Now let me see if I can be sure we have a good understanding, and if we go to page 10, Appendix B. These are all the factors at page 10?

MR. ABOUD:

A. Those are all the factors we used for this review. They are eight, and I'm counting the sub-bullets, not the major headings. They are eight of the twelve sub-factors. There are four additional sub-factors in the broad spectrum of the HAY Job Evaluation System, and they are the sub-factors incorporating working conditions. They are point scores that recognize how heavy are the things we lift, what is the risk of injury, to what degree to all your senses have to be paying attention, and to what degree you go home at night frustrated. There is a mental stress piece.

EARLE, Q.C.:

Q. You wouldn't use those for executives?

MR. ABOUD:

A. But that's the principle. While we do score executives on those points in terms of establishing true internal equity of all jobs in the company, those four factors were added because of pay equity legislation. Not all companies in Canada are mandated to file pay equity, not all companies have the working conditions component in their evaluations. So when we're using the tool to price executives to the market, the common perspective is on the eight sub-factors because not all executives in all companies are scored on the four sub-factors.

EARLE, Q.C.:

Q. My question is these are the factors that you used for the Newfoundland Power executives?

MR. ABOUD:

A. These are them, yes.

EARLE, Q.C.:

Q. Okay. Now how do we get to the maximum points for any given factor? How do we decide how many points should be allocated to a factor for executives?

MR. ABOUD:

A. Good question. They're -- firstly, there is

no maximum. Whatever organization or government that we can think of in the world as being the biggest most challenging, most complex job that exists, if you were to add two of those companies together, it becomes bigger still. So the points in -- the points can be come as high as the situation warrants. So there is no maximum, but more to your question, how do we determine what the points score should be --

EARLE, Q.C.:

Q. That wasn't my question.

MR. ABOUD:

A. Okay, so there is no maximum.

EARLE, Q.C.:

Q. My question is how do you determine the maximum?

MR. ABOUD:

A. There is no maximum.

EARLE, Q.C.:

Q. There is no maximum?

MR. ABOUD:

A. No.

EARLE, Q.C.:

Q. Is that true in all your evaluation scheme

schema?

MR. ABOUD:

A. Yes, absolutely, there is -- there is no -- total points is our term for the sum of these eight sub-factors. There is no total points maximum that the biggest most complex job that runs the biggest most complex company or government in the world can have.

EARLE, Q.C.:

Q. That's not the question. Is that true for all your evaluation schema? Like, I'm familiar with your schema being used for industrial jobs, and I've seen maximum points on your matrices associated for "know how" with a particular job.

MR. ABOUD:

A. There's no maximum "know how" point for a job.

EARLE, Q.C.:

Q. Okay. So, I take it, the "know how", though, must be associated with the job.

MR. ABOUD:

A. Oh, gosh, for an executive job, it could well be the most important factor, yes.

EARLE, Q.C.:

Q. But, for instance, if the President of

Page 33

Newfoundland Power happens to be a nobel laureate in literature, it may not -- while he may be very knowledgeable, he may not offer a lot to the job?

MR. ABOUD:

A. That's a good point. We don't measure the attributes of the incumbent. We measure the needs of the job and assume the incumbent has those "know how" needs.

EARLE, Q.C.:

Q. So let's go down to through these points. I mean, if there are no maximums, do you have a benchmark?

MR. ABOUD:

A. That's the basis by which the evaluations are done is benchmarking, but there are no maximums.

EARLE, Q.C.:

Q. And how is the benchmark constructed?

MR. ABOUD:

A. Sure. So in our database of 500, and I think I said 32 organizations, and 292 industrial commercials, we have 292 CEO evaluations with all those evaluations known in terms of the company's business model, the company's

Page 34

revenue size, the company's geographical footprint, the company's ownership, and so we have all that benchmark data. As well, we have international benchmark standards obviously way beyond Canada of how we've evaluated CEOs in all kinds of companies and all kinds of geographies. So when we consider the CEO in any organization, Newfoundland Power, we say to ourself what is the complexity of the business of transmitting energy. We're not generating energy, we're transmitting energy. What is the revenue size with and without the transfer costs of buying the raw product from the producer, so what is the value-added and what is the gross revenue, and what are the assets of the company. What is the ownership of the company. In this case, it's a private sector, the COE reports to a Board of Directors. What is the employee base, is the company unionized. That adds to the degree of complexity. So we consider all those factors, we map them to all of our benchmark references, and we conclude going through the evaluation scoring system that this job deserves 2448 points relative to all

Page 35

of our benchmark data.

EARLE, Q.C.:

Q. Okay, then, Mr. Aboud, what I wanted to understand the benchmark before I understand what you do with the benchmark. So how do you -- let's take "know how", and let's go to communicating and influencing skills.

MR. ABOUD:

A. Sure.

EARLE, Q.C.:

Q. Now that's something that I think commonsense tells us that every executive should have. How do we develop, how do we get a benchmark that says that a position which involves a lot of communication with the public, a lot of communications with government leaders, opinion leaders, how do we get a benchmark that says somebody who requires a lot of this in their job gets 100 points, 150 points, or 75 points for that job? Excuse me, I shouldn't say somebody, a job which requires it?

MR. ABOUD:

A. So if we -- coming back to the fact that we have eight factors and you're talking about

Page 36

the third one, communication and influencing skills, we have scaled definitions of degrees of all of these factors, be they technical depth, managerial breadth, communication skills, or any of the others, we read the definitions that align to our scale and we say for communications, this job score is communication level 3, which, in fact, it does. Communications level 3 is the highest of the communications scale, and it says not just it must communicate, but it must influence and impact people to work in a way to the best interest of the organization. So there's a lot of impact and influence, whether it's to internal constituents or external constituents. So it gets level 3 human relation skills, and level 3 human relation skills will start the process of adding to the point score.

EARLE, Q.C.:

Q. So level 3 communication skills, how man points does that give you for an executive?

MR. ABOUD:

A. There is no answer to that. This is not a point factor system. This is a point relativity system. What level 3 does is it adds three more steps of points to whatever the "know how" points are that time.

EARLE, Q.C.:

Q. Well, at some point in time, you managed to give the position of President and CEO of Newfoundland Power, 2448 points?

MR. ABOUD:

A. Right.

EARLE, Q.C.:

Q. How do your level 3 communication and influencing skills, your whatever level thinking challenge, your whatever level freedom to act, how do they translate into numbers?

MR. ABOUD:

A. If you look at - we'll talk about the three subsets of "know how". If you look at practical, technical, or the depth of technical skill the incumbent has to have, and you read all our definitions of that scale, we're assigning the job level G technical skill. On management breadth, we're assigning the job level 4 skillset to manage across a business, and in human relation skills, we've

already said we're assigning the job level 3 human relation skills. When you intersect a three dimensional grid, level G, level 4, and level 3, you get to a cell that has a point value in it. That point value is 920 points, and those are the "know how" points for the President of Newfoundland Power.

EARLE, Q.C.:

Q. So you essentially establish a three dimensional matrices?

MR. ABOUD:

A. For the "know how", yes.

EARLE, Q.C.:

Q. For the "know how".

MR. ABOUD:

A. And the point of intersection is 920 "know how" points, and then we start adding the points to ultimately get to 2448.

EARLE, Q.C.:

Q. And how does "know how" result in a 900 versus a 400 point score at that point of intersection?

MR. ABOUD:

A. Sure. So if a job scores, I think I said, level G, level 4, level 3, the point values in

that areas of the chart are nowhere near 400, they are much closer to 900. A job would have to score less technical breadth. Instead of G, it would be E, to get to your 400 example. It would have to score less managerial breadth, kind of level 3, not 4, and it could score the same human relation skills if it's a regional manager that has to have human relations, level 3. That regional manager, E33, could score 400 points.

EARLE, Q.C.:

Q. Mr. Aboud, I don't think you're getting my question, so I'm going to see if I can start you at a point. If you have a job that requires none of the items under "know how", theoretical --

MR. ABOUD:

A. Right.

EARLE, Q.C.:

Q. The points associated would be zero, right?

MR. ABOUD:

A. More so. There wouldn't be a job, but technically, yes.

EARLE, Q.C.:

Q. So my question is how do you get to the point

of saying that, you know, these various levels and you say they intersect at 900, but by a simple scaling exercise, you could change that to half, right?

MR. ABOUD:

A. Mathematically, you can have anything, but we would never have assigned those points to the CEO of Newfoundland Power.

EARLE, Q.C.:

Q. So how do we get to the point that a point of intersection is worth 900 versus 400?

MR. ABOUD:

A. So imagine these grids that in some cases are three dimensional, in some cases are two dimensional, have scaling down the sides, scaling across the top, sub-scaling human relation skills, and all those scalings have definition, and as you get deeper technicals, broader managerials, the point scales get higher because the job is simply responsible for things that are more challenging and tougher to do. So as you go wider on the scales, the points become higher. The challenge is to determine where on the scale the job best fits, but to our earlier discussion, we've got in Canada hundreds of benchmark references, internationally thousands of benchmark references. We correlate this job in terms of your description of the role into the words of our grid. We benchmark this job to the many thousands of reference jobs we've already scored in our tool, and we say to ourself where does it best define relative to our definitions of the grid, where have we scored generally similar jobs. We bring those two things together and we say to ourself, we think this job is best reflected as a G43 920.

EARLE, Q.C.:

Q. So essentially your point score is a position relative to all other similar jobs?

MR. ABOUD:

A. That would be correct. I mean, it's a bigger definition than that, but that would be correct.

(10:00 a.m.)

EARLE, Q.C.:

Q. Yeah, okay. Now if we go to these factors, would you tell us which factors incorporate risk taking, and let me give you an example of

what I mean by that. If you are the President and CEO of a software company and you're in the business of bringing out new software products, a big success in bringing out a new software product can be wonderful for the company. Failure, because there's been a huge upfront development investment, can be a disaster. So that's risk behaviour. Tell me where in your factors for an organization you incorporate the risk that's associated with the job?

MR. ABOUD:

A. We incorporate your definition of risk in different ways than I think you're defining risk. I think if we learnt anything from the newspapers as of recent months, we don't want to emphasize enhancing pay for people to take high risk situations. I think that's how there was an economic meltdown. So we don't say we're going to give more points if you take more risk, therefore, we're going to pay you more if you put the company in potential long term jeopardy. We don't do that, but we do incorporate the challenge of a job, but not necessarily -- I wouldn't define it as risk.

So in "know how", if you are an organization that, I'll use my client, Hydro One, which is an organization similar to Newfoundland Power, and obviously an organization you folks know, years ago Hydro one was incorporated with Ontario power generation, a big company called Ontario Power. The same amount of power was generated, but the vertical integration of Hydro One is only a part of what Ontario Hydro was. So the fact that the organization has less vertical integration, similar to Newfoundland Power, reduces the technical challenge of running the company. It's not a generator and a transmitter, it's just a transmission organization. There's less technical challenge in being half of a company than a whole. So it's not as much pure risk, but we're recognizing vertical integration. In terms of problem solving, the factor on the page called thinking challenge is a measure of how complex are the decisions you make. We don't as much care about their pure risk; if you make a bad decision, something terrible happens. If we were to score a job for consequence of error, our term for your

example, we might give most points in the world to an airplane mechanic, because if the airplane mechanic does something bad, disaster happens. We don't believe a job should be measured on what if it performs badly. We believe a job should be measured assuming it performs as expected. So we don't measure consequence of risk, but we measure how complex are the challenges that it faces and problem solving, and in accountability, again this isn't exactly risk. We measure the size of the decision, are you making big decisions or small decisions. All else being the same, the bigger decisions you make score more points than if you're making smaller decisions. So we measure -- again it's not exactly risk because you shouldn't measure risk when you determine -- you shouldn't encourage people to take risk when you set pay, but rather we measure complexity of the business, challenge of the decisions, and size of the decisions. None of those are exactly risk.

EARLE, Q.C.:

Q. Well, let's take my example and look at

Page 45

accountability and nature of impact. Wouldn't nature of impact incorporate the fact that a job requires making decisions which can lead to very high profit or very large loss by a company?

MR. ABOUD:

A. Well, that might be someone's interpretation of the words "nature of impact", but that's not the mechanics of the HAY tool subsection called "nature of impact". It is not that.

EARLE, Q.C.:

Q. And are you telling us that because you don't want people to be paid on the basis of risk taking, that you don't account for this?

MR. ABOUD:

A. No, I'm not saying that. I'm saying to properly score a job, you do not give it more points because the nature of it making a decision that causes disaster is an expectation of the job. You don't score a consequence of error, but when you're pricing a job to the market, if there is a business sector that pays high for risk like investment banking, actually my background, we as investment bankers, as capital market bankers,

Page 46

would not set our pay market to be the commercial industrial index. We would set our pay market to be investment banking or capital markets. The nature of the sector pays differently than the broad industrial sector, but my points as an investment banker wouldn't necessarily score more than my points as a regional manager of a company that sells paper products. Just because I have a riskier position, I wouldn't score more points, but I might get paid more if I priced to the investment banking market.

EARLE, Q.C.:

Q. Okay. Would it be fair to say that within the commercial industrial industries that a position that has more risk, like mining, would be ranked in a higher position?

MR. ABOUD:

A. There's a correlation between risk and pay, but there's not a cause/effect relationship. So the fact that there's a correlation, mining has higher pay, mining has higher risk, doesn't lead to the assumption that higher risk equals higher pay. The reason mining has higher pay is that they're very capital

Page 47

intensive, they have a massive amount of assets for which one person is responsible, and they need the absolute most blue chip person they can find in the world to open that mine on time, to standard, and to produce the product they expect, so they'll pay whatever they have to pay, but they're paying it because they're capital intensive and pay is a meaningless item on their PNL statement. They're not paying it or they shouldn't be paying it because we want someone who's going to make the most high risk decisions possible, and consequently we have major banks going bankruptcy. They won't pay because of risk, they'll pay because of the job challenge, though.

EARLE, Q.C.:

Q. Speaking of the percentile level, isn't that -- because you indicated that mining generally pays high, retail generally pays low. That is a landscape that is essentially established irrespective of people like HAY Group, right?

MR. ABOUD:

A. Oh, absolutely, yes.

EARLE, Q.C.:

Page 48

Q. So where companies put their employees percentile-wise is really the company's decision. You only evaluate it?

MR. ABOUD:

A. My goodness, that couldn't be -- well, truly the decision is the Board or the Committee of the Board, and then it's the company to implement it, both hopefully using HAY as assistance in the background, but, yes.

EARLE, Q.C.:

Q. Now you indicated that you can slice and dice your data to come up with just about any kind of sample that a client would want, correct?

MR. ABOUD:

A. Correct.

EARLE, Q.C.:

Q. So, for instance, for a database for comparison, you could create a database, a sub-base, out of your 532 for companies having sales less than a billion dollars?

MR. ABOUD:

A. Correct, yes.

EARLE, Q.C.:

Q. Or companies having a book value less than 2 billion dollars?

Page 49

MR. ABOUD:
A. Sure.
EARLE, Q.C.:
Q. And you could create an Atlantic utility database, right?
MR. ABOUD:
A. In theory, as long as there's enough observations to support it, yes.
EARLE, Q.C.:
Q. And likewise a Canadian utilities database?
MR. ABOUD:
A. Yes.
EARLE, Q.C.:
Q. Or an Atlantic Canada regional database?
MR. ABOUD:
A. Yes, that's true.
EARLE, Q.C.:
Q. You indicated that there was a problem within Atlantic Canada database. You thought it might not work statistically?
MR. ABOUD:
A. Correct.
EARLE, Q.C.:
Q. Now that really is a problem of the data that HAY Group has available to it, isn't it?

