

Page 1

1 (9:09 A.M.)
 2 CHAIRMAN:
 3 Q. Thank you. Good morning. Beautiful fall
 4 morning out there. Good morning, Ms. Newman.
 5 MS. NEWMAN:
 6 Q. Good morning, Mr. Chairman, Vice-Chair. There
 7 have been a few documents filed that need to
 8 be labelled and I propose we do that now.
 9 They've come in at different times and it
 10 might be a little bit convoluted, so I'll just
 11 perhaps direct how we go about doing this.
 12 The first document is some inflation
 13 information that was requested by Newfoundland
 14 Power to be provided by the Consumer Advocate,
 15 and it's a document, a two-page document
 16 headed up "Finance, Government of Newfoundland
 17 and Labrador, Statistics Agency, Consumer
 18 Price Index" and I propose to label that
 19 Information Item No. 14, and the Consumer
 20 Advocate can speak to that particular item
 21 now, if he needs to, or Newfoundland Power.
 22 MR. JOHNSON:
 23 Q. There's not much for me to say about it. I
 24 think the question when Mr. Delaney was on the
 25 stand is when he was on the stand yesterday, I

Page 3

1 provides, in Table 1, its operating cost and
 2 inflation from 2002 to 2008 using the Consumer
 3 Price Index.
 4 CHAIRMAN:
 5 Q. Okay.
 6 MS. NEWMAN:
 7 Q. All right. The next item, Mr. Chairman, is a
 8 document that I believe has been circulated.
 9 It's called "The Going Rate 2005." It's
 10 several pages long and it's been filed by the
 11 Consumer Advocate and will be entered as
 12 Information Item No. 15. I don't think we
 13 need to speak to that, beyond that.
 14 KELLY, Q.C.:
 15 Q. I wanted to address that item as well, Mr.
 16 Chairman.
 17 MS. NEWMAN:
 18 Q. Okay.
 19 KELLY, Q.C.:
 20 Q. We're prepared to have this document come in
 21 as an information item. This goes to the
 22 question of the appropriate rate for inside
 23 in-house counsel versus outside legal
 24 assistance, as I understand it, and I made the
 25 objection on Tuesday that it really isn't

Page 2

1 asked him if he would accept, subject to check
 2 and verification, that the rate of inflation
 3 over '04 to '07 has been equal or higher than
 4 the 2008 forecast rate for inflation in the
 5 Province of Newfoundland and Labrador, and he
 6 said, of course, are you going to--
 7 Newfoundland Power asked me to provide the
 8 inflation rate, which I've provided. So I
 9 take it now it's for Newfoundland Power to
 10 comment on that question.
 11 KELLY, Q.C.:
 12 Q. What I thought we were doing at this stage is
 13 marking the information document and we're
 14 prepared to consent that this represents the
 15 Consumer Price Index as shown on Information
 16 14. Just not to make anything out of it, but
 17 just as the Board will recall for goods in
 18 particular, it's the GDP deflator that is used
 19 for inflation. So I'm not quite sure exactly
 20 where the Consumer Advocate may want to go in
 21 argument. I simply note that for the record
 22 at this time.
 23 MR. JOHNSON:
 24 Q. I might also for the record note that in
 25 response to CA-NP-27, Newfoundland Power

Page 4

1 comparable to compare the two, so I have no
 2 objection for this coming in for information
 3 purposes for the Board, I take it is to value
 4 the value of outside legal services in some
 5 fashion then a matter of argument in final
 6 argument.
 7 MR. JOHNSON:
 8 Q. We'll hear about it in argument.
 9 CHAIRMAN:
 10 Q. Thank you.
 11 MS. NEWMAN:
 12 Q. Several more documents. These are the last
 13 three, Mr. Chairman. Newfoundland Power filed
 14 a letter on October 19th, filing a number of
 15 documents in preparation for the hearing.
 16 Several of these documents have already been
 17 labelled and there's three that have not yet
 18 been labelled, so I'd like to label them now
 19 as information items. They've been circulated
 20 already, I believe. Oh, going to be
 21 circulated now.
 22 The first one is the Alberta Energy and
 23 Utilities Board News Release and we'll label
 24 that Information Item No. 16. I believe
 25 that's dated -

Page 5

1 KELLY, Q.C.:

2 Q. December 19th, 2003.

3 MS. NEWMAN:

4 Q. December 19th, 2003, thank you. The next item

5 is a Report to the Board of Commissioners of

6 Public Utilities on the Technical Performance

7 of Newfoundland Light and Power Company

8 Limited, July 1991, and that'll be Information

9 No. 17.

10 And the last one is the Report on

11 Newfoundland Light and Power Company Limited,

12 Quality of Service and Reliability Study,

13 October 1998. That's Information No. 18, and

14 that's all the items that need to be labelled

15 here this morning.