Page 50

MR. ABOUD:
A. I think it's a reality of the economic landscape of Canada.
EARLE, Q.C.:
Q. Well, isn't it true that if we look at the companies listed on pages 11 through 13 of your report, these are companies which agreed to provide you with data?
MR. ABOUD:
A. Right.
EARLE, Q.C.:
Q. So your problem in Atlantic Canada is that you don't have enough companies providing you with data?
MR. ABOUD:
A. That's a shared problem. Not enough provide us, but in absolute there are not enough.
EARLE, Q.C.:
Q. I mean, looking at the companies here, you do not have a lot of them that operate in Newfoundland?
MR. ABOUD:
A. Well, we have -- I don't know specifically about Newfoundland. There are hundreds of them that operate in the Maritimes, but there

Page 51

are only 35 who are head officed in the Maritimes.
EARLE, Q.C.:
Q. Obviously, I'm not familiar enough with Atlantic Canada to pick out 35, but I think you would agree with me that there are a lot more than 35 substantial businesses with Chief Executive Officers and Presidents in the commercial industrial sector in Atlantic Canada, right?
MR. ABOUD:
A. I'm sure that's true. So we don't have Irvings, we don't have McCains, we don't have Sobeys in the database, their empire.
EARLE, Q.C.:
Q. Now you've got this Canadian industrial commercial subset, and looking at your table on page 7, it would appear to me that the figures skew higher in the top 50th percentile, is that correct?
MR. ABOUD:
A. The data values would be -- well, as illustratively, P75 is in the top half, P25 is in the bottom half, so, yes, the values of P75 are noticeably higher than P25.

Page 52

EARLE, Q.C.:
Q. Yes, the range P50 to P75 is higher than the range P50 to P25, right?
MR. ABOUD:
A. By mathematical definition, absolutely, yes.
EARLE, Q.C.:
Q. Yeah, what is the range zero to 100?
MR. ABOUD:
A. The proper definition would be 1 to 100, not zero.
EARLE, Q.C.:
Q. 1 to 100.
MR. ABOUD:
A. So the range of pay at P10 would likely be about 20 percent less than that of P25. The range of P90 would likely be about 25 percent higher than P75. I don't know what the absolute value of P100 or P1 are, but there would be noticeable variability as you go from P1 to P100 in terms of dollar value, noticeable variability.
EARLE, Q.C.:
Q. But would it be fair to say that there's a bit of a clustering below the P50 down to, say, P15?

MR. ABOUD:
A. Actually, it would be the opposite. The more you go to the outer edges of the piece, the more you have those extremely low paying outliers and extremely high paying outliers, so in a private sector organization where they're getting a million stock options a year, you could see a value at P100. Where the P75 value is 1.2 million, you might see a value of 5 million because as you get to the extremes of the percentiles, you start to see the outliers. That's why we don't like to play at the extremes because we're being influenced by outlier pay. We like to play in the middle because all the outlier impact has been diluted and we have a more stable value in P50 than we do the --
EARLE, Q.C.:
Q. That's why, Mr. Aboud, when I asked you the question, I said clustering between the P15 level and the P50 level?
MR. ABOUD:
A. No, 15 is outlier territory.
EARLE, Q.C.:
Q. So even at the 15 percentile, you're an

outlier in terms of lowness?
MR. ABOUD:
A. Oh, absolutely, yes.
EARLE, Q.C.:
Q. So where does --
MR. ABOUD:
A. You can be.
EARLE, Q.C.:
Q. Now I thought I heard you say that the positioning of Newfoundland Power was at the average, but they're at the median, aren't they?
MR. ABOUD:
A. They're at the median.
EARLE, Q.C.:
Q. So what is -- what are the average salaries in your sample for the positions that you provided us at page 7, and if you don't have them off the top of your head, Mr. Kelly, we'd be happy enough to receive an undertaking.
MR. ABOUD:
A. And we don't have them off the top, and with a big database, they're generally close to P50. There is a statistical -- there is a definitional difference between average and

median. On a big database, it typically doesn't necessarily matter, but I don't have them in front of me.
KELLY, Q.C.:
Q. In terms of an undertaking, Mr. Chairman, I don't know that that materially adds anything to the Board's understanding or analysis. If it's something the Board wishes, we'll take it under consideration, but it's a question for the Board.
EARLE, Q.C.:
Q. Excuse me --
CHAIRMAN:
Q. What would the value be of an average here? I mean, if I'm making a million bucks, you're only making a buck, I mean, the average salary is $500,000.00. That doesn't tell me anything. I'd rather be making 500 grand now, but, I mean --
MR. ABOUD:
A. Mr. Chair, if I may, what concerns us about averages, and this is back to, sir, your question about the outlying data. Averages are, by definition, an average of all observations, and if there are extreme low or

high paying outliers, they impact the math of the calculation of average. The median is the value on a list of all observations in descending order. That's right in the middle. It's not impacted by the extravagantly low or high outliers. So median is a more stable number. In a monster list -- in a very large database, the outliers, unless they're extraordinarily high outliers, will not impact the average to be much different than median. So normally those two numbers are similar. This database is sufficiently large that having the average data slight percentage variance different than the P50, probably higher than P50, not lower, but certainly nowhere close to P75, would be a statistic that, in my opinion, isn't necessary, so that's what the average is.
EARLE, Q.C.:
Q. Mr. Chairman, we agree that the average is amongst the least salient derivations that can come from this, but there are some -- so we can dispense with that, but there are some other manifestations of this data that we would like to see, in particular, Mr. Aboud,

Page 57

where would Newfoundland Power fit in your sample in terms of book value of the company?

MR. ABOUD:

A. Sorry, I don't know.

EARLE, Q.C.:

Q. But you can find that out?

MR. ABOUD:

A. I can certainly find out your book value, but the relative positioning of book value to the book values of broad orgs, we don't collect book value as a statistical metric in our organization, so I couldn't tell you where it sits relative to.

EARLE, Q.C.:

Q. So you can't tell us anything about the size of the companies in your sample?

MR. ABOUD:

A. Size is one of the factors we measure again, but book value is not the applicable metric of size.

EARLE, Q.C.:

Q. I believe I did hear you say that you do collect the sales/revenue figure?

MR. ABOUD:

A. Absolutely, sir.

Page 58

EARLE, Q.C.:

Q. Can you tell us where Newfoundland Power would sit amongst your sample in terms of sales/revenue?

MR. ABOUD:

A. So your revenue is in the area of between 5 and 600 million dollars?

EARLE, Q.C.:

Q. Very close to 5.

MR. ABOUD:

A. Very close to 5. We have revenue of the organizations of Appendix C that would be from 100 million, much smaller, to many billion, much larger. Where it sits relative to the rank order of broad orgs, honestly I don't know.

EARLE, Q.C.:

Q. I guess, what percentile?

MR. ABOUD:

A. And I don't know because it's just something I've not done, but the recognition of revenue is very important, so I don't want to imply I don't care. When we evaluate all the jobs in the database, all the other CEOs, that company's revenue becomes one of the main

Page 59

determinants of that job's point value, and the point value, therefore, is adjusted by company size, by revenue. When we compare this job's presidential points to other job's points, revenue has been -- the difference in revenue has already been mitigated. So we care about revenue, we measure revenue, but I can't tell you what the ranking of, I think it's 516 million, is in terms of percentile terms relative to all revenues. In part, it matters less because the revenue differentials have been accounted or in the point differentials.

EARLE, Q.C.:

Q. Well, Mr. Aboud, would you agree with me that it is a relevant point factor for the evaluation of a CEO position?

MR. ABOUD:

A. Yes, absolutely.

EARLE, Q.C.:

Q. Okay, and would you also agree that if you had a company that is stagnant in its revenue growth or has very small revenue growth, that you would expect that relative to the entire sample, which in Canada, you know, companies

Page 60

have generally seen quite expanding revenues, that this would be an indicator for reduced points on the part of that Chief Executive?

MR. ABOUD:

A. No, I do not agree that the rate of revenue growth is a point factor. If the rate of revenue growth is indicative of organizational complexities, the resulting complexities are measured in points, but the coincidental factor of revenue growth as opposed to revenue absolute, revenue growth is not a factor in our point determination.

EARLE, Q.C.:

Q. So the fact that a company is now a lot smaller in terms of revenue relative to your sample than it was ten years ago does not impact your point system?

MR. ABOUD:

A. Oh, of course it does, because the missing part of the discussion is if the premise is this company's revenues have been stagnant and the database revenues have increased, the points provided to the CEOs of those other companies, whose revenues have been going up, their points have been getting higher over the

Page 61

years, and, therefore the relative positioning of a stagnant company's revenue, assuming that's reflective of this company, and I don't know that, it will proportionally be a lower percentile in the ranking of revenues than it was before because the others have gone up and their points have gone up, but this job's points would stay the same.

EARLE, Q.C.:

Q. Did you tell us that the relative position points-wise of the President and CEO, and the other positions within the Newfoundland Power executive group have not changed, that they're in the same relative position towards --

MR. ABOUD:

A. From the last time we did the revenue, yes.

EARLE, Q.C.:

Q. In respect of your overall sample?

MR. ABOUD:

A. Yes, sir, they're the same as they were the last time we did the work.

EARLE, Q.C.:

Q. And when was the last time you did it?

MR. ABOUD:

A. A year ago, there was a very summary commentary on executive price comparison. There's been degrees of intensity of the work we've done. I'm going to call the last time we did the work less intensive, but it was a year ago.

Page 62

EARLE, Q.C.:

Q. And so -- I recall that HAY Group was before the Board in the 1998 hearing. How many times would you have done this type of reevaluation over that period of time?

MR. ABOUD:

A. Well, we would have looked at the points every time we issued a report, and I know we issued a report in '98, in '04, in '07, and in '09, and now. So I would think the jobs have been looked at at least six times over that time period.

EARLE, Q.C.:

Q. Could you tell us, Mr. Aboud, and again if you can't do this by way of a figure off the top of your head, where these positions in the table at page 7 would be, if they were at the 40th percentile?

MR. ABOUD:

A. What the dollar value -- how the comparative dollars would be to the 40th percentile of the market? So the people -- so we're looking at a range. We include P25 and P50. P40 is 3/5ths above P25 and 2/5ths below P50, so it's a bit -- it's a bit closer to the P50 than it is to P25. We can eyeball visually that to say that P40 for the CEO's salary could be a number like 340, but I don't have that data in front of me.

Page 63

EARLE, Q.C.:

Q. Could you undertake to supply that, Mr. Kelly?

KELLY, Q.C.:

Q. Again, Mr. Chairman, not unless it's going to be of utility to the Board. I mean, we could end up with streams of numbers and broken down to what degree. The question is not what is it at any particular level. The question is this is the pay policy that Newfoundland Power follows. The question is, is it a reasonable pay policy, and unless the information that's requested is going to materially assist the Board in that process and that analysis, I'm not prepared to simply provide undertakings to provide this stream of data or that stream of data, and some other stream of data. So we'll take guidance from the Board as to whether out of any of these requests that any of them are of material assistance to the Board.

Page 64

EARLE, Q.C.:

Q. Well, with respect, Mr. Chairman, Mr. Kelly hasn't provided an undertaking yet. He's successfully resisted them all to date this morning. This is all relative, and surely it's of assistance to the Board to know what a relative position of 40 percentile would translate to in dollars as compared to the 50th percentile.

CHAIRMAN:

Q. Well, I don't understand why it would be relevant.

EARLE, Q.C.:

Q. Pardon?

CHAIRMAN:

Q. I don't understand why it would be relevant.

EARLE, Q.C.:

Q. You don't understand why it would be relevant?

CHAIRMAN:

Q. Well, I mean, they're saying they're using 50 percentile, and you're saying you want the data for 40 percent. Is that what you're

Page 65

saying?

EARLE, Q.C.:

Q. That's correct.

CHAIRMAN:

Q. Sure how is that going to help me determine -- I'll speak for me, how is that going to help me determine whether the President's salary is reasonable or not? I mean, I can't --

EARLE, Q.C.:

Q. Well, we think that the positioning on the 50th percentile is too high, that it's putting the company and the particular sample which we'll get to in a position that doesn't reflect by any means the relative size of this company, the growth of the company, and the security of the company.

(10:30 a.m.)

VICE-CHAIR WHALEN:

Q. But you must be taking the position on the basis of the actual numerical number then?

EARLE, Q.C.:

Q. Pardon?

VICE-CHAIR WHALEN:

Q. Are you actually looking at it on the basis of numerical values themselves?

Page 66

EARLE, Q.C.:

Q. Yes, it's a numerical value.

CHAIRMAN:

Q. But 25 -- I mean, we're only concerned from a regulatory perspective. As I understand it, from what you said, sir, 25 percent of the compensation falls to the rate payers, is that correct? Did I hear you say that?

MR. ABOUD:

A. I said that if we take out the LTI value of 227,000 from the "all in" value of 881 thousand, the remaining -- the resulting 650'ish thousand impacts the rate payer, and by coincidence, that value is very similar to the P25 value of the market. So to that position, sir, we could say that the rate payer is paying a P25 level of pay, the shareholder is picking up the differential to get the incumbent to P50 of the market.

EARLE, Q.C.:

Q. You'd swear that the rate payer wasn't paying the return on equity.

CHAIRMAN:

Q. No, but -- yes, but then one has to assume that the return on equity is fair. If the

Page 67

return on equity is not fair to the rate payer, then, yes, the rate payers are picking up an excessive amount of the overall compensation, but that's a separate issue.

EARLE, Q.C.:

Q. Uh-hm.

CHAIRMAN:

Q. What do your lawyers call it, ceteris paribus, all other considerations aside.

EARLE, Q.C.:

Q. Uh-hm.

CHAIRMAN:

Q. You have to assume in the absence of other considerations that the rate payers are picking up 25 percent of the tab.

EARLE, Q.C.:

Q. It's not 25 percent of the tab. They're picking up at the 25th percentile, which is --

CHAIRMAN:

Q. Okay, I'm sorry, all right, yes.

EARLE, Q.C.:

Q. Which is different.

CHAIRMAN:

Q. Yes, okay, yes.

EARLE, Q.C.:

Page 68

Q. I guess it's your decision, Mr. Chair, whether we get the 40th percentile information or not.

CHAIRMAN:

Q. I mean, it's not going to help me, you know. I'm not -- I don't know what the other two --

EARLE, Q.C.:

Q. Okay, Mr. Chair. Mr. Aboud, let's go to page four. Could you look at your three bullets there. Would you agree with me that your first two bullets would be equally valid if your indices was a sample of privately owned US corporations that used HAY Group services?

MR. ABOUD:

A. Yes, that's true.

EARLE, Q.C.:

Q. Yeah. These first two bullets really don't go to the choice of the sample so much as the integrity of the sample, correct.

MR. ABOUD:

A. The second bullet goes to the choice, and the first bullet goes to the integrity.

EARLE, Q.C.:

Q. Well, surely if there was a sample of mixed public and private, that would go to the integrity of the sample, would it not?

Page 69

MR. ABOUD:
A. Perhaps I'm not understanding the difference between choice and integrity, but our choice was to exclude public sector, so that in my opinion is a matter of sample selection.
EARLE, Q.C.:
Q. In any event, as you've indicated, those would apply to privately owned businesses in the United States?
MR. ABOUD:
A. In any country, yes.
EARLE, Q.C.:
Q. As long as there were customers who paid it?
MR. ABOUD:
A. Yes, absolutely true.
EARLE, Q.C.:
Q. Now your third bullet seems to me to go very strongly to the choice of indices. Could you tell us what tests you have done to determine the extent to which Newfoundland Power has over the past ten years actually competed with organizations across the breadth and depth of business sectors across Canada for executive talent?
MR. ABOUD:

Page 70

A. We haven't looked at the organizations from which and to which the five executives were recruited or past versions of executives have left to. So the fact that by coincident your executives, I think -- I'm going out on a bit of a lack of knowledge basis, your executives are more transferable from the Fortis operating businesses than they are from other organizations outside of Fortis. So your reflective market has been Fortis operating by the coincidence of the executives that currently are in place in those jobs is coincidence, you could have just as easily, I suspect, in all my other organizations, they could just as easily have lost or gained senior executives from businesses of any sector. By coincidence, I don't think your current inventory of executives have recently come or gone to other sectors, but they've come or gone from within the Fortis family.
EARLE, Q.C.:
Q. So your aware that there is a high degree of what looks to us, with our eyes, as transfers in and out of Newfoundland Power to other Fortis operations of executive talent?

Page 71

MR. ABOUD:
A. But the wrong thing to do would be to base a business -- to base pay principles on the coincidence of what has happened. We've got to base pay principles on the likelihood of attract, retain, motivate executive talent relative to a broader spectrum of orgs than just Fortis, and if that's the right pay principle, and it is, we should compare ourselves to a sector well beyond what does Fortis pay. We should compare to a sector that is broad Canadian.
EARLE, Q.C.:
Q. What about if your policy is to promote from within, to recruit to your executive group from the junior management ranks. Doesn't that say that your competitive positioning should be for the junior management group?
MR. ABOUD:
A. I think it argues more the opposite. I think it argues more to what I was saying because if your intent is to build from within, recruit from within, your first priority is to attract, retain, motivate the people who are there. You won't keep them if your pay

Page 72

standards are below the national standard because if you're out in Fortis Alberta, you're leaving the organization if it doesn't pay the standard. If you're at Fortis Ontario, you're leaving the organization if it doesn't pay the standard. So the core mechanism by which to be competitive and keep your people for future development within Fortis is to pay to the national standard, but then if your business culture is we want to encourage succession planning from within, which is a noble business culture, I think it's the right business culture, then do it, but the only way those people have stayed with the company from the genesis of them joining the company is that the company had competitive national pay standards. So you need that if you want to do succession planning and recruit from within.
EARLE, Q.C.:
Q. Well, Mr. Aboud, Newfoundland Power positions itself for non-executive management to compete with Atlantic Canada, which is at the 25th percentile.
MR. ABOUD:

Page 73

A. Are you telling me that?
EARLE, Q.C.:
Q. Well, I expect you should know that because HAY Group are the people who do it?
MR. ABOUD:
A. But there is no regional differentiation that says Maritimes pays P25 to the broad market.
EARLE, Q.C.:
Q. Well, I'm looking at a question and answer that were given in respect of an earlier rate hearing, a 2008 rate hearing, and the question goes --
KELLY, Q.C.:
Q. Hopefully, it's being provided, Mr. Chairman. The witness should be afforded the opportunity to have it.
EARLE, Q.C.:
Q. Can CA-NP-339, to the 2008 GRA be brought up? Have you got that, Mr. Aboud?
MR. ABOUD:
A. I do.
EARLE, Q.C.:
Q. It says, "Newfoundland Power bases its managerial compensation design on market data. Please provide the market data referred to for

Page 74

2006 and 2007 that was used to provide the average base increases of 3.6 and 3.6 in each of 2006 and 2007", and the answer is, "Newfoundland Power uses the services of HAY Group, a management consultancy, to conduct its salary and total cash compensation review for managerial employees. The Company aims to be competitive with Atlantic Canadian utility companies. Due to the low number of participants within Atlantic Canada, HAY Group recommends a larger comparative group, i.e. all Canadian utilities for the review, recognizing the pay differential for Atlantic Canada is comparable to the 25th percentile of the national market". Now I realize these are two different indices.
MR. ABOUD:
A. They are.
EARLE, Q.C.:
Q. But it seems to me that at your entry level, Newfoundland Power finds it satisfactory to be on the Atlantic Canada level, but when it comes to executives who seem to be largely recruited from the nursery of Newfoundland Power, albeit they might get to go out and

Page 75

spread their wings in another Fortis company for a while, that on the executive level we have to go to the 50th percentile of the national industrial indices, and it seems to me there's a bit of a disconnect there?
MR. ABOUD:
A. Sorry, the question is should there be a disconnect, or my opinion of the disconnect?
EARLE, Q.C.:
Q. Am I wrong in saying that there's a disconnection? No doubt you'll tell me why I'm wrong, given who's paying you, but --
KELLY, Q.C.:
Q. Well, now that's inappropriate.
MR. ABOUD:
A. You're not wrong that an organization could be quite rightly say to itself, and I think I inferred this in an earlier question, that if we tier our jobs -- I don't mean to insult anyone's job, but the lower tier of jobs are clerical/secretarial, that an organization might price those jobs to a more geographically local market. The next tier of jobs is supervisory, and the next tier of jobs is professional/technical. The next tier of

Page 76

jobs is managerial, and the last tier of jobs is executive. By the time you move through those tiers, and I'll go through those tiers one by one, if you'd like. As you move through those tiers, it is not surprising that an organization will change its pay philosophy on how to set competitive values for the jobs. So in the lower tier, it might set localized pay, at the top tier it would more typically, as with Newfoundland Power, set broad Canadian standards as its market, and as you go up through the tierings, there's a tier in the middle called professional technical. To a utility, that's where a lot of the engineers are. Other than the fact that they might be represented by bargaining units, but union aside for the moment, the rate competitive positioning for technical professional might be an engineering market, but across Canada because these people could be lost or gained into any engineering environment across the country. So as you move through these tiers, it's not unreasonable that you change your pay principles to reflect the required level of competitiveness.

EARLE, Q.C.:
Q. Mr. Aboud, do you think it says anything about the notion that it's important for Newfoundland Power to compete nationally for executives, that when you go through their executive team over the last number of years, you can't find anyone who hasn't either been previously employed by a Fortis company or a local Newfoundland company?
MR. ABOUD:
A. So, with respect, I don't know the individual's backgrounds to say I'm sure that is the case, but again I would say that it's coincidental and not the dominant factor by which we should set our comparative group, which for the executives, I'll not repeat what I've been suggesting, I think our suggested approach is right, but coincidentally if that's what has happened with incumbents to date, it may well be the case with my utility clients Hydro One, Ontario Power Generation, Ontario Power Authority, the big generator and the big transmitter in Ontario, that's not the case. They have moved not from within their organization, but they've come in and gone out

to other organizations.
EARLE, Q.C.:
Q. Mr. Aboud, how long does it have to happen with an organization before people like HAY Group would say, no, this is not just a coincidence, there's something about your situation in terms of recruiting and retention that indicates this is where you'll get your people?
MR. ABOUD:
A. There are five reasons why someone leaves a firm, and pay is one of them, but it's the least important of the five. The other five are your relationship with your boss, your relationship with your peers, your pride in the company's brand, and your belief that the company is allowing you to develop your skillset as a person. If Newfoundland Power does those other four things very well, such that people don't want to leave, I'm not sure that because of that, and that's an assumption on my part, I'm not sure because of that we should now say let's reduce levels of pay because we're so well managed people aren't going to leave, so we don't need to be

competitive on pay. I'm not sure if that's the right direction.
EARLE, Q.C.:
Q. But now you're talking about what you should pay as opposed to what you need to pay.
MR. ABOUD:
A. You need to be competitive in pay, and after that, your ability to attract, retain, and motivate is the other four things, but you need to be competitive as a start point.
EARLE, Q.C.:
Q. But you need to be competitive in the market that you're drawing your employees from, don't you, Mr. Aboud?
MR. ABOUD:
A. You need to be competitive to the market that you might draw your employees from, as well as do draw your employees from.
EARLE, Q.C.:
Q. There's not much point in Newfoundland Power being competitive wage-wise in a market where someone is not going to be able to come here for the job, whether it's by immigration reasons, or whether the economy of that part of the world is so different?

MR. ABOUD:
A. So we would -- I agree, we would never include American references in the comparative group for Newfoundland Power. We would never -- although we would include American references for the Chief Executive Officer of Royal Bank, but we would never do it for Newfoundland Power.
EARLE, Q.C.:
Q. Even though the Royal Bank has never had a Chief Executive Officer who hasn't gone into the bank, as my late father-in-law used to say?
MR. ABOUD:
A. The Royal Bank's current Chief Executive is the head of their Capital Markets Group, so you would have to know very aggressive pay principles to keep that person interested.
EARLE, Q.C.:
Q. Thank you, Mr. Aboud.
MR. ABOUD:
A. Pleasure. Thank you.
CHAIRMAN:
Q. So you guys are finished?
MR. SIMMONS:

Q. I have no questions. Thank you, Mr. Chairman.
CHAIRMAN:
Q. I think it's a good time to take a break. Take a break and come back in half an hour. Is that fair?
MS. GLYNN:
Q. I think Newfoundland Power might --
CHAIRMAN:
Q. Oh, yes, yeah, you guys, I'm sorry. Excuse me.
KELLY, Q.C.:
Q. Because then we could stand down the witness.
CHAIRMAN:
Q. Just one quick question. When you're doing these estimates on the value of the stocks, you're using a kind of DCF kind of a -- have you got any information on the interest rates you might be using on that?
MR. ABOUD:
A. Oh, boy, that's a real technical question.
CHAIRMAN:
Q. Well, there's been a lot of discussion around here of discount rates for --
MR. ABOUD:
A. And I -- I'm sorry, I'm going to apologize, I'm not our distribution modeller. I don't

know what interest rate the used to discount the cash flows. I know how sensitive interest rates are to you. If I'm out by a point or so, I'm going to get slapped. So I can find out, but honestly I --
CHAIRMAN:
Q. Can you -- yeah, that's fine. Can you just get that information, and the other quick question is, when you talk about Newfoundland Power being privately owned, I mean, there's no risk here, though. Why isn't Newfoundland Power more akin to, say, Newfoundland Hydro than it is akin to Shoppers Drug Mart?
MR. ABOUD:
A. It is functionally more akin to my client, Hydro One, a distributor. It is more akin to a generator like Hydro, or another of my clients, Ontario Power Gen, than it is a retailer like Shoppers. So it's more akin to that in terms of the types of jobs that are inherent in the company, but where it isn't akin to Hydro One, OPG, Newfoundland Hydro, is that the pay principles of those companies are public sector pay principles. I don't know the legislative direction in Newfoundland, but

in Ontario, as I'm sure you folks know, the Minister of Energy has issued executive compensation guidelines on executive pay, that the principles of executive pay must be these that are set out. That's public sector. Again, as I said earlier, I'm not talking right or wrong, it's unique to the public sector that those are the definitions of which those companies work under. A private sector company, in my opinion, should not have to abide by decisions of a public sector company in pay principle, so, yes, the jobs are akin, but the pay principles are so different, while we wish we could compare Newfoundland Power to those others, we can't in terms of pay comparability.
VICE-CHAIR WHALEN:
Q. I just had one question, perhaps follow-up depending on the answer, does the HAY Group perform the same services for other Atlantic utilities like NB Power, Nova Scotia Power, Maritime Electric?
MR. ABOUD:
A. Nova Scotia Power, all the Fortis entities in the Maritimes and Fortis Inc., so Maritime

Electric would be included. I think those are the only utilities in the four eastern provinces that we do this work.
VICE-CHAIR WHALEN:
Q. Okay, so then the follow-up would be, would the P50 standard for the pay be the same standard used in the other Atlantic utilities, or does that P50 number level vary?
MR. ABOUD:
A. I can't speak for Nova Scotia Power because honestly they're not an organization I talk to. It is -- the standard that we're talking about here is the same standard that Fortis Inc., and all of its subsidiaries work under, and those are the inventory of utilities in the Maritimes with which we deal.
VICE-CHAIR WHALEN:
Q. Could you extend your answer to your clients, Hydro -- Ontario Hydro?
MR. ABOUD:
A. Sure. So Ontario Hydro is mandated by provincial decree. Hydro One, and OPG, sorry, not Ontario Hydro. That they also price to the P50 of the industrial market on an "all in" basis; salary, bonus, non-cash, which they

Page 85

don't have any of -- sorry, non-cash and LTI, which they don't have an of, but the composition of the market must be 50 percent weighted public sectors orgs and 50 percent weighted private sector orgs. So we haven't done that in this, but we've -- actually, thank you for the question. The rest of the pay principles comply, except for that one that says because we're government owned, we want our comparative market to be 50 percent weighted each way. So that's the only condition different in theirs than yours, but it is P50 "all in", salary, bonus, non-cash, and LTI. They don't have any non-cash, Hydro One, or OPG. Therefore, the debate is, and here's an issue that the Minister of Energy wrote in his report, and we're not sure how to extricate ourselves from it. If you don't have one of the pay elements, if you don't have LTI, then one of the other elements must be higher than its respective P50 for your "all in" value to maintain P50, and the Minister is now saying, I -- I'm putting words in his mouth, I didn't really mean that any element could also more than P50 when I said

Page 86

the "all in" must be P50, but mathematically it must. So there's a bit of a dilemma going on in terms of that report, and the Arnett Report, and the impact of setting salaries for Hydro One and OPG, because they're not going to be getting LTI in the near future.

VICE-CHAIR WHALEN:

Q. So it's still - P50 is just a comparator. The definition of the comparative group is set out for you essentially?

MR. ABOUD:

A. Exactly so, yes.

CHAIRMAN:

Q. Like, is the P50 pretty well standard in this kind of exercise? Any time I've been exposed to it, that's what -- that's what the -- whoever is doing the work for you, they always say, well, we take P50.

MR. ABOUD:

A. You start at P50, you honestly do. If you are a high payer, if you are a gold miner, you can get to the same dollar value -- let's say we're striving for a dollar value of $500,000.00. You can be P75 of the all industrial index and be at 500, you can be P50

Page 87

of the mining index and be at 500, you can be at P90 of the retail sector and be at 500, so the discussion of the rate comparator group and its matching percentile have to be done as a duality because a mix of high/low payers and low/high percentiles can get to the same dollar values different ways. So if we're talking a big index, we typically say P50. If we were a gold miner, though, and the gold miner said I want a price to the all Canadian industrial index, we would be saying a P higher than 50, if that's your index, but if you're a gold miner, we would say your index should be the gold mining companies to which you should pay P50. We're playing with numbers, I'm afraid.

(11:00 a.m.)