16 CHAIRMAN:

17 Q. Do you have any comments on this, Mr. Kelly?

18 KELLY, Q.C.:

19 Q. No, Mr. Chairman.

20 CHAIRMAN:

21 Q. Thank you very much. Thank you, and belated

22 good morning, Mr. Johnson.

23 MR. JOHNSON:

24 Q. Good morning.

25 CHAIRMAN:

Page 7

1 I have been retained as an advisor or

2 expert witness in approximately 200

3 proceedings over the past number of years.

4 Recently engaged a number of times for

5 facilitating stakeholder processes for the

6 Ontario Energy Board, currently one for

7 Ontario Power Generation. I've also been

8 retained by the Ontario Energy Board as an

9 expert advisor on electricity distribution

10 rate design process and in general, my clients

11 include regulated electric and gas utilities,

12 gas and oil producers, generators, regulators,

13 industrial consumers and of course, the FCA.

14 Q. Mr. Todd, you have filed pre-filed evidence

15 dated August 13, 2007 on behalf of the

16 Consumer Advocate in this matter. Do you

17 adopt this pre-filed evidence as your

18 testimony?

19 A. I do.

20 Q. Are there any changes you wish to make to the

21 pre-filed evidence?

22 A. No, there are not.

23 Q. Mr. Todd, your pre-fired evidence addressed

24 four topics. Number one, regulatory

25 mechanisms related to power purchase costs,

Page 6

1 Q. When you're ready if you could introduce your

2 witness, please?

3 MR. JOHNSON:

4 Q. Yes, I'd be happy to, Mr. Chairman. On the

5 stand is Mr. John Todd.

6 CHAIRMAN:

7 Q. Good morning, Mr. Todd. Welcome back, sir.

8 A. Great to be here.

9 (9:14 A.M.)

10 MR. JOHN TODD (SWORN)

11 CHAIRMAN:

12 Q. Thank you, sir. When you're ready, Mr.

13 Johnson.

14 MR. JOHNSON:

15 Q. Mr. Todd, would you please provide a summary

16 of your qualifications?

17 A. Yes, I am President of Elenchus Research

18 Associates Inc., established the predecessor

19 firm 27 years ago in 1980. I also established

20 the Canadian Energy Regulation Information

21 Service in 2002. I believe the Newfoundland

22 Board is a subscriber, we appreciate your

23 support. It is a web-based marketing service

24 on regulatory developments across the country

25 and outside of Canada.

Page 8

1 which involves the purchase power unit cost

2 variance reserve account, the demand

3 management incentive account, and the energy

4 supply cost variance component in the rate

5 stabilization clause. These matters, of

6 course, were settled.

7 A. Correct.

8 Q. Your report also addressed the 2008 Forecast

9 Productivity Improvement. This issue was not

10 settled and it is the subject of your direct

11 evidence today?

12 A. That's correct.

13 Q. And also, the regulatory treatment of OPEBS

14 was addressed in your pre-filed evidence, and

15 this issue has been settled?

16 A. Yes.

17 Q. As well, the disposition of regulatory

18 deferral accounts issue has been settled?

19 A. Yes.

20 Q. In CA-NP-47, Newfoundland Power identifies the

21 productivity improvement related to its

22 operating labour costs in 2008 as 531,000. Do

23 you contest this?

24 A. No, I do not.

25 Q. In CA-NP-361, it shows what Newfoundland Power

Page 9	Page 10
<p>1 MR. JOHNSON: 2 calls its initial forecast and approved 3 forecast of 2008 operating expenses. The 4 subtotal line shows that the initial forecast 5 was reduced by \$727,000 as a result of the 6 executive review, which is the last step in 7 establishing Newfoundland Power's internal 8 approved forecast. Do you consider this to be 9 an acceptable alternate estimate on the record 10 of the productivity improvement embedded in 11 Newfoundland Power's 2008 forecast costs? 12 A. Yes, given that the adjustment for the labour 13 part of the expense budget is so close to the 14 forecast operating labour productivity 15 improvements shown in CA-NP-47. In my view, 16 there should be productivity gains on the non- 17 labour expenses as well, the 727 would seem to 18 be the best information we have as to a global 19 productivity adjustment. 20 Q. Mr. Todd, does this imply that the customers 21 of Newfoundland Power will enjoy a benefit in 22 the range of \$531,000 to \$727,000 as lower 23 costs and lower rates in 2008, as a result of 24 Newfoundland Power's productivity efforts? 25 A. No, that's not what those numbers say. Mr.</p>	<p>1 Delaney explained it well on Wednesday, 2 transcript of October 24th, page seven, lines 3 13 to 17. He noted that the sources of 4 productivity gains include capital investment, 5 organizational changes, process improvements, 6 technology. All of those sources of 7 productivity gains involve costs. I'll pause 8 while that's actually found on the transcript, 9 lines 13 to 17. So in order to achieve the 10 513,000 to 727,000 figure, costs related to 11 those efforts to produce the productivity 12 gains had to be incurred, and therefore the 13 figures on the record are estimates of the 14 gross benefits, not the net benefits. 15 Hence, the issue raised in my evidence 16 goes beyond a simple question of whether or 17 not there are productivity gains. We also 18 have to consider the costs that are being 19 incurred to achieve those productivity gains. 20 The relevant question is whether the benefits 21 outweigh the costs, whether the gains being 22 crystallized, being recognized in 2008 are 23 sufficient to outweigh costs that are being 24 incurred to generate productivity through time 25 for the Company.</p>
Page 11	Page 12
<p>1 Q. Do you know whether the 2008 productivity 2 gains are greater than the expenses related to 3 Newfoundland Power's pursuit of productivity 4 gains in 2008? 5 A. No, as far as I'm concerned, that cannot be 6 determined from the evidence on the record. 7 It's my understanding that expenses related to 8 efforts to achieve productivity gains are not 9 explicitly tracked by Newfoundland Power, and 10 that's normal. Frankly, it's a very difficult 11 thing to do with precision. But the relevant 12 costs we do know will include both some 13 operating and some capital costs and we can 14 get a sense of the kinds of costs that are 15 being incurred. 16 For example, operating costs that are 17 incurred to achieve productivity gains would 18 include things such as a portion of the cost 19 of most managers and executives in the firm, 20 because they devote, presumably from what we 21 hear, a significant chunk of their time to 22 identifying, developing and implementing the 23 initiatives that generate productivity gains. 24 Just like any other activity of the Company, 25 effort is put into it and there's a cost</p>	<p>1 associated with that effort. The operating 2 costs, relevant operating costs would also 3 include a portion of the cost related to other 4 staff that assist in these initiatives, to 5 implement those initiatives. 6 Capital costs that are incurred to 7 achieve productivity gains would include some 8 capital expenditures that are driven purely 9 for the cost savings. For example, the cost 10 associated with Newfoundland Power's mobile 11 computing technology, which we've heard about, 12 would be an example of a cost, the purchasing 13 of the technology itself, the training related 14 to it and so on, would be costs that are 15 justified simply as a way of achieving 16 productivity savings. 17 So what is relevant in terms of benefits 18 that flow through to the customers is not the 19 total productivity gains of the labour force 20 through that initiative, but the net gain of 21 the productivity less the cost of buying the 22 technology. 23 The cost associated with productivity 24 improvements would also include capital 25 spending that is driven in part for efficiency</p>

Page 13

1 MR. TODD:
 2 gains. For example, the 2008 capital budget,
 3 which was filed as a separate application,
 4 includes almost seven million dollars that we
 5 spent on three projects that appear to be
 6 designed in part to improve the reliability of
 7 the distribution system. Those three projects
 8 are Distribution Reliability Initiatives at
 9 1.3 million dollars, the rebuild of
 10 distribution lines at a cost of 3.4 million
 11 dollars, reconstruction 3.1 million dollars.
 12 I believe all those are just categories that
 13 are related to maintenance and improvement of
 14 the distribution system. In part, these
 15 expenditures will avoid deterioration of
 16 reliability.
 17 Maintaining reliability at a fixed level
 18 does not provide a productivity gain. It's
 19 like running on a treadmill, just staying
 20 even. It avoids increases in maintenance
 21 costs or declining productivity, but that is
 22 not the cost of a saving. It's just a cost of
 23 staying even. However, to the extent that
 24 these expenditures improve reliability, they
 25 will result in reduced future maintenance

Page 15

1 Q. So Mr. Todd, you cannot determine whether or
 2 not the 2008 costs attributable to
 3 productivity improvements, whether they be
 4 past, present or future, are more than or less
 5 than the 531 to 727,000 dollar estimate of
 6 productivity benefits in 2008?
 7 A. No, my evidence does not speak to that point.
 8 Q. What does the evidence of Newfoundland Power
 9 tell you about the productivity benefit to
 10 cost ratio in 2008, relative to prior years?
 11 A. Okay, now that we've covered what we don't
 12 know, let's cover what we do know. First, Mr.
 13 Delaney indicated on Thursday that
 14 Newfoundland Power has not eased off on its
 15 efforts to achieve productivity gains. This
 16 suggests to me that the default assumption
 17 that we must make on productivity related
 18 costs must be that they are at about the same
 19 level in 2008 as they were in prior years.
 20 That's the first point.
 21 Second, Mr. Delaney also indicated that
 22 the upward operating costs pressures, wage
 23 increases and inflation, have been fairly
 24 stable. Hence, the level of productivity
 25 gains needed to hold operating costs at a

Page 14

1 costs. This improvement is a source of
 2 productivity gains which can be, of course,
 3 crystallized in the future through lower
 4 requirement for staff to undertake future
 5 maintenance and therefore the ability to
 6 reduce staffing levels.
 7 It would be very difficult or impossible
 8 for either me, and I suspect for Newfoundland
 9 Power, to identify the exact portion of the
 10 capital budget that is attributable to the
 11 pursuit of productivity gains. Nevertheless,
 12 it's clear that there are costs borne by
 13 customers related to depreciation and the cost
 14 of capital associated with these capital
 15 expenditures. Those are ongoing costs.
 16 The point is that conceptually there's
 17 something we could call a productivity benefit
 18 to cost ratio that needs to be greater than
 19 1.0 in order for the Company's productivity
 20 initiatives to be generating a net benefit to
 21 customers. We know what the numerator is, or
 22 we have an idea. The benefits are something
 23 in the range of 531 to 747 for 2008.
 24 Unfortunately, we do not have a figure for the
 25 denominator, ie. the costs.