CHAIRMAN:

Q. Okay, thank you. We'll take a break until 11:30 then.

KELLY, Q.C.:

Q. Thank you, Mr. Chairman.

(RECESS)

(11:30 a.m.)

CHAIRMAN:

Page 88

Q. So I guess we're back to you, sir, are we?

MR. KELLY:

Q. Back to me again, Mr. Chairman. The next witness is Mr. Gary Smith, and the witness is ready to be sworn.

MR. GARY SMITH (SWORN) EXAMINATION-IN-CHIEF BY IAN KELLY, Q.C.

MR. KELLY:

Q. Thank you, Mr. Chairman. Mr. Smith, you are the Vice President, Engineering and Operations, of Newfoundland Power?

MR. SMITH:

A. Yes, that is correct.

MR. KELLY:

Q. And would you please summarize your qualifications for the Board?

MR. SMITH:

A. I graduated from Memorial University in 1984 with a Bachelor of Electrical Engineering and I'm a member of the Association of Professional Engineers and Geoscientists of Newfoundland and Labrador.

MR. KELLY:

Q. And I understand this is your first time testifying before this Board?

Page 89

MR. SMITH:
A. Yes, that is correct.
MR. KELLY:
Q. Mr. Smith, you'll speak to the customer operations section of the pre-filed evidence. Do you adopt Section 2, Customer Operations, as your testimony in this matter?
MR. SMITH:
A. Yes, I do.
MR. KELLY:
Q. Are there any changes you wish to make to the pre-filed testimony in exhibits at this time?
MR. SMITH:
A. No.
MR. KELLY:
Q. Mr. Smith, I'm going to ask you to address four matters. One is the expanded conservation program; two, workforce management; three, investment in the electrical system; and four, whether operational cost reductions and efficiencies should be considered, so those four matters. Let's begin by reviewing for the Board, Newfoundland Power's expanded energy conservation program, please

Page 90

MR. SMITH:
A. Certainly. Our expanded energy conservation program is being carried out as a joint initiative with Newfoundland and Labrador Hydro. It was officially launched in November of 2008. The program includes new incentive rebates for both domestic and general service customers. The program for domestic customers provides rebates for Energy Star windows, as well as thermostats and insulation. The program for general service customers promotes high efficiency lighting. Newfoundland Power is providing customers with energy conservation information for many years. This has given us a level of expertise and energy conservation. By leveraging our existing capabilities and partnering with Newfoundland and Labrador Hydro, we are able to deliver the expanded program in a least cost manner. This is in line with our customers' expectations. It is consistent with our regulatory obligations and is consistent with the Provincial Government's energy plan.
Newfoundland Power and Hydro are also participating in the Provincial Government's

Page 91

energy conservation and efficiency partnership. This will help ensure a consistent and coordinated approach in the delivery of conservation programs. The expanded energy conservation program is being promoted jointly by the two utilities under the Take Charge banner. The Take Charge Program has been promoted through radio and newspaper advertising since last fall.
In last September of this year, we launched a new television advertising campaign. The goal of this campaign is to increase customer awareness and participation prior to the upcoming heating season.
We expect the new programs will evolve over time. We will assess the effectiveness by monitoring participation and conducting market research. By staying in touch with our customers and participating retail and trade allies, we will be able to identify any need for adjustments in the program. This will help ensure the programs continue to meet customer expectations and objectives.
The expanded conservation program accounts for an increase of $1.9 million and

Page 92

costs to be recovered in 2010 rates, however, the economic benefit for customers are expected to be greater than the additional cost. The energy conservation benefit is reduced production at Holyrood. Our customers will save approximately $295,000 per year as a result of our 2010 expenditure. On that basis, the payback for our customers is a little over six years.
MR. KELLY:
Q. Mr. Smith, next would you describe Newfoundland Power's approach to workforce management?
MR. SMITH:
A. Newfoundland Power's workforce requirements can change substantially from one year to the next, based on changes in the amount and type of work to be done. For example, in 2007, the company completed the refurbishment of the Rattling Brook Hydro Plant. This was the largest single capital project in the company's history. With such a big increase in work in one year, significant workforce changes were required to get this job done. Newfoundland Power maintains a flexible

workforce structure. This structure is built around a highly skilled core workforce, which is supplemented with both temporary and contract labour. This allows the company to address short-term variations in work in a least cost manner.

The other aspect of managing work is efficiency. In recent years, we have been able to improve efficiency through organizational changes, process improvement and the use of technology. Efficiency improvement is central to the way we manage work.

MR. KELLY:

Q. Would you comment on the company's plan to address workforce demographics?

MR. SMITH:

A. Workforce demographics is currently challenging for all, virtually all businesses. Newfoundland Power has been considering workforce demographics for quite some time. In the next several years, a significant number of Newfoundland Power employees in the core skill jobs will be eligible to retire. These skills of the engineers, technologists

and powerline technicians are critical to the provision of safe and reliable electrical service. Transferring these skills and knowledge to a new generation of employees requires hands-on training. Training employees on the job tends to reduce productivity and increase costs. To manage workforce demographics, the company must recruit and train employees in many aspects of the business. For some employees such as meter readers or customer service representatives, this may take a relatively short period of time, say six months.

For powerline technicians, however, the time horizon for training is much longer. Powerline technicians are required to work in close proximity to the high voltage system. The hazardous nature of the work requires hands-on training. The training progresses over a number of years from the energized work to high voltage work. The powerline technician training program consists of an initial year of education followed by a four-year apprenticeship. While a powerline technician is qualified upon achieving

journeyperson status, the development of job planning and leadership skills requires additional training and years of experience.

The powerline technician trade is the largest skill component of Newfoundland Power's workforce. The company is practically required to recruit and train its own powerline technicians. To ensure that we have enough qualified individuals to replace those who will retire, we have been increasing the number of apprentice powerline technicians. This is causing modest increases in operating costs. Between 2007 and 2010, we have increased the number of apprentices from 11 to 26. Maintaining apprentices at this level over the next five years or so will ensure continuity in the skilled trade.

MR. KELLY:

Q. The third area relates to investments in the electrical system. Would you please comment on that issue?

MR. SMITH:

A. Yes. One notable change is a reduction in the investment required to address reliability concerns. Can we please go to Graph 2-1 on

page 2-7 of the evidence? This graph shows the company's SAIDI and SAIFI. That is the duration and frequency of outages. The graph shows an improving trend in reliability in the last ten years. The reliability of the electrical system is primarily influenced by the condition of the assets. Over the last number of years, Newfoundland Power's electrical system has been improved through refurbishment and replacement of deteriorated assets. Newfoundland Power believes service reliability experienced by our customers is currently satisfactory on an overall basis. Even though reliability has improved on a system wide basis, capital expenditure will continue to be required to replace deteriorated plant, however, expenditures on target reliability programs, such as the distribution reliability initiative, should be lower in the foreseeable future.

While reliability related spending as a percentage of overall capital spending is decreasing, capital investment related to customer growth is increasing. This is particularly evident in the northeast Avalon, which has experienced strong economic growth in recent years. It is the primary reason why capital expenditures have increased above what was forecast in 2007, about $37 million higher by the end of 2010.

Customer growth impacts the electrical system in two ways. First, the company is required to expand the distribution system to hook up additional customers. Second, an increase in the amount of electricity used by customers requires the company to add system capacity.

Can we please go to Graph 2-2 on page 2-10 of the evidence? This graph shows the total capital investment related to customer growth. In the pre-filed evidence we refer to this as customer growth capital. This has two components, growth and customers shown in blue and growth and load shown in red. The customer growth component represents the cost of connecting customers. The load growth component represents the cost of adding capacity to the system.

Customer growth requires Newfoundland Power to extend the distribution system. This

involves capital expenditures for poles, wires, distribution transformers, service wires and meters necessary to connect customers. The load growth component associated with additional customers and changes in energy consumption has an accumulative effect. This will lead to increased capital spending on power transformers and distribution feeder configuration.

As Graph 2-2 shows, expenditures related to customer growth will continue to range between 15 and $20 million beyond 2010. The graph also shows significant capital expenditures for load growth beginning in 2010. The load growth expenditure are mainly to purchase new power transformers. To explain this, I will take you through Graph 2-3.

This graph shows a change in the utilization of substation transformer capacity on the northeast Avalon in the last ten years. Each column shows the number of power transformers in a given year that meet a certain load criteria. Columns represent the

years 1998, 2003 and 2008. There are four levels of load shown in each graph. The number of transformers loaded to less than 50 percent is shaded in blue, between 50 percent and 80 percent is shaded in red, between 80 percent and 100 percent is shaded in green, and greater than 100 percent of capacity is shaded in purple.

The column on the left shows that one-quarter of the transformers on the northeast Avalon were loaded to greater than 80 percent of their capacity in 1998. This is the section in green on top of the column. The middle column shows 2003. There is no material change in the number of transformers loaded to greater than 80 percent. This is in spite of load growth experienced between 1998 and 2003. We were able to accommodate the load growth by transferring load from the more heavily loaded transformers to transformers that had capacity available. Dealing with capacity in this way is generally cheaper than buying new transformers. The transformers with the additional capacity are represented mainly by the red portion of the columns. The

amount of red therefore indicates the relative flexibility the company has to transfer load. Now let's look at the column on the right, which is 2008. This column shows two-thirds of the power transformers loaded to greater than 80 percent. As we can see, there's a lot less red in the 2008 column. This indicates less flexibility to transfer load off the more heavily loaded transformers onto transformers. Practically this means we will need to add new transformers as load continues to grow.

(11:45 a.m.)

A specific example on the immediate horizon is the Southlands residential area. Engineering analysis indicates that all available options to transfer load have been exhausted. For this reason, an additional transformer will soon be required to service growth in this area. As you can see from Graph 2-3, the options for transferring load on the northeast Avalon are running out. This will tend to increase expenditures on power transformers in the next several years.

MR. KELLY:

Q. Finally, Mr. Smith, the Consumer Advocate has raised an issue as follows, whether operational cost reductions and efficiencies should be considered. Can I get you to comment on this issue, please?

MR. SMITH:

A. Yes. An important consideration is whether the operating forecast reflects an appropriate balance between cost and service. Efficiency is not just about cutting costs. Our cost management efforts are focused on the overall impacts of cost and service. For example, if we were to delay hiring the apprentice powerline technicians, we could avoid adding cost now, however, this would have a negative impact on the company's ability to provide service in the long term. Each year, Newfoundland Power is required to serve a growing number of customers and to operate and maintain a growing electrical system. We must all keep pace with customer expectations. Each year we got approximately 100 kilometers of new line. With more line to maintain and more meters to read and more customers to serve, the cost of service will tend to increase unless we find more efficient ways to

operate. At Newfoundland Power, it is always our goal to achieve sustainable cost efficiencies for the long term. When this is achieved, customers benefit. I believe our record has been very good in this regard. For example, since 2004, the number of customers has increased by 7.6 percent. Inflation has increased by 12.4 percent, and this compares to an increase in Newfoundland Power's controllable operating cost of 4.5 percent. Over this same period, we have continued to maintain a good safety record and the reliability of service has improved. We have also maintained a high level of customer satisfaction.

Another way of looking at cost efficiency is to consider labour productivity. Can we please go to CA-NP-104? In this response we estimated a forecast productivity improvement in the test year to be $337,000. This is the difference between the test year labour forecast and a proforma labour forecast. The proforma labour forecast includes salary increases and additional 2010 costs associated with the apprentices and the conservation

program. Considered on that basis, the forecast productivity improvement for the test year is similar to what was actually achieved in 2008. But this is not the full picture of Newfoundland Power's cost efficiency in the test year.

In 2010, the company will deliver the expanded portfolio of energy conservation programming. We will do this while maintaining existing service to customers, while only adding six new employees. The additional work associated with the expanded program will exceed the capacity of those six employees. To do this extra work and meet the test year labour forecast, we will need to be efficient in our business. We will find these efficiencies as we do in other areas of our business, by making change in our organization and improving processes. We have already started to do this.

For example, we will be required to respond to additional and more complex inquiries related to energy conservation. The call centre will handle conservation calls in addition to the normal work. The call centre

training has been completed to accommodate these changes. Similarly, our area offices across the island are getting more involved with energy conservation. For example, staff in the area offices are currently visiting and establishing relationships with building supply retailers. These retailers are on the front line of delivering the Energy Star window and insulation rebate programs for our customers. With these and other changes, we are positioning ourselves to deliver the expanded program in a least cost manner, and to do this without compromising delivery of safe and reliable service to customers. I believe this is a good example of the balance between cost and service, as I mentioned earlier.

To conclude my comments on this issue, the test year operating forecast presented in the application is reasonable and further operating cost reductions would not be appropriate.

MR. KELLY:

Q. Thank you, Mr. Smith. Those are my questions, Mr. Chairman.

CHAIRMAN:
Q. Mr. Johnson

MR. GARY SMITH, CROSS-EXAMINATION BY MR. THOMAS JOHNSON

MR. JOHNSON:
Q. Thank you, Mr. Chairman. Good morning, Mr. Smith. Thank you for that overview. Mr. Smith, perhaps we could just start back at the beginning comment in your direct regarding your background. I understand you're a graduate of Memorial from 1984 with electrical engineering. Correct?

MR. SMITH:
A. Yes, that is correct.

MR. JOHNSON:
Q. Yeah. And just if you could sort of walk us up through what your experience has been, professional, professionally.

MR. SMITH:
A. I started work with Newfoundland Power in 1984 in the Distribution Group. I progressed over a number of years through Planning, through Design and through other areas of the company. In 1997, I took an operating role with the company in Clarenville and was there until 1999, basically running operations in the

Clarenville office. In 1999, I left Newfoundland Power and went to work with Maritime Electric in Prince Edward Island. In that role I was Manager of T&D Operations, and in 2004 I took a position with Fortis Alberta in Calgary and assumed the position of Vice President of Operations and Engineering.

MR. JOHNSON:
Q. And you held that position with Fortis Alberta up until the summer of '08?

MR. SMITH:
A. That is correct. I left Fortis Alberta in 2008.

MR. JOHNSON:
Q. Okay. Mr. Ludlow had indicated to the hearing that Mr. Phonse Delaney had seen the bright lights of the west coast and decided to go to Alberta. I don't know why he didn't keep on going to B.C. for the cost, but in any event I take it you were holding that job when he saw the bright lights?

MR. SMITH:
A. That is correct. I was Vice President of Operations at Fortis Alberta at that time.

MR. JOHNSON:

Q. Okay. And could you just indicate to us as to how and why each of you and this, Mr. Delaney, ended up changing positions?

MR. SMITH:
A. Well, I don't know if I'd exactly characterize it that way. In 2008, I was certainly looking for an opportunity to get back to St. John's, and in 2008 expressed that to my boss at the time, who was Carl Smith in Fortis Alberta. Through a period of a few months, I came to the realization that Phonse Delaney was also looking to move out of Newfoundland Power to seek other opportunities, so that provided me an opportunity to come back to Newfoundland Power.

MR. JOHNSON:
Q. And, Mr. Smith, I'd like to turn first to the labour forecast which Newfoundland Power has prepared in this case, which is at Volume 2 of the materials. In particular, if I could draw your attention to Schedule B of that filing, and in particular page 1 of 2 of it.

MR. SMITH:
A. Was it Schedule A you mentioned or B?