Page 16

1 constant level would have been fairly constant
 2 over the past years and into 2008. Exhibit 2,
 3 1st Revision.
 4 Q. I think Chris is trying to bring that up now.
 5 A. I think it's being brought up. Shows the sum
 6 of labour and other operating costs for each
 7 year from 2002 to 2008 on line 28, so if you
 8 move down a couple more lines. So it's the
 9 line that says subtotal. I note that in the
 10 last test year, which is 2004, these costs
 11 totalled 49,102. Those are thousands of
 12 dollars, of course. And for 2007, the current
 13 year, the forecast costs total 49,099. That
 14 difference is \$3,000, essentially no change.
 15 So over that period, 2004 to 2007, the total
 16 of those operating costs, that's labour and
 17 non-labour, has been essentially flat. That
 18 implies that Newfoundland Power's productivity
 19 gains during this period were sufficient to
 20 fully offset the upward cost pressures during
 21 those years. As I've noted, the upward cost
 22 pressures are fairly constant and continuing
 23 into 2008.
 24 We note that in 2008, this number is
 25 increasing, not by a huge amount, but it's

Page 17

1 MR. TODD:
 2 increasing, going from 49,099 to 49,383.
 3 We've lost the headings on the columns, but
 4 2008 is the furthest column to the right.
 5 That is an increase of 284,000. This of
 6 course is the revision and reflects the update
 7 which reduced insurance costs by \$190,000.
 8 So what do we know? We know that the
 9 numerator or the benefit of the productivity
 10 to benefit cost ratio referred to before has
 11 declined, declined relative to the past years.
 12 The cost drivers are about the same. I'm
 13 doing this kind of on a global rough level.
 14 The cost drivers are about the same through
 15 this period into 2008. The productivity gains
 16 have been sufficient to offset, at least on
 17 average over that period, but they're not
 18 sufficient in 2008.
 19 (9:30 A.M.)
 20 So what we do know is that this benefit
 21 to cost ratio, productivity benefit to cost
 22 ratio, has declined in 2008, relative to the
 23 rest of the period since the last GRA. That's
 24 just a mathematical conclusion that comes from
 25 the observations that I've presented. And as

Page 19

1 Furthermore, Newfoundland Power has requested
 2 regulatory mechanisms to address energy supply
 3 costs variances in order to avoid this cost
 4 driver, forcing GRAs in the coming years. The
 5 regime has mechanisms which are specifically
 6 designed to allow the company to go several
 7 years before another GRA.
 8 This issue, the issue just raised, was
 9 included in the Settlement Agreement. Now as
 10 I look at it, as a result, the current
 11 expectation is that the next GRA will not be
 12 filed until 2010, with a test year of 2011.
 13 So again, that'll be in effect a three-year
 14 period before the next GRA. The end result is
 15 that Newfoundland Power's regulatory regime is
 16 similar to the multi-year cost of service
 17 regimes that have been implemented in other
 18 jurisdictions, such as British Columbia,
 19 Ontario and California. The key difference is
 20 that these other jurisdictions have an
 21 explicit formula for adjusting the revenue
 22 requirement or rates in the years between
 23 GRAs. With the addition of an Automatic
 24 Revenue or Price Adjustment mechanism, these
 25 regimes become called performance-based

Page 18

1 I noted already, putting it a different way,
 2 we don't know from this whether or not the
 3 ratio has fallen from above 1.0 to below 1.0.
 4 All we can conclude is that this benefit cost
 5 ratio has declined relative to the last few
 6 years. If it had not, we would be staying
 7 flat in terms of the total operating costs,
 8 that subtotal line.
 9 Q. Mr. Todd, would it be appropriate to
 10 characterize Newfoundland Power's current
 11 regulatory regime as multi-year cost of
 12 service?
 13 A. Yes, I think that's correct. I've been an
 14 advocate for a number of years saying that
 15 when you look at performance based regulation,
 16 at least in Canada, it is not really true to
 17 the spirit of performance based regulation.
 18 What we have are multi-year regimes which are
 19 interestingly quite similar to what you
 20 defacto have with Newfoundland Power in this
 21 case.
 22 Newfoundland Power's last GRA was for the
 23 test years 2003 and 2004. The test year for
 24 the current GRA is 2008. So the years 2004,
 25 '05 and '06 were not GRA test years.

Page 20

1 regulation or incentive regulation.
 2 Now the key characteristic is that you
 3 got a multi-year period which creates an
 4 opportunity and an incentive to achieve
 5 productivity gains. One of the broadly
 6 recognized concerns with these performance
 7 based regulation regimes or any sort of multi-
 8 year regime is that the incentive to
 9 crystallize productivity gains is very strong
 10 early in the period, but very weak later in
 11 the period.
 12 The point I'm trying to make is that
 13 every regulatory regime has its own
 14 incentives. Have to look at what those
 15 incentives are. Whether or not its explicitly
 16 incentive regulation. Companies respond to
 17 those incentives. In fact, managers and
 18 executives have a duty and responsibility, as
 19 well as an incentive, to generate higher ROE
 20 for the shareholders. That's their job. It's
 21 the primary incentive in any regulatory regime
 22 is to focus on the efforts, to focus the
 23 efforts of management on the opportunities
 24 that increase shareholders' return.
 25 Within a multi-year cost of service

Page 21

1 MR. TODD:
 2 regime, whether or not it's full PBR, the
 3 incentive is that productivity gains realized
 4 in the early years will have a greater benefit
 5 for shareholders than the same productivity
 6 gains realized later in the cycle, and gains
 7 that are forecast and recognized in a test
 8 year generate no benefit to shareholders,
 9 because they're captured fully in rates and
 10 float through to customers. The reason is
 11 that the costs are rebased at each GRA. They
 12 are not rebased in the intervening years.
 13 Hence, a productivity gain that is
 14 crystallized in the first year of the cycle,
 15 flows to benefit shareholders in each year
 16 until it's rebased, that is until the next GRA
 17 test year.
 18 An example helps to illustrate the point.
 19 Newfoundland Power's Early Retirement Program,
 20 ERP, was implemented in 2005. That was the
 21 first non-test year after the last GRA. As a
 22 result, the net benefit of the ERP savings
 23 flowed to the shareholder in 2005, 2006, 2007,
 24 that net benefit, all other things being
 25 equal.

Page 23

1 provides a much stronger incentive, because
 2 you can cash in for several years, to achieve
 3 productivity gains. That's why it's called
 4 incentive regulation. Much stronger than the
 5 incentive that exists when you have a regime
 6 that rebases, ie. as annual GRAS. There's
 7 very little pay off to the effort to achieve
 8 productivity, and there's a very short period
 9 for a payback on any investment that produces
 10 shareholder earnings in achieving those
 11 benefits. So the good news is you have a
 12 strong incentive.
 13 The bad news is that the incentive is
 14 lumpy, rather than being strong in all years,
 15 and that's just a feature of these kinds of
 16 mechanisms.
 17 Q. Mr. Todd, would you please turn up the
 18 transcript at page 35 from the opening address
 19 to the Board at the start of the hearing? In
 20 particular, I'm referring to--I think that was
 21 October 22nd, page 35, lines 14 to 17.
 22 A. Yes, it's up on the screen now.
 23 Q. Okay. Mr. Todd, in that passage, my friend,
 24 Mr. Kelly, asserts that "productivity
 25 allowances are not imposed unless there is

Page 22

1 Exhibit 3, 1st Revision, contains the net
 2 present analysis of the 2006 Early Retirement
 3 Program, and on the right-hand side of that is
 4 the column that shows after-tax cash inflow or
 5 the after-tax benefit which flows somewhere.
 6 Where does it flow? Until rates are rebased,
 7 it flows to the shareholder, with many other
 8 puts and takes for the shareholder, but again,
 9 everything else put aside, that is a net
 10 benefit to shareholder in the years '05, '06,
 11 '07. When you move to 2008, the benefit shown
 12 is 2,106,645. With rebasing, that benefit
 13 begins to flow to the customer.
 14 If the ERP had been implemented in 2007
 15 instead of 2005, the benefit that would have
 16 flowed to the shareholder would have been one
 17 year's benefit instead of three. Hence, the
 18 total shareholder benefit of initiative would
 19 have been much lower. It is rational and it's
 20 appropriate, given the duty of management to
 21 the shareholder, to respond to the incentive
 22 embedded in the regulatory regime to
 23 crystallize benefits in a way that benefits
 24 shareholders. Again, that's their job.
 25 The good news is that a multi-year regime

Page 24

1 demonstrated poor performance of a utility"
 2 and just below that, at lines 19 to 23, Mr.
 3 Kelly asserts that "regulatory boards do not
 4 impose a productivity allowance in an attempt
 5 to capture in advance productivity gains that
 6 have not yet been achieved." Do you agree
 7 with these statements?
 8 A. No, I do not. In my experience, the standard
 9 design feature of regulatory regimes that have
 10 productivity incentives is that there is a
 11 productivity allowance. The purpose of the
 12 productivity allowance is to provide some
 13 degree of sharing between the future
 14 productivity gains, between the company and
 15 its customers. This is not a penalty for poor
 16 performance. It is simply a mechanism that
 17 recognizes that there's an incentive that'll
 18 give rise to productivity gains and some
 19 portion of those gains should go to customers
 20 in the short run, as well as in the long run.
 21 For example, price cap regimes, sure
 22 you're familiar with them, are often referred
 23 to as CPI - X. The CPI is inflation. The
 24 cost driver the X. It's a productivity
 25 factor, productivity offset. They are