MR. JOHNSON:

Q. B, sir. The line I'm just going to ask you about appears towards the bottom, Michael, if you could go down further. Yeah, Rechargeable and Recoverable, 4.445 million. I take it that this, this is a number made up of things such as monies that would be received back from Newfoundland Power from customers directly for direct services to the customers, for instance, would it?

MR. SMITH:
A. Yes, I think that would be correct.

MR. JOHNSON:
Q. And would it also include monies back from inter-affiliate labour charges?

MR. SMITH:
A. I just need one moment.

MR. JOHNSON:
Q. Sure, no problem. Mr. Smith, I might be able to help. Page 2, footnote number 3.

MR. SMITH:
A. Yes, this is the footnote I was looking for. Thank you.

MR. JOHNSON:
Q. Yeah, I thought so, which simply it indicates that in addition to capital and operating

Page 109

requirements, there are labour requirements for Rechargeable and Recoverable items and these include labour associated with material handling, i.e. stores and vehicle service centre labour costs which are recharged as overhead and offset (inaudible-coughing) and it also includes customer job and third party provisioning services and inter-affiliate labour charges. That's where we were both going to go.

MR. SMITH:

A. That is correct. That's the note I was looking for.

MR. JOHNSON:

Q. Okay. And how did you come up with the forecast, going back to Schedule B for a second? How did you come up with the forecast for Rechargeable and Recoverable?

MR. SMITH:

A. This forecast would have been prepared similar to the operating and the capital forecast, basically looking at historical costs and doing a trending from historical costs. I believe that's the basis of how these numbers would be calculated.

Page 110

MR. JOHNSON:

Q. Okay. And in particular then, just focusing in on the inter-corporate or affiliate charges, sir, could I turn your attention to CA-NP-149, Attachment A? Mr. Smith, I'll wait for you to -

MR. SMITH:

A. Sure. That's fine, I have the RFI.

MR. JOHNSON:

Q. Okay. And so here now we've just focused on the inter-affiliate charges, and I think that would be captured in the Staff Charges line that we see there. Would that be your understanding as well?

MR. SMITH:

A. You're in Table 1?

MR. JOHNSON:

Q. I am, sir.

MR. SMITH:

A. I see the Staff Charges line, yes.

MR. JOHNSON:

Q. Yes. So included in that Staff Charges line would be charges to other Fortis affiliates, for work done for the Fortis affiliates?

MR. SMITH:

Page 111

A. That is correct.

MR. JOHNSON:

Q. Yes. And I take it that insofar as these staff charges would incorporate charges to other utilities for storm-related recovery work, that none of these would include anything other than a cost basis. There would be no mark-up, for instance, right?

MR. SMITH:

A. In terms of efforts with storm response, we do charge that out at the fully distributed cost -

MR. JOHNSON:

Q. Yes.

MR. SMITH:

A. - for storm response. That is correct.

MR. JOHNSON:

Q. Right. But nothing, nothing more than fully distributed costs, right?

(12:00 p.m.)

MR. SMITH:

A. For our storm assistance such as is indicated here for the Turks and Caicos, that would be correct.

MR. JOHNSON:

Page 112

Q. Okay. And that would include not only the powerline technician work but any coordination role that would have been carried out by administrative staff?

MR. SMITH:

A. The only exception I would, I believe it's true for the Turks and Caicos is there was one or two managers involved with this effort and for those in particular, the 1.2 mark-up was applied to the fully distributed cost.

MR. JOHNSON:

Q. These managers, do you know what role they would have played in relation to that?

MR. SMITH:

A. One manager in particular is the manager who would have coordinated the effort for Newfoundland Power and primarily for the Fortis Group of Companies. He's our manager on the west coast of Newfoundland and has provided that role two or three times in the past for similar events and so for his salary, I believe, we did mark it up by 1.2 percent.

MR. JOHNSON:

Q. And so if then, just no need to go there, but we saw that line that appears in Schedule B

Page 113

about Rechargeable and Recoverable, if that amount is based on historicals, that amount is not capturing any mark-up. I think it's just to state the obvious except that example that you just gave.

MR. SMITH:

A. That would be correct.

MR. JOHNSON:

Q. Okay. And I guess the question that I have is the Consumer's Advocate here in this province is in what fashion or how does Newfoundland Power's customers benefit from Newfoundland Power personnel undertaking repair and construction work for Fortis at cost in these various localities?

MR. SMITH:

A. When Newfoundland Power provides assistance to other utilities for storm relief, certainly we've provided an RFI which indicates we've been doing this on three occasions now for other Fortis companies, but we'd also provide this service for other utilities if we were able to do so. When a request comes to Newfoundland Power to provide assistance from another utility, we certainly take that very

Page 114

seriously. We recognize customers somewhere are without power for a long period of time. So when we look at where we are at that particular time in our business, we do do our best to provide assistance to others. The way it benefits our particular customers is on two or three fronts. First of all of course, when our employees go to these events, they get a chance to practice their own skills and abilities in major storm restoration efforts. Another way that we benefit is that our costs are put through as a fully distributed cost, which really means that our customers aren't in any way paying for this effort. Finally I would like to bring to the attention of the Board that we do live in one of the worst environments in Atlantic Canada, and most assured in all of Canada. That particular environment will require us on times to also look for assistance from other utilities. Although we haven't had to do that in recent years, 1984 wasn't that long ago. In 1984 we had customers without electricity for five and six weeks and as recent as 1994 we had a significant outage where we had customers off

Page 115

for six and seven days. We believe those type of outages will no longer be acceptable and that in future, if we look to having to do major power restoration, it's very likely we would want to bring utility staff in from other companies.

The final point that I'd like to make along that regard, and again that would benefit our customers, when other utilities comes here, of course one of the first things you're trying to do is get on the ground running quickly. When we bring staff in from other Fortis companies, if they were available to help at that time, those staff understand our safety rules, they understand our work methods, they understand our practices, so when they land here, they get on the ground very quickly in terms of providing restoration effort for our customers. So I look at it on two or three different fronts and I do believe our customers benefit from this relationship and this ability and I do believe it provides benefit for our customers.

MR. JOHNSON:

Q. With respect to the notion of getting practice

Page 116

on skills and reconstructing, like Turks and Caicos and the Caribbean, I trust that we are on the same page that you would acquire these skills whether or not you were charging at cost or mark-up, right?

MR. SMITH:

A. Certainly when the people are there practising their skills and helping out, if they're at fully distributed cost or at a mark-up, the knowledge transfer would be no different.

MR. JOHNSON:

Q. Yeah. And I take it you referred to Newfoundland living, or Newfoundland and Labrador being in a climate that poses its challenges, and nobody would disagree with that, but I take it it would be fair comment on my part that we would look to line crews and technicians who are used to dealing with those adverse winter conditions, not a crew who would live in tropical climes. Wouldn't that be fair?

MR. SMITH:

A. No, I wouldn't necessarily agree with that. Certainly when we have outages and we have disturbances on our system, we do work closely

Page 117

with Newfoundland and Labrador Hydro. As you say, they're down the street. They're the closest. If it comes to bigger events and bigger outages, as we've had in the past, as I said earlier, the line staff with these other utilities within Fortis do understand the safety rules, the work methods, the type of equipment. Things are fairly commonized across the companies, so when they come here to work, they're best equipped to get on the ground running and do it quickly. In terms of the difference in environmental conditions, I don't see that as a negative at all. These employees come here with the proper motivation, to want to help our customers, so the difference in climate, I don't see it as an issue at all.

MR. JOHNSON:

Q. But, Mr. Smith, I can see the analogy with Fortis Alberta's people, okay, but I'm having some difficulty, to be honest with you, with the idea that we would look to crews who are trained and work in the tropical areas of--we'd use those as a go-to source. I'm having difficulty thinking that we would actually do

Page 118

that at the end of the day. I mean, there is no track history of us ever reaching to this area of the world for help at times of need, is there?

MR. SMITH:

A. In terms of certainly in recent times, we haven't brought any of the employees up from the Turks and Caicos and Caribbean to help, but certainly these employees when they come here, as I've said, their plane flight to get here may be a few hours longer than, say, somebody from Nova Scotia Power, but once they do get here, their knowledge and experience of the way Newfoundland Power does it work and its standards and its equipment, they would fit in very quickly and very easily and will get off the ground running. In these type of events, one of the things that you're mostly concerned about is the safety of the employees. When you bring them in and there's electrical wires on the ground, they need to understand the different procedures you have inside your company to create isolation points and grounding, to provide protection for workers. As I said, if we were to bring in

Page 119

employees from Nova Scotia Power, they would have differences in those practices and procedures. The terminologies would be different, even down to the type of forms you would fill out to create protection zones would be different, but the employees within the Fortis Group have a very common approach to this, so they could fit in very easily, very quickly, and get on the ground running. So although the plane flight might be a little longer, when they get here I think they would be more effective.

MR. JOHNSON:

Q. Mr. Smith, in fairness, from the safety point of view, and I think there's no disagreement, the importance of safety, but I'm trying to assess your view. Now, if you take the Bonavista ice storm, for instance. Do you think it's optimal in a Bonavista ice storm situation where you got ice on poles, insulators, winds whipping off the North Atlantic, hail going sideways, to think that that would be from a safety point of view okay to have tropical lines crews coming up? Would that be optimal or less than optimal in your

Page 120

view from a safety point of view?

MR. SMITH:

A. As I said earlier, I think it would be the most optimal way to do it. I do know of a little bit of experience in this regard. When I was at Maritime Electric we did have a crew come up from one of the Caribbean utilities to share in looking at work methods and practices. They came up in the middle of January and, yes, they were effective and, yes, the proper techniques were followed and the work got done, so I don't see the difference in climate as being a problem in terms of people getting to work quickly and understanding the rules.

MR. JOHNSON:

Q. Your example wasn't an exigent circumstance. They just came up for training.

MR. SMITH:

A. They came up in training purposes, yes, but I would say the environmental conditions were no different, and again, I could just reiterate that I don't think it would be a negative thing, I think it would be a positive thing, the fact that they have the similar knowledge

Page 121

and experience and the procedures that our employees use here.

MR. JOHNSON:

Q. Do you see why one might want to consider issues of reciprocity when it comes to determining what is a fair and reasonable approach to charge other utilities? In other words, I don't have so much of a problem with Newfoundland Hydro being helped out at cost, or even not cost, in the sense that on the very next week we could find ourselves with the shoe on the other foot and need that type of help, so it's the reciprocity to me that is a driving consideration. Do you see reciprocity as being relevant to what is fair and reasonable in terms of what we should be charging utilities that have not traditionally helped us?

MR. SMITH:

A. When those utilities come to help Newfoundland Power, I would expect them to do the same, that is charge the fully distributed cost when they come here.

MR. JOHNSON:

Q. Okay. But the fact that there's never been a

Page 122

history of it, that doesn't change your analysis of it?

MR. SMITH:

A. In terms of the history, that doesn't change it, no. Again, we could have a winter this year where we could have a major storm event and knock down powerlines of a significant quantity. When those employees come here, I would expect to pay them no more than the fully distributed cost.

MR. JOHNSON:

Q. You're familiar, I take it, Mr. Smith, with the Fortis Emergency Response Network?

MR. SMITH:

A. That's terminology, I guess. I know what we do in terms of helping other utilities.

MR. JOHNSON:

Q. Yes. If I could refer you, sir, to CA-58, and in particular I'm looking for the Fortis report from 2008.

MR. SMITH:

A. 2008, you mentioned?

MR. JOHNSON:

Q. Yes, sir. And I wonder could you turn to page 16 of that particular report? Under, they're

Page 123

getting into a description of Fortis Turks and Caicos, the regulated electric operations, and I'm just referring you down to third, three paragraphs down where they say, "In early September 2008, the Turks and Caicos Islands were struck by Tropical Storm Hanna, followed by Hurricane Ike, a category four hurricane which caused major damage to the utility's transmission distribution systems on south Caicos, with lesser damage occurring on north Caicos and middle Caicos. Providenciales, the company's major service territory and home to 80 percent of its customers were spared a direct hit. Generation facility sustained minimal impact as a result of the hurricane. The Fortis Emergency Response Network," all in caps, "consisting of more than 60 employees throughout the Fortis Group of Companies, assisted Fortis Turks and Caicos with its restoration efforts and by the end of October electricity had been restored." So my question is, this would be a formalized response network that Fortis has instituted that's referred to in these corporate filings?

MR. SMITH:

Page 124

A. The way I would characterize it for you is that each of the companies in the Fortis Group would have a list of employees who have been asked a question, if such an event came up in Alberta, in Maritime Electric, in the Caribbean, would you be willing and able to go, subject to the timing of it of course. So the list would include employees who have said yes to that invitation and those employees would be on a list of those ready and willing to go, so to speak.

MR. JOHNSON:

Q. Okay. And what is the--is there a benefit, Mr. Smith, to Fortis' shareholders from having this Fortis Emergency Response Network?

MR. SMITH:

A. I think it's, I characterize it differently. I would say it's a benefit to the customers of these utilities. As I said earlier, we certainly would provide this service to any of the Fortis subsidiaries, but we would do the same thing if Nova Scotia Power called tomorrow and said they had a major event, they needed our help. We would go to the same list of employees and go through the same process

Page 125

of trying to provide assistance at that time, if we could. So I don't look at this network that we've created as being exclusive just to Fortis. It would be available to any utility.

MR. JOHNSON:

Q. I don't, I don't quibble, Mr. Smith, with the notion that at the end of the day we're trying to get the power on and life back to normal for the residents and customers, okay? I think that's common ground. But my question has to do with what benefits accrue to the Fortis shareholders by virtue of the Fortis Emergency Response Network, and in particular the presence and full participation of Newfoundland Power's personnel in that network.

MR. SMITH:

A. Again I don't know if I could characterize it as a benefit to the shareholder. When our employees go, they are charged out at the fully distributed cost. That's what's in our policy and guidelines that we've practised for many years. Certainly the policy and practice has been in front of the Board before. So the way I look at it, as long as we recover our

Page 126

fully distributed cost, our customers are in no way negatively impacted.

MR. JOHNSON:

Q. If I could turn you to page 25 of this document under the Management Discussion and Analysis. Yes, I'm referring now to the second paragraph, Mr. Smith. They say, "Regulated assets in the Caribbean region as a percentage of the corporation's total regulated assets were ten percent at December 31st, 2008," and in parentheses, "(December 31st, 2007, 8 percent). The regulated rate of return on rate base assets, ROA, achieved in the Caribbean is higher than that achieved in Canada. The higher return is correlated with increased operating risks associated with local economic and political factors and weather conditions; however, the allowed ROEs at Caribbean Utilities and Belize Electricity were lowered in 2008 due to negotiation of new licenses at Caribbean Utilities and the impact of a regulatory rate decision at Belize Electricity. Economic growth has been strong in the corporation service territories in the Caribbean, positively impacting customer and

Page 127

sales growth. The rate of growth is expected to be lower in 2009 due to the impact of the global economic downturn." This is the part, "The corporation's operations in the Caribbean are exposed to hurricane risk. Fortis uses external insurance to help mitigate the impact on its operations of potential damage and related business interruption associated with hurricane." So would it not be fair to say that the Fortis Emergency Response Network, of which Newfoundland Power is an active member, actually helps mitigate the effects of potential damage and related business interruption associate with the hurricanes?