Page 25

1 MR. TODD:
 2 designed with an explicit productivity factor
 3 in them. The productivity factor by
 4 definition represents productivity gains that
 5 have not yet been achieved. It's a
 6 productivity adjustment in each year of the
 7 mechanism, which are future years when you
 8 design the regime, that are being used to
 9 reduce rates, after adjusting them up for
 10 inflation, to provide a productivity benefit
 11 to the customers of having the price cap
 12 regime in place.
 13 The CRTC price cap regime is a good
 14 example of this approach. Similarly, the PBR
 15 regimes used by BCUC since the mid 1990s have
 16 generally included a productivity improvement
 17 factor or PIF. It's included in the formula
 18 that's used to update costs and revenue
 19 requirements each year within the term of the
 20 PBR. Again, the PIF was designed to flow to
 21 customers the benefit of the target level of
 22 productivity gains, although they have not yet
 23 been achieved. The company then keeps or, in
 24 fact in their regime, the BCUC regimes, shares
 25 any productivity improvement above and beyond

Page 27

1 doing, taking initial forecasts and adjusting
 2 it downward to provide for some productivity
 3 gains. I do not think that the company's,
 4 their suffering cost disallowances, would
 5 accept the suggestion that the disallowance is
 6 a penalty for demonstrated poor performance.
 7 Rather, it reflects a difference in views
 8 between the company and the regulator as to
 9 the level of costs that are sufficient for the
 10 company to serve its customers well. In
 11 essence, these regulators are imposing a
 12 productivity allowance that is passed through
 13 the customers through the productivity gains
 14 that have not yet been achieved because
 15 they're for a future test year.
 16 Q. Mr. Todd, does that conclude your evidence on
 17 direct?
 18 A. Yes, it does.
 19 Q. Thank you, sir.
 20 CHAIRMAN:
 21 Q. Thank you, Mr. Johnson. Good morning, Mr.
 22 Kelly. When you're ready please.
 23 KELLY, Q.C.:
 24 Q. Good morning, Mr. Todd. How are you?
 25 A. Very well.

Page 26

1 that target level, but there is a target level
 2 included in the mechanism. In fact, I'm not
 3 aware of any incentive regime that does not
 4 include a forward looking productivity factor
 5 that captures for customers future unrealized
 6 productivity gains, except in cases where the
 7 circumstances indicate that the expected
 8 productivity trend is a negative value, and
 9 that's currently an issue in the gas side of
 10 incentive regulation in Ontario, for example.
 11 There's some debate about whether there's a
 12 negative productivity factor.
 13 And notice that when we're talking about
 14 productivity gains here, it's looking at
 15 global results so they're talking about a net
 16 of productivity gains and costs, because
 17 they're not quantifying the benefits
 18 specifically on their own. They're looking at
 19 the bottom line net changes in costs and
 20 sharing the net productivity gains.
 21 Finally, it is common for regulators
 22 under pure cost of service regimes to prove
 23 levels of operating costs for a test year that
 24 is less than the utility's forecast. Doing in
 25 effect what we see the executive of this firm

Page 28

1 Q. Good. A lot of the discussion that you just
 2 had with Mr. Johnson focused on price cap
 3 regulation and PBR mechanisms, and I think we
 4 can all agree those are not the regulatory
 5 mechanisms that are in place in this
 6 jurisdiction. Agreed?
 7 (9:45 A.M.)
 8 A. What I've said is that there is a defacto
 9 multi-year regime which has very similar
 10 characteristics, in part, to other incentive
 11 regimes and have some of the--and because of
 12 similar multi-year mechanism, they have
 13 similar incentives.
 14 Q. But they do not have price cap and they do not
 15 have PBR?
 16 A. I agree.
 17 Q. Okay, and you talked about cost of service and
 18 you pointed out that from time to time,
 19 regulators on a cost of service regime will
 20 disallow some costs?
 21 A. Correct.
 22 Q. Your closing comments. Now I take it that
 23 you're the individual who was retained by the
 24 Consumer Advocate to examine the Company's
 25 operating costs for this GRA. I have that

Page 29

1 KELLY, Q.C.:

2 correct, that was the scope of your task?

3 A. No, it was not. I was looking at

4 productivity. I think if you look at--on the

5 productivity issue. There's two ways to

6 address the productivity or address the cost

7 of service, if you want, operating costs. One

8 is to conduct a line-by-line review. The

9 other is to look at it globally. In some

10 jurisdictions, it's referred to as the

11 envelope approach. Is the envelope of costs

12 changing at an acceptable level? And that's

13 assessed along the lines of what I've looked

14 at. Is the change overall reasonable?

15 Without looking at the detailed line-by-line

16 costs, in fact many companies, including some

17 of my clients, like that approach because they

18 want to avoid the micro-management of the

19 regulator and intervenors picking away at

20 their line-by-line items in their budget.

21 They would rather talk about the global

22 budget, and my approach was a global one.

23 Q. Now, if I can just have Chris put up Exhibit 1

24 for a second? Exhibit 1 has Newfoundland

25 Power's operating costs by function. Put up

Page 31

1 Q. Right, and in a cost of service jurisdiction,

2 the Board's duty is to test the costs, but you

3 didn't do any line-by-line analysis?

4 A. I did not conduct, nor does my evidence speak

5 to line-by-line questioning of the costs.

6 Q. I appreciate that. Now one of the things that

7 the Company's witnesses have testified about,

8 Mr. Ludlow and then Mr. Delaney, is about the

9 demographic changes in the Company's labour

10 force in the next number of years with

11 retirements, the need to add apprentices,

12 trainees, etcetera. Were you here for that

13 evidence?

14 A. Yes, I was.

15 Q. And do you recall both Mr. Ludlow and Mr.

16 Delaney explaining that in the future, there

17 will not be the opportunity to have these big

18 early retirement programs that have existed in

19 the past?

20 A. Yes, and you cannot have a continuous flow of

21 early retirement programs. What I heard the

22 evidence of Mr. Delaney indicated that the ERP

23 was a crystallization of the benefits that--or

24 the opportunities that were created by a

25 number of initiatives over the years that, as

Page 30

1 the 1st Revision there, Chris, and if you flip

2 over then to Exhibit 2, we have Newfoundland

3 Power's operating costs by breakdown.

4 A. Correct.

5 Q. Correct, and I take it from the answer that

6 you gave a minute ago that you were not

7 retained and did not perform a line-by-line

8 analysis?

9 A. That's correct.

10 Q. Okay, so the Consumer Advocate, we've had

11 about 500 RFIs in this case, and the Consumer

12 Advocate has put forward to the Company about

13 464 items, RFIs, many of them dealing with

14 everything from trucks to advertising. I take

15 it you didn't review any of those RFI

16 responses?

17 A. I did not go through every RFI response. That

18 would have been a waste of the customers

19 dollars, who ultimately pay for this. What I

20 went through was the responses that were

21 relevant to the issues that I was addressing.

22 Q. And again, you only looked then at the big

23 level, at this productivity level?

24 A. I was looking it at from the envelope level of

25 the global productivity, global cost trends.

Page 32

1 I understood the crystallization process, and

2 logically, how I understand it works in

3 companies, is that you undertake changes,

4 innovations in the company that reduce the

5 need for labour. The mobile computing is an

6 example. Your work force becomes more

7 efficient. You don't necessarily reduce your

8 work force right away, and in fact, you

9 normally reduce it by attrition. If your

10 productivity gains run ahead of your

11 attrition, what you end up with is, in

12 essence, a little bit of slack in the work

13 force. To get rid of that slack, you bring in

14 an ERP which -

15 Q. And that's the purpose. That's -

16 A. - creates an opportunity to crystallize those

17 gains, which have been accumulated over years,

18 and that's what I understand happened. You

19 cannot do that all the time. You have to have

20 accumulated gains to take advantage of.

21 Q. And you've heard the Company's witnesses

22 explain to the Board why that is not going to

23 happen over the next number of years because

24 of the need for training apprentices,

25 etcetera? Agreed, you heard the evidence?

Page 33

1 MR. TODD:
 2 A. Yes, and that's an ongoing--the changing
 3 demographics is not a new problem. It's an
 4 ongoing issue, yes.
 5 Q. But it's at this stage--at this stage, it's a
 6 bit of a change in Newfoundland Power's
 7 demographic circumstances, and that's the way
 8 the witness testified about it, as this is a
 9 problem that's now coming for the future. Are
 10 you disagreeing with that?
 11 A. Well, what I heard or what I understand is
 12 that demographic shifts take place one year at
 13 a time. People age one year at a time.
 14 Q. Yes.
 15 A. Therefore this would not be a surprise. This
 16 is--you know, we've seen the aging work force
 17 in all companies is something that's evolving
 18 and becoming increasingly critical.
 19 Q. And at Exhibit 2, the total labour forecast is
 20 28.7 million out of a total operating cost of
 21 49.4 million approximately, about 58 percent
 22 of operating costs, Mr. Todd, are labour
 23 costs. Take that, subject to check?
 24 A. Yes.
 25 Q. Okay, and if you go to CA-NP-47, you heard Mr.