MR. SMITH:

A. I don't look at it that way, to be honest with you. The way I look at it is that there's customers out there that are in the dark, they don't have electricity, and when the call comes, if we can provide assistance to those customers without negatively impacting our customers, then I think that's the reasonable thing to do. As I mentioned earlier, I would expect the same from the Turks and Caicos utility. If we have customers in the dark and

Page 128

we need assistance, I would expect them to come here to help us on the same basis.

MR. JOHNSON:

Q. Yeah, I understand that, but having now explored this issue a bit further with you and having brought you to a discussion in the MD&A of Fortis' book, Fortis' report, it seems to my reading that there is a benefit to Fortis shareholders, and I just wonder whether you would now, having read that, concur with that view?

MR. SMITH:

A. I think there's a benefit to our customers. I think there's a benefit to the Turks and Caicos' customers in our ability to respond quickly to provide service. That's what I really believe.

MR. JOHNSON:

Q. Do you see where I could conclude, reading that sentence, that the Fortis uses external insurance to help mitigate the impact on its operations of potential damage and related business interruption associated with hurricane," that it would be a fair reading on my part to say, yes, and also the Fortis

Page 129

Emergency Response Network also helps to mitigate the impact, which is of direct benefit to shareholders of Fortis? Would you see where I could reasonably conclude that?

MR. SMITH:

A. Again, I can't comment, I don't think, on the way you might conclude it. I can just tell you from my perspective when I do these types of assistance and when we're able to do it, I just look at it from the customer's perspective, and again, as long as we're not negatively impacting our customers, I do think it's the right thing to do.

MR. JOHNSON:

Q. So in your advising the Board as to what you think is fair and appropriate, you have not considered the existence of the shareholder benefit to Fortis, in your analysis?

MR. SMITH:

A. I really haven't done an analysis on this. Again, maybe my approach is very simplistic and my approach again, as I've said before, is simply our ability to respond when there's people in the dark and there's powerlines on the ground. At that particular time, if we're

Page 130

able to respond and not negatively impact our customers, then I think it's the right thing to do.

MR. JOHNSON:

Q. The bottom of page 34, Mr. Smith, under the paragraph, "Revenue," which is right at the bottom, it indicates that, "Revenue increased 101 million over the previous year, however, annual revenue for '08 includes the two additional months of contribution for Caribbean Utilities and approximate $6 million favourable impact of foreign currency translation due to the weakening of the Canadian dollar against the US dollar year over year," et cetera. You go on to say, "Excluding the two additional months of contribution for Caribbean Utilities and favourable impact of foreign currency translation, revenue increased year over year, primarily due to: (1) the full flow through of higher fuel and oil costs to customers at Caribbean Utilities under the terms of the company's new T&D license; (2) electricity sales growth; and (3) an increase in the cost of power component of the average electricity

Page 131

rate of Belize Electricity effective July 1st, '08." Then it goes on to say, and this is what I want to focus on, "Partially offsetting the above factors were: (1) a decrease in the value-added delivery component of the average electricity rate of Belize effective July 1st, '08; (2) a 3.25 percent reduction in basic electricity rates and the elimination of the hurricane cost recovery surcharge," in quotes, "CRS at Caribbean Utilities effective January 1st, '08, and under the terms of the company's new T&D license; and (3) revenue loss of approximately $2 million at Fortis Turks and Caicos due to Hurricane Ike." And as I read that--first of all, do you have any familiarity with the hurricane cost recovery surcharge, the CRS that's referred to there?

MR. SMITH:

A. No, I do not.

MR. JOHNSON:

Q. Would you agree as a mathematical matter that to the extent that the Belize customers, or the Turks and Caicos customers, Belize in this instance, are shielded from the market cost of the services being provided to them at their,

Page 132

at the time of these hurricanes, that their surcharge is lower than what it otherwise would be?

MR. SMITH:

A. Again, I don't know the nature of this surcharge and so I really couldn't comment.

MR. JOHNSON:

Q. Just speak about, in terms of operational impact for a moment, Mr. Smith. We saw in previous, when we previously looked at this with Mr. Ludlow, that Hurricane Ivan, which was a 2004 event, there was close on 17,000 hours expended by Newfoundland Power personnel in that effort, and that's borne out, I think it's CA-NP-269. And, yeah, there you have the breakdown, 16,984 for Hurricane Ivan in '04, 5,220 hours for Fortis Turks and Caicos. And how would Newfoundland Power operationally cope with a request for the type of manpower that it ended up giving to the Caribbean Utility situation in 2004?

MR. SMITH:

A. It's difficult for me to comment on 2004, as I was not with Newfoundland Power at the time. I can speak generally when we react to these

Page 133

requests, how we do try to position ourself, especially in relation to the Turks and Caicos item that's here, but in terms of the Caribbean Utilities one, I wasn't with the company, so it's a little hard for me to speak.

MR. JOHNSON:

Q. Well, let's put it this way, if we say hypothetically that a similar event has happened in 2004, and we are dealing, I take it, you'll agree, with a very hurricane prone area of the world, right?

MR. SMITH:

A. Yes, they do have hurricanes in the Caribbean, yes.

MR. JOHNSON:

Q. They're prone to them?

MR. SMITH:

A. I don't know if I'd say prone to them. I do have a piece of information in my head, and I think it's correct that the one in Turks and Caicos was the first hurricane they had seen in over 50 years or 100 years, I believe. So I think they happen in general in the area, but in terms of affecting specific utilities,

Page 134

I think that may make it more of a unique thing.

MR. JOHNSON:

Q. Well, hypothetically, I mean, if we had a circumstance where either Fortis Turks and Caicos or the Caribbean Utilities needed another 17,000 hours, what would happen on the ground here in Newfoundland Power in order to accommodate that?

MR. SMITH:

A. In terms of -- generally what we do when a request comes in from a utility to provide assistance, we would look at our own work requirements first, and we would look at where we are in the construction season, and if we were able to send employees away, we would have to look at ways to backfilling here locally to make sure our own work got done. One of the things that you would look at doing, of course, is contracting labour. If you send your employees away, can you bring in local contract labour to supplement your workforce so that work doesn't get delayed or service is in any way compromised. The other thing that you would do is try to look at the

Page 135

difference, geography of your service territory, and your ability to take staff out of certain places versus others. For example, when we looked at the Turks and Caicos incident, we certainly had a fair bit of pressures on the Northeast Avalon, particularly St. John's that year. So when we looked at could we send people, in the St. John's area we have approximately 50 line staff, so we intentionally just made sure we just took one person out of the St. John's pool of linemen to send away. It was our way of kind of trying to make sure we weren't negatively impacting service on the Avalon in a very busy time on the Avalon.

MR. JOHNSON:

Q. I take it that it's a truism that something gives here when Newfoundland Power has to respond down there operationally?

MR. SMITH:

A. I don't think it's a matter of something needs to give. You certainly need to look at the work and try to find ways of getting the work done. I know that when we looked at this particular issue in the fall of 2008 when the

Page 136

request came, we did look at the work and try to find ways of getting the work done. I know that when we looked at this particular issue in the fall of 2008 when the request came, we did look at the work that we had and could we bring in contract labour to help while these people were away, and that's one of the things that we looked at and one of the decisions that we did make.

MR. JOHNSON:

Q. And the use of contract labour, I take it that it's assumed that the contract labour you would retain in order to fill any gap, that would be charged at market rate, correct?

MR. SMITH:

A. Well, the contract labour that we would use would be contracts that we would already have in place with contractors, and so what we would simply do was use those tender prices that we already have and just bring in additional labour through those contractors. One of the things that you would have to do, of course, is phone these contractors to make sure they had labour available to bring in. Then, of course, you just want to make sure

Page 137

that those prices are no more than your own labour prices.

MR. JOHNSON:

Q. But they're -- I don't think there will be a dispute on this, but fundamentally whether established through tender, you know, Newfoundland Power is paying a market price, what the market will bear, for the services that it substitutes for those that are now deployed elsewhere. Wouldn't that be true?

MR. SMITH:

A. The labour that we would use through these local contractors would be tendered labour, and my point of being comfortable is to make sure that labour is no more expensive than our own labour, and that way our customers wouldn't be in any way negatively impacted.

MR. JOHNSON:

Q. Is tendered labour not market -- is that less than market or market?

MR. SMITH:

A. It would be the local market, yes.

MR. JOHNSON:

Q. Okay. I guess a consumer might fairly ask the question, Mr. Smith, that if we could have a

Page 138

repeat of, say, a Fortis Turks and Caicos event where 5,000 hours were expended down there, or if we could have a repeat of a 17,000 hour event, a consumer might say wouldn't that be some sort of indication that maybe we don't need all of what the complement is here if when we need to not use these people, we manage a way around it. What would be your response to that type of observation?

(12:30 p.m.)

MR. SMITH:

A. Again my response to that in terms of my own personal ability to respond with my own knowledge would again go back to the Turks and Caicos incident. The contract labour that we brought in to supplement their own workforce while these individuals were away is very limited in what they can do. Basically, this contract labour goes into subdivisions and is able to run the wires between the poles and hang the insulators. It's a very basic form of our line construction. So this contract labour when you bring it in, if you have that type of work in the chit to be done in the future, then that contract labour can come in

Page 139

and do it for you. Of course, our own employees would have done that work, but, of course, our own employees also had to do a much broader perspective of work in general. So our own employees have to do energize work, they have to do transmission work, they have to do substation work. So at any particular point in time, yes, they would do the subdivision work that the contractor could do, but certainly in the run of a year they had to do a lot more work than just that.

MR. JOHNSON:

Q. Could I just go back now, Mr. Smith, to Exhibit 2 of the company's amended application, and I want to focus for a moment on your total labour line, which is your line number 4. I'll wait for you to --

MR. SMITH:

A. I have Exhibit 2.

MR. JOHNSON:

Q. Okay, thank you, sir, and we have the total labour line of $30,749,000.00, and as we see, that's made up of regular, standby, temporary, and overtime, and I take it that we're on the same page, that these figures would only be in

Page 140

respect of Newfoundland Power's internal labour force costs, right?

MR. SMITH:

A. Yes, that would be correct.

MR. JOHNSON:

Q. And further, that these would represent operating, not capital labour costs, right?

MR. SMITH:

A. That is correct.

MR. JOHNSON:

Q. And so when Newfoundland Power would contract our for a service, say, whether it be vegetation management or vehicle maintenance, or oil testing, building maintenance, I think these being all things that you typically would contract out for, that these labour components would be found in lines below the total labour line, would that be right?

MR. SMITH:

A. Yes, that would be correct.

MR. JOHNSON:

Q. Okay, and so just keep in mind the $30,749,000.00 for a moment, and if we go over to Volume 2, Tab 1, of your labour forecast, and in particular, Schedule B.

Page 141

MR. SMITH:
A. Yes.
MR. JOHNSON:
Q. We see on the bottom -- towards the bottom, the 2010 forecast workforce operating, that's $29,109,000.00, but I take it the reason that there's a difference between the 29,109, and your total forecast labour of $30,749,000.00 is that the figure of 29 does not include overtime. Would that be right?
MR. SMITH:
A. Yes, that would be correct.
MR. JOHNSON:
Q. And so there's no analysis in this labour forecast document of how you arrived at the overtime amount. The only analysis we have is how you arrived at your regular wages, would that be accurate?
MR. SMITH:
A. What Schedule B does in this whole labour forecast document, it puts in perspective the FTE calculation.
MR. JOHNSON:
Q. Yeah.
MR. SMITH:

Page 142

A. That's what this document does. It doesn't really speak to how the operating budget would have been built. It just simply looks at how our internal labour fits into the budget.
MR. JOHNSON:
Q. Okay, but -- so if we're looking for an analysis of how you arrive at your overtime estimate, there's no point in looking in here, you've got to look somewhere else?
MR. SMITH:
A. That would be correct.
MR. JOHNSON:
Q. Okay, and I think the labour overtime figure that we've seen from Exhibit 2 a few moments ago, I think that was 1.64 million in 2010 forecast?
MR. SMITH:
A. Yes, that's correct.
MR. JOHNSON:
Q. Okay. Would it be possible in future filings to reference, such as in your labour forecast, how you arrived at your assumptions as to overtime?
MR. SMITH:
A. Like any of these line items in our forecast,

Page 143

we provide the numbers. In terms of how we arrive at the numbers, I guess we just follow a general way that we build our budgets, and that tends to run off your most recent years actual, and then you adjust it for inflation, these types of things, and you come up with a forecast of what your budget would be.
MR. JOHNSON:
Q. So we're back on Exhibit 2 now, and we see our overtime line has been pretty constant, at about 1.6 million dollars over the 2007 to 2010 forecast year, and I'm curious as to why we would anticipate that it would be up again consistent with those previous levels, given the fact that we -- you know, we continue to have expended money on, you know, capital expenditures for things such as reliability, and the fact as well that we have an increasingly larger pool of staff to do necessary work during regular hours. For instance, as I think you know, the number of powerline technicians in the company, while that has stayed fairly flat from '07 to '10, there's a lot more apprentices in the system at the present time. So what would be your

Page 144

comment as to why the overtime number would be so consistent with previous times?
MR. SMITH:
A. The overtime number that you see on this line, and as you mentioned earlier, is the operating overtime. The vast majority of this money would be used to respond to trouble calls. In the run of a year we have approximately 10,000 calls from our customers to provide assistance of different forms. Some of that could be somebody without power, it could be a report of a downed wire, it could be a report of many different things. What you see here is a trending of that cost. There's no doubt over the years we've spent a lot of money on our distribution system, and as that graph we saw before, we have made improvements in our SAIDI and SAIFI. That is the duration of outages. Most of that work was done on what we call the trunk part of the system, and, of course, off that system there's many laterals and many service wires. What we continue to respond to with most of our trouble calls are smaller events away from the trunk system. So although you see an improvement in overall

reliability because the trunk system has been approved, we continue to get calls from our customers to respond to trouble calls on the laterals and that's really what drives this line here. It's responding to trouble calls on the laterals of the system primarily.

MR. JOHNSON:

Q. So you are anticipating no significant difference in the company having the request for these than you've seen in the past?

MR. SMITH:

A. Again we look to this line and we try to make sure we find efficiencies in this line. The way you can find efficiencies with trouble calls has to do with a process that we have in our call centre. When a customer calls in and they report a trouble call, we will go through that incident with that customer to try to determine do we need to respond now, is it possibly an inside trouble, is it possibly a wire down from a telephone company or a cable TV company. So we believe we can make some progress in that particular area of screening trouble calls to try and find a way of keeping this overtime flat, at less than inflation.

MR. JOHNSON:

Q. How long has the company been screening the trouble calls in the fashion that you just described?

MR. SMITH:

A. This is something that's been in our company, I would say, for several years, but in terms of what we've been doing and some of the conversations I've had with control room operators, I do believe we can get a little better in this area, and by doing that, we can avoid some of this overtime.

MR. JOHNSON:

Q. And when is that improvement expected to manifest itself?

MR. SMITH:

A. Effectively, we've already started this in terms of conversations with our control room operators, and that process is already started, and I continue to talk to the operators and talk to the manager of this particular group, and we continue to look for ways of improving it.

MR. JOHNSON:

Q. Do you have a figure in mind as to where you

think a short term goal would be overtime?

MR. SMITH:

A. In terms of overtime, I think the forecast we provided here would be what we believe is a reasonable amount for overtime. That's what you see in the forecast here.

MR. JOHNSON:

Q. But like in years beyond 2010, would you anticipate that number to improve?

MR. SMITH:

A. It's a difficult thing to say. We will work our best to improve this line, but, of course, you have to remember this line is a function of the weather. If we have a lot of windy weather, a lot of trouble calls, then this line can tend to fluctuate with that also, but we will do our best to bring stability to this line, but in terms of forecasting it out beyond what we've shown here, that would be a little bit of a challenge at this time.

CHAIRMAN:

Q. It's a known unknown.

MR. SMITH:

A. I would agree, sir, it's a known unknown.

MR. JOHNSON:

Q. Sir, could I just direct your attention to CA-NP-106, and I bring this up, Mr. Smith, because it does show -- tend to show, at least from my observation, a remarkably stable situation in terms of your skilled tradespeople, and this table gets at from the period '05 to '09, the number of regular employees who left the company other than by retirement or death through those years, and would you agree that is a pretty stable picture relative to other utilities?

MR. SMITH:

A. The conclusion I would draw looking at that table is that 7 and 8 have more retirements in it than 5 and 6 did.

MR. JOHNSON:

Q. These are other than by retirement or death.

MR. SMITH:

A. Oh, I'm sorry.

MR. JOHNSON:

Q. Yeah.

MR. SMITH:

A. Yeah, I would agree this indicates the stability in our workforce and that in 7 and 8 a few more employees left the company than

Page 149

occurred in 5 and 6, for reasons other than
retirement or death, as you said, but there is
an increase in 7 and 8 relative to 5 and 6.
MR. JOHNSON:
Q. But in terms of the grand scheme of things,
from your knowledge of other utilities, we're
doing a pretty good job in the sense of not
many people are leaving us?
MR. SMITH:
A. I would agree with that in general speaking,
yes.
(12:45 p.m.)
MR. JOHNSON:
Q. And if you could turn, sir, to CA-NP-111, and
I always perk up when I get a three page
answer from Newfoundland Power, and this one
sort of got my attention. The question was in
reference to page 213 of the amended
application when it stated that, "Part of the
forecast increase in Newfoundland Power's
workforce through 2010 is attributable to the
need to address workforce demographics,
primarily the aging workforce. Please explain
what this statement means and how it relates
specifically to Newfoundland Power's 2010

Page 150

labour cost forecast", and I know that the
previous table that we dealt with didn't
concern retirement, I'm aware of that, but I
would like to just bring your attention to
line 42 on the first page where the company
indicates under the category of apprentice
powerline technician that, "Over the five year
period from '04 to '08, the company has hired
an average of 7 apprentice powerline
technicians per year, and over the five year
period, '09 to 2013, the company plans to hire
an average of 8 per year", and then it goes on
to say, "Apprentice employment at this level
will be necessary for the foreseeable future
to ensure continuity in the skilled trade",
and then it says, "The increase in hiring of
apprentices is attributable to the lead time
required in response to anticipated
retirements", and then it goes on to give the
average annual attrition rate of 8 powerline
technicians being anticipated over the period
from '09 to 2013, and I noticed as well that
in page two of 13, that Footnote 1 gave us an
indication of how long it takes for an
apprentice to become a journeyperson, as you

Page 151

call them. I'm in CA-NP-111 there, Michael.
It's Footnote 1, that an apprentice powerline
technician hired in '06 would be come a
journeyperson powerline technician in the test
year 2010, etc, right, and then I note in
Footnote 2 that says according to the
International Brotherhood of Electrical
Workers, they've observed that it takes ten
years to become a well-rounded powerline
technician. So - and I guess my question goes
to the issue what it entails when you're
taking on a young apprentice and they have to
go through block 1, block 2, block 3, and
block 4, because I understand that there's a
productivity hit that the company takes when
we're talking about young apprentices. Would
that be true?
MR. SMITH:
A. Yes, as part of doing the on-the-job hands on
training, there is a slowdown effect of
providing that training at the job site, and
you could refer to that as a negative
productivity, yes.
MR. JOHNSON:
Q. Yeah, like at line 20 on page 2 of 3, it

Page 152

indicates, "The apprentice powerline
technician is less productive than a fully
qualified powerline technician". I don't
think that would be surprising, right, and
then there's a further productivity issue at
lines 22 to 23 where it says, "In addition,
the supervision of the apprentice also impacts
the productivity of the supervising powerline
technician". So just elaborate on that a
little bit, Mr. Smith, for us in terms of the
effect on the supervisory people?
MR. SMITH:
A. So the way this trending would occur,
especially when you get to blocks 3 and 4,
which is more the operating component of the
work, these individuals get into more how to
operate the system, how to respond to trouble
calls, and how to deal with faults and
electrical shorts on the system, so to speak.
So when you get to that part of the
progression of the apprenticeship program,
there's basically two individuals in the
truck. One is the supervising journeyman
lineman and the other is the apprentice. So
when going out to do a typical job, and it

could simply be a job where there's an underground fault on a cable, as part of doing that job the supervising powerline technician needs to instruct the journeyperson in terms of the hazards to look for, how to plan and organize the job. That would be an example of the productivity slowdown, so to speak, through the on-the-job training.

MR. JOHNSON:

Q. Okay, and if I could turn you to 108 for a moment, sir, I notice this is a table that shows a number of unsolicited job applications that Newfoundland Power currently has on file from prospective employees, and I note that under the linesperson operations, you've seen a fairly significant increase of unsolicited applications to your company; 41 for the period '06 to June '07, and 85 from July '08 to June '09. Now would that be inclusive of journeypersons as well as apprentices, or do you know that, Mr. Smith?

MR. SMITH:

A. I would suggest to you this is people trying to get into the journeyperson trade most likely. I haven't seen this data, but I would

be very surprised if it included very many journeypersons looking for work with the company.

MR. JOHNSON:

Q. Could you perhaps get back to us on what the number of journeypersons are included in that 85, just to bring a bit more clarity to it?

KELLY, Q.C.:

Q. Just for clarity, you're looking for a breakdown of the 85?

MR. JOHNSON:

Q. Yes, sir.

KELLY, Q.C.:

Q. As to what categories they would fall into?

MR. JOHNSON:

Q. Yes.

KELLY, Q.C.:

Q. I think we can do that, Mr. Chair. Let the record show now I've fulfilled an undertaking today, or given one.

CHAIRMAN:

Q. Very impressed, sir.

KELLY, Q.C.:

Q. Thank you, Mr. Chairman.

MR. JOHNSON:

Q. CA-NP-107. This is -- page 2 of 3, I think, Michael. Just for clarity, leave that on the screen, but the question that was posed that elicited this response was, "Please provide the number, title, and location of positions which Newfoundland Power has publicly advertised over each of the years 2007 to date, as well as the amount of time elapsed from advertisement to the filling of the positions, together with the number of qualified applications received for each position", and I just refer you to the first powerline technician position that I see there, it's in the second grouping of -- there we have it, just up from the -- there we are, right there, see that.

MR. SMITH:

A. Yes.

MR. JOHNSON:

Q. And I take it that there was two positions that Newfoundland Power had to fill, and you received 12 applicants for those positions, 12 qualified applicants?

MR. SMITH:

A. Yes.

MR. JOHNSON:

Q. And then you ended up filling the first position in 68 days, and the second position, 86 days?

MR. SMITH:

A. Yes.

MR. JOHNSON:

Q. And do you know was this around town or some other area, or do you know?

MR. SMITH:

A. I couldn't tell you where these positions were.

MR. JOHNSON:

Q. And then to keep on coming down, you see into the next grouping, and I'm looking at the powerline technician, New West Valley. Again one position, one applicant, 37 days to fill, and further down again, powerline technician Deer Lake, this is June of '08, advertised in The Telegram, and Western Star, and HRDC, one position -- number of positions, one; three qualified applicants, 21 days to fill. I guess, Mr. Smith, there's other examples within that, but I won't go all the way through. I know there's another one in

Page 157

Clarenville on the next page, February of '09, in the second grouping there right where the arrow is. There was one position, ten qualified applicants, 58 days to fill, and I guess what I'm getting at is you've indicated that where there's a big lead time with the apprentices to get them up and running to meet the demographic challenge that your utility has, and I think all utilities have to a certain degree, and I'm trying to get a sense of why Newfoundland Power, as a way of balancing the considerations, has landed on the idea of being so heavy with the apprentices as opposed to selecting experienced people who can join the force as needed.

MR. SMITH:

A. Our approach with the retirement of the powerline technician trade is we look into the future and between 2010 and 2014, approximately one quarter of our journeyperson linemen will either be 65 years old, or reach age 60, with a 95 combination in their pension, which is basically an unrestricted pension. We believe we have a significant

Page 158

retirement issue to deal with in the next five years in our business. We have had some success in hiring journeypersons in limited fashion for the last number of years, but certainly to continue on an approach to say that in the next five years we're going to be able to hire 31 journeypersons off the street, so to speak, we don't believe that's a realistic way to plan for the future. We believe we need to train our apprentices and have them ready, and that's the more secure way of bringing supply to this. The whole journeyperson trade issue is really a national issue across the country. I know I can speak firsthand to it when I was in Alberta. When I joined Fortis Alberta, we had six apprentices in our business, and when I left in 2008 we had 86, and it was simply a function of very difficult to hire journeypersons in this trade. So I have seen a lot of pressures in terms of our ability to hire journeypersons. We have had some success, limited success with these numbers here, but in terms of where we need to go in the future, we have a significant issue to deal with and we believe

Page 159

the best way to deal with that is to hire apprentices, train them, and have them ready.

MR. JOHNSON:

Q. I take it this CA-NP-107 would indicate that the last time that Newfoundland Power advertised for a powerline technician was February '09 in relation to Clarenville. Would that be --

MR. SMITH:

A. Yes, this looks like the most recent time we would have advertised.

MR. JOHNSON:

Q. And what sort of profile are you -- is the company experiencing in terms of the journeypersons who are applying? Is there a sort of stereotypical journeyman profile that we can discuss?

MR. SMITH:

A. Well, with some of these positions here, I believe part of what we've done, actually, is to hire some Newfoundland and Labrador Hydro journeypersons, and in doing that, we've in turn placed some pressure on their business because in turn they end up with some

Page 160

vacancies. I do believe some of these hires are simply that, we advertise a position, and Newfoundland and Labrador Hydro journeyperson would have applied for these jobs. So in terms of a typical demographic, it's very limited in that we're the only two utilities in the province that have this particular trade, and so when you post, it tends to be one of our employees leaving to go there, or one of their employees leaving to come here. That's typical of what could happen.

MR. JOHNSON:

Q. Do you notice that most of these advertisements are in local publications like The Telegram or the Western Star, posting at the College of the North Atlantic, HRDC. Is there any advertisements aimed at journeypersons who are probably originally from Newfoundland, but went out to Western Canada?

MR. SMITH:

A. Generally speaking, I do believe we advertise beyond just this media that's listed here, but that would be subject to check. Generally speaking, though, there would be a very

Page 161

limited pool of journeypersons that would -- again we're looking at trying to fill a void of approximately 31 people in the next five years. So the answer to your specific question is I'm not completely sure, but I do believe we do advertise beyond just these media types here.

(1:00 p.m.)

MR. JOHNSON:

Q. Can I just refer you to Table 2-11 of your labour cost breakdown in your application, and in particular, I just want to draw your attention on this page to Footnote 56, where it indicates that negotiated wage rate increases for skilled trades total 5.1 percent in '09, and 5 percent in 2010, and I draw your attention to it because that figure 5.1 was 6.3 percent in the original filing, and could you just explain why it changed?

MR. SMITH:

A. I don't know the exact reason why it changed, but 5.1 is the correct number. I couldn't explain that.

MR. JOHNSON:

Q. Because I think the old numbers for -- if

Page 162

you'll go up to Table 2-11, I don't think there was any change between your 2-09F column that we see in this present Table 2-11, and the previous 2-09F, and I would have thought that there would be a change by virtue of the assumption of the increase going down from 6.3 percent to 5.1 percent?

MR. SMITH:

A. I think what it tells me is that the 5.1 percent is the correct number that was used above, and, in fact, when we go from 2008 to 2009, the overall increase, as a representation of the full workforce, would be 4.07 percent. I believe that there's other footnotes with that, and certainly that number hasn't changed in this filing. It's just that this particular number here did change.

MR. JOHNSON:

Q. Maybe again, not to break the record for undertakings, but if we could have an explanation as to why it went from 6.3 to 5.1, and whether it was typos. If it was typos, fine, but if not, to indicate how the calculation -- why it didn't change.

KELLY, Q.C.:

Page 163

Q. We'll do that, Mr. Chairman.

CHAIRMAN:

Q. Mr. Kelly is on a roll.

MR. JOHNSON:

Q. Just to go back into your labour forecast for a moment, Mr. Smith, in Volume 2, page 1, at the bottom of Footnote 2, the statement is made that for the period from 1993 through 2005, Newfoundland Power's workforce declined significantly as a result of a series of six early retirement programs. Currently workforce levels are considered to be broadly consistent with least cost customer service delivery over the long term, and what is meant by "broadly consistent" over the long term? I wasn't quite sure what was being conveyed there.

MR. SMITH:

A. I think it just refers to that it's not necessarily an exact number or an exact thing. It's something that has a little bit of variation around it. That it's broadly consistent to me would simply mean that.

MR. JOHNSON:

Q. And as we've seen, there has been a growth in

Page 164

FTE's over the past number of years. I think in 2007 is was 627 FTEs, 2008 628, '09 641, and 2010 forecast 651, and would you think that we are at a high watermark now for FTEs at Newfoundland Power relative to what we can expect as we move out from 2010?

MR. SMITH:

A. I think if we look into the future, I think the future will tell us what the workforce needs to be. In terms of where we are today, I do believe that we feel the overall number of people that we have in that FTE analysis when you get to 2010 is approximately where we should be at a sustainable level for a period of time. That number, of course, as is indicated here, will have some fluctuations, depending if work changes, but to say it's "broadly consistent", I think that would be fair.

MR. JOHNSON:

Q. So you think we should be around that number for a period of time. How long before you think it should be coming down from that level?

MR. SMITH:

Page 165

A. I think that's a function of retirements. As I mentioned before, we've had to increase our number slightly right now to deal with the demographics and dealing with in the future alignment who will retire. That's resulting in us hiring a few extra apprentices right now, but if you think about it from an overall perspective, the work is really what dictates the workforce. What we are practically doing right now as we bring more apprentices on is that we use a little bit less contract labour. That's the valve that we use in our business to make sure we don't over staff, so to speak. So although that number is about where it will be, there may be some continued fluctuations depending on work that may show up, or additional pressures because of demographics and other line items, but again what you need to look at overall is the overall amount of work that we do is really a function of the work itself, and the FTEs, the internal employees are just a part of that.

MR. JOHNSON:

Q. If we took the lead time that was necessary to have these apprentices become fully fledged

Page 166

journeypersons with a good working knowledge in the company, sort of out of the equation for a moment, could we get by with the present complement of journeypersons who are engaged now with the company?

MR. SMITH:

A. Again as I said before, I think the position we take to hire apprentices sets us up to be able to provide service to our customers and to be assured that those apprentices will be trained and ready to go, so to speak. The offset that we use right now is simply to have less contract labour on. So that would be the way I would look at it.

MR. JOHNSON:

Q. If you turn to Schedule B of the internal forecast and we see under -- for adjustments for 2010 on the left, we see employee retirement which is footnoted, and 322,000, and then that translates into 3 FTES, and then Footnote 17 confirms what you've indicated, that retirement estimates are based upon employees reaching age 65, or who have reached age 60, with the combination of 95 years, of age, plus service, so these people would be

Page 167

able to retire with no impact on your pension?

MR. SMITH:

A. Yes, I believe that's the criteria to have a non-reduced pension.

MR. JOHNSON:

Q. And note 4 is off to the right hand side, and to see note 4 we got to flip the page to get the explanation which is on page 2 of 2, and the explanation in note 4 is that, "In 2010, there are twelve employees eligible to retire. The 2010 labour reduction for retirement is 322,000. The 2010 reduction FTEs of three reflects the timing of the forecast retirements", and what is the -- is the assumption that they all retire at the very end of the year? Is that the assumption that's taking place there?

MR. SMITH:

A. I believe the way we do this for 2010 would be looking at the actual time during the year where they would hit their eligibility, and in addition to that a discussion with the employees involved just to sort out their timing and what they have in mind. So I don't believe it is necessarily the end of the year.

Page 168

I think it's tailored to when people are scheduling to retire.

MR. JOHNSON:

Q. Just look on note 5 there. It says, "Only 6 of the 12 retiring employees will be replaced in 2010. The remaining six employees are forecast to retire at year end, and will not be replaced in 2010. Only three of the six employees retiring at year end 2010 will be replaced in 2011". So that would mean, would it not, that we're assuming that they all retire at year end?

MR. SMITH:

A. Yes, that would be correct.

MR. JOHNSON:

Q. And if I could turn you to number 114, CA-NP-114. I guess the first thing I would observe, and this table sets out the total regular employees reaching age 65 or age 60, with a 95 year combination, and actual retirement, so it compares the people -- the number of people who meet that test and those who've actually retired. You see in 2009 that there's three who've actually already retired, is that right?

Page 169

MR. SMITH:
A. That is correct.
MR. JOHNSON:
Q. And the other thing I noticed about this is that in the last -- well, '07, '08, and -- well, certainly I can't speak for '09 because it's not complete yet, but '07 and '08, there's actually more who retired than met the test that you had anticipated?
MR. SMITH:
A. Yes, that is correct.
MR. JOHNSON:
Q. Is there any reason to think that given that past experience, that that may not also be the case in '09?
MR. SMITH:
A. Would you repeat that again?
MR. JOHNSON:
Q. As we see in '07 and '08, you had numbers who were -- people who were total age 65, or age 60 with 95 year combination, and in '07 there was just seven meeting that test, but nine actually retired. So more than met the test actually retired, and I take it that what Newfoundland Power is assuming will happen

Page 170

this time around is that exactly the same amount of people who meet the test for retirement will retire, and I'm getting at isn't that a conservative assumption, given the fact that in '07 and '08 more people than just met the test retired?
MR. SMITH:
A. I think what this RFI tells me is that so far about half of what was forecast to retire this year have already retired. What the finish point on that answer is in terms of what this RFI tells me, I don't know. So in other words, will the other four people retire this year; certainly the hit that criteria, and it would be fair to assume that they would, but whether or not they are, I can't tell you from this RFI.
MR. JOHNSON:
Q. When I read the record I'm going to get frustrated if I haven't asked you this follow question, because what I have in mind, Mr. Smith, is if in '07 and '08 more than -- more people retired, actually retired, than those who met your retirement test in '07 and '08, why would that not be a reasonable assumption

Page 171

for '09?
MR. SMITH:
A. I think it's more of a matter of those who are eligible to retire and the particular point they are in their career and in their life. To say that that trend will repeat with two years data, I don't think I could necessarily agree to that.
MR. JOHNSON:
Q. Is it equally likely that it will repeat as it won't?
MR. SMITH:
A. I don't know.
(1:15 p.m.)
MR. JOHNSON:
Q. Could I direct you to the GT Report, the Grant Thornton Financial Consultants Report. In particular, I'm referring to page 35, and in particular still, line 14, where Grant Thornton observed that, "The 2009 contractor costs are lower than 2008 due to lower forecast customer connections, 43,096 versus 46,025. The 2010 contractor costs are higher than 2009 primarily due to an expected contractor price increase as a result of the

Page 172

contract renewal in 2010, partially offset by a reduction in customer connections over 2009, 38,064 versus 43,096". Am I -- this was filed, of course, back in July on the basis of the original application. Do I understand with the update that customer connections are expected to be down in both '09 and '10 from those forecast in this report?
MR. SMITH:
A. Sorry, your question again was?
MR. JOHNSON:
Q. Whether the customer connections are expected to be down further in '09 and 2010 from those assumed in the Grant Thornton Report?
MR. SMITH:
A. The timing of the Grant Thornton Report is what I'm trying to get straight in my mind. When we did our refile of our application in September, we did increase our distribution function line, when you look at Table 2-12, and I believe one of the reasons we did this revision was to reflect an increase in customer work in 2009 above what we thought it was earlier in the year. So I think relative to our original application in the GRA,

Page 173

relative to then our 2009 forecast of customer connections has increased. So I don't know if I could tie it back to Grant Thornton for you.

MR. JOHNSON:

Q. Well, I'm getting at -- fundamentally, what I'm getting at is whether to the extent that there were a reduction in the expected connections in '09 and '10 relative to what Grant Thornton assumed, to the extent that there were, whether these operational savings had been reflected in the new filing, and the specific reason I ask that is that I don't see a difference between the operational expense numbers in the new Exhibit 2 versus the old Exhibit 2.

MR. SMITH:

A. What this is referring to here, of course, is customer connections for new houses, which is a capital part of our business.

MR. JOHNSON:

Q. So any changes would not show up in operational savings?

MR. SMITH:

A. No, this work here would be on the capital part of our business.

Page 174

MR. JOHNSON:

Q. But would there not also be a "knock down" effect on operating expense if the number of connections went down?

MR. SMITH:

A. Oh, I see what you're saying. In terms of the future?

MR. JOHNSON:

Q. Yes.

MR. SMITH:

A. Well, the way to best talk about that is when we build our operating budget, we build it off our most recent actuals. So when we built the operating budget for '09 and '10, we built it off 2008. So in 2008, we had a certain number of customers on our system. When we forecast out from 2008 our operating costs, we don't put in an extra amount to deal with increases in the number of our customers, for example. I referred to this earlier in my direct. So when we forecast operating costs, it's simply a reflection of what it was in 2008. This moves out into 2009. It's adjusted for inflation, it's adjusted for the conservation program, and it's adjusted for apprentices.

Page 175

We didn't put a further adjustment there for increases in the number of customers we're serving. As I said in my direct, we believe these are things that the company will find other efficiencies in our business to recoup those, otherwise that would be increases in cost.

MR. JOHNSON:

Q. I'll leave that for the time being to digest what you've said. Let me ask you a question then regarding the basis for saying that the expected contractor price will increase in 2010 over 2009, and what's that based on?

MR. SMITH:

A. We did our pole contract two, three, or four months ago, I can't remember exactly, and when this document was done, the contracts hadn't been let or the awards done. Since then that has happened and we did see an increase in our contractor prices to do capital work, and I think that's what this note is trying to indicate that this was coming, and since this was put together we did do our contracts, and there was an increase in our contract labour.

MR. JOHNSON:

Page 176

Q. Okay, partially offset by the reduced number of connections?

MR. SMITH:

A. That's correct.

MR. JOHNSON:

Q. I just want to turn to the concept of the multi-year regime that the Board referred to in its order in PU-32 2007. Mr. Smith, you're familiar with what I'm talking about in terms of the Board's reference there, are you, how they referred to us having a multi-year cost of service regulatory regime in this province?

MR. SMITH:

A. I'm certainly not overly familiar with it. I've read a little bit of information in Mr. Todd's information, but I certainly don't consider myself in any way to be an expert or overly familiar with this multi-year regulatory regime, no.

MR. JOHNSON:

Q. Do you know enough about it to answer me whether or not one of the supposed benefits of a multi-year regime is reduced regulatory costs?

MR. SMITH:

Page 177

A. Yes, I would agree that I've read that information with that, yes.

MR. JOHNSON:

Q. And I take it Newfoundland Power has forecast third party costs in 2010 for this GRA of $750,000, right?

MR. SMITH:

A. For this particular GRA, yes.

MR. JOHNSON:

Q. Yes, and also Newfoundland Power has forecast to spend $350,000 on its own legal fees for this GRA, being 175 in '09 and 175 in 2010? Would that be right?

MR. SMITH:

A. I don't know those numbers off the top of my head, no.

MR. JOHNSON:

Q. CA-NP-138.

KELLY, Q.C.:

Q. Wrong assumption in the question, Mr. Chairman.

CHAIRMAN:

Q. Umm?

KELLY, Q.C.

Q. Wrong assumption in the question.

Page 178

MR. COMERFORD:

Q. Is it 148?

MR. JOHNSON:

Q. 138. So it just bears out what I was talking about regarding regulatory GRA legal fees in those two columns, not meaning to spend time there. And as well, if I could turn you to CA-NP-141, Table 3? Table 3 purports to show the portion of costs from 2009 forecast attributable to this hearing as regards the cost of capital consultant, that's 150,000, right?

MR. SMITH:

A. Yes, I see that in Table 3, yeah.

MR. JOHNSON:

Q. Just for '09. And then if we could go to CA-NP-135?

CHAIRMAN:

Q. What do they make an hour?

MR. JOHNSON:

Q. You see cost of capital expert, just handy to your--well, it was there. Right, cost of capital expert, 100,000 in 2010. I take it that at least part of that number would be in relation to this GRA?

Page 179

MR. SMITH:

A. The 2010 cost?

MR. JOHNSON:

Q. Yeah.

MR. SMITH:

A. No, I don't believe that's correct.

MR. JOHNSON:

Q. So there's nothing in the test year for cost of capital for this GRA?

MR. SMITH:

A. For this particular GRA?

MR. JOHNSON:

Q. Yeah.

MR. SMITH:

A. No, I don't believe so.

MR. JOHNSON:

Q. If you'd just go back to CA-NP-141, and in particular, Table 2? We have consultant fees of $250,000 in 2010F.

MR. SMITH:

A. Yes.

MR. JOHNSON:

Q. But you're saying that that's-- none of that is attributable to this hearing?

MR. SMITH:

Page 180

A. To the best of my knowledge, the 2010 costs that are in the schedule are not for this GRA.

MR. JOHNSON:

Q. Okay, and what are they in relation to, a further GRA that would be filed in 2010?

MR. SMITH:

A. The numbers that are in 2010 would relate to the possibility of a GRA in 2010 for 2011. There's also the possibility of a Newfoundland and Labrador Hydro GRA. There's potentially the need for cost of capital experts, regulatory accounting experts or even rates experts. There's also the possibility, of course, that further work on the automatic adjustment formula or other cost of capital issues, and finally, I believe there's also the possibility that there will be work, in fact more than a possibility, there actually will be work in terms of the Industrial Customer Rate Stabilization Plan that will occur in 2010. So those would be the types of things that that money would be identified for for 2010.

MR. JOHNSON:

Q. Could we receive a breakdown of the number

Page 181

from Table 2, 2010F, that would be attributable to a Newfoundland Power filed GRA in 2010?

KELLY, Q.C.

Q. Well, if there's anything more we can provide, Mr. Chairman.

MR. JOHNSON:

Q. Well, the number, the forecast number is -

KELLY, Q.C.

Q. Can the Consumer Advocate be a lot more specific as to exactly what he's asking us to try to break out?

MR. JOHNSON:

Q. I'll try, Mr. Chairman. The witness has indicated that the 2010F number, as shown for consultant fees in Table 2 of CA-NP-141, is meant to reflect assumptions as to a number of regulatory proceedings that may be going forward, whether it be some sort of cost of capital hearing on the formula, whether it's Hydro's GRA, and whether it's their own GRA. So presumably they made an assessment as to what each of those would be costing, and so I was looking for a breakdown of what that number would be. That's all.

Page 182

KELLY, Q.C.

Q. It's a broad level estimate, Mr. Chairman, but subject to that constraint, we'll see what we can provide some breakdown of--essentially what I understand my friend to be asking for is a breakdown of the $250,000 item. Confirmed?

MR. JOHNSON:

Q. Confirmed, and as well, the legal fees, similarly. I'd like to know what's being assumed for legal fees for a 2010 GRA.

KELLY, Q.C.

Q. In fact, the responses that have already been provided as to a breakdown for legal fees relation to Mobile, et cetera, and I think that's in one of the other RFIs.

MR. JOHNSON:

Q. But to the extent that legal fees numbers is assuming a further engagement for a Newfoundland Power GRA that they're going to be filing in 2010, I think that that would be useful to have.

KELLY, Q.C.

Q. So you're looking for consultant line and legal fees line?

Page 183

MR. JOHNSON:

Q. Yes.

KELLY, Q.C.

Q. We'll take that under advisement, Mr. Chairman.

MR. JOHNSON:

Q. Thank you. And I guess, Mr. Smith, in addition to some of these hard expenses that are attributable to a GRA that you would have hours of staff taken up with this case. Have you developed an estimate of the cost of that, in terms of the amount of hours dedicated to this case?

MR. SMITH:

A. The way we look at our staff, even for this particular GRA here, there's no really estimate done for that. We simply work to produce the information that's required. We use the staff that we have in house, and we prioritize the work and we do the best we can to fulfil the requirements of the GRA. So there would be no firm estimate in our labour forecast for next year to work on a GRA. It simply would be our normal labour in our company to provide the information and work on

Page 184

it as required.

MR. JOHNSON:

Q. Okay, and forgetting about the forecast for 2010, give us some sort of sense as to what it meant in 2009 in terms of the amount of hours spent preparing for this proceeding?

MR. SMITH:

A. I don't think I could give you an estimate of the number of hours. Certainly it takes a fair bit of effort on the part of the company to put together a GRA application and again, the way we do that is we use our in-house employees and it's a matter of prioritizing. It's a matter of working late hours and long days to put together the information that's required.

MR. JOHNSON:

Q. Because the effort happens considerably before the actual filing date, doesn't it?

MR. SMITH:

A. Well, for this GRA, we would have started on it certainly before we put the application in in June, yes.

MR. JOHNSON:

Q. Mr. Chairman, we're at that 1:30 time, and I don't anticipate being much longer with Mr. Smith, but I think I might benefit from seeing the transcript to see what else needs to be covered off with the gentleman.

CHAIRMAN:
Q. So you'd like us to break now so you can -

MR. JOHNSON:
Q. Yes, that would be good.

CHAIRMAN:
Q. Okay. Is that okay with everybody?

KELLY, Q.C.
Q. Satisfactory, Mr. Chairman.

CHAIRMAN:
Q. All right. We're adjourned until tomorrow morning at 9:00. Is that correct?

MR. JOHNSON:
Q. Thank you.

ADJOURNED TO OCTOBER 27, 2009 AT 9:00 A.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 26th 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 26th day of October, A.D., 2009.

Judy Moss

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