Page 35

1 long run.
 2 A. Yes, and in part that's achieved through
 3 productivity improvements, yes.
 4 Q. And so one of the things that must occur in
 5 2008 is that the Company must earn enough
 6 revenue to earn its ROE because it must
 7 maintain its credit rating metrics which are
 8 already at the bottom of the range. Now I
 9 know you haven't done line-by-line analysis,
 10 Mr. Todd, but let's just assume that the
 11 evidence of the Company's witnesses, who have
 12 come here and sworn under oath that the
 13 productivity allowances that they've built in
 14 or the efficiency gains that they've built in
 15 are their best estimate of what they can
 16 achieve, and in fact, that is what is
 17 achieved. Make that assumption. That would
 18 mean then that next year, the Company, if
 19 that's the best that they can get in
 20 efficiency gains, would have to cut something
 21 else. Would you--would it be your view that
 22 they should allow the ROE to fall, to the
 23 detriment of its shareholders and its credit
 24 rating, or would they start to lay off labour
 25 to maintain that credit rating? Because that

Page 34

1 Delaney explain the fact that there is a four
 2 percent already negotiated union wage increase
 3 coming and an estimate of three percent for
 4 other employees?
 5 A. Correct.
 6 Q. Okay. Now were you here for Ms. Perry's
 7 evidence?
 8 A. Yes.
 9 Q. And did you hear Ms. Perry explain that with
 10 the 2.8 percent forecast increase in ROE that
 11 the company's credit metrics will be still at
 12 or below the bottom of the Moody's range?
 13 A. Yes, which of course doesn't speak to the
 14 level of operating costs.
 15 Q. Right, now -
 16 A. A separate issue, yes.
 17 Q. - you would agree with me that the Company has
 18 an obligation, first of all, to earn its ROE
 19 for its shareholders.
 20 A. I've said in direct, that's the obligation of
 21 management is to pursue that, yes.
 22 Q. But in fact, the Company has a bigger
 23 obligation, I'm going to suggest to you, to
 24 its customers to maintain its credit rating to
 25 ensure least cost reliable service over the

Page 36

1 would mean having to lay off apprentices,
 2 trainees, which is what customers need for the
 3 future. So I'm wondering if you can help us,
 4 since you didn't do the line-by-line analysis,
 5 which of those two alternatives the Company
 6 would grasp if faced with that problem?
 7 A. If we can turn to CA-NP-361? Productivity and
 8 the global costs are a matter of judgment, and
 9 every organization, as an organization as a
 10 whole, responds to the demands of the
 11 executive. A regulated company also responds
 12 to the, call it, demands of the regulator.
 13 That's the way the system works. What the
 14 Table 1 in CA-Np-361 represents is that the
 15 bottom up view of the people within the
 16 Company, and we've heard about the process
 17 there, was that the dollars required, just
 18 take labour as the example, in the initial
 19 forecast was 29,251. As I understand the
 20 process, the executive essentially said that's
 21 not good enough, engaged in a process with
 22 staff and said let's bring that down to
 23 28,671. Let's do better, and they must be
 24 commended for that.
 25 The regulator plays a similar role as the

Page 37

1 MR. TODD:
 2 executive and says either we are satisfied or
 3 we think that if you're given direction to
 4 find a little more productivity that you will
 5 find it. The reality of any company, and
 6 think of companies in the non-regulated
 7 sector, they look at their revenues, they look
 8 at the market environment, the management team
 9 says this is what we can spend, let's your
 10 budget, live within it, do your jobs within
 11 it. It is judgment as to what the exact level
 12 of that budget should be and what is adequate.
 13 Q. And you haven't done any analysis then to be
 14 able to demonstrate that there is a line-by-
 15 line place where you can find savings beyond
 16 what the Company has testified?
 17 A. It is my strong belief that it is
 18 inappropriate for people outside of the
 19 Company to tell the Company where to achieve
 20 the productivity gains. The Company are the
 21 experts on their internal operations. They
 22 should be told--given direction as to the
 23 level of productivity gains, but it should be
 24 at the Company's discretion to determine where
 25 those productivity gains should come from.

Page 39

1 had said this explicitly or not. Chris, if we
 2 can put up P.U. 19 (2003) at page 76.
 3 A. Yes, and I have read that decision.
 4 Q. You have, that's why I asked you, because your
 5 comment a few minutes ago was you weren't sure
 6 whether they'd made it explicitly or not, so
 7 let's just get it.
 8 A. I did not read that as a--well, they made
 9 reference to it.
 10 Q. Well, let's read the relevant part. You come
 11 down, the paragraph towards the--just stop
 12 there, Chris, in the middle, and we can--I
 13 won't read the whole paragraph, but I'll pick
 14 it up about halfway down. "The Board does not
 15 agree with the Consumer Advocate that only NP
 16 has benefited from the expanded range set by
 17 the Board in 1998. Ratepayers will derive the
 18 benefit for the efficiencies through lower
 19 costs and hence lower rates into the future.
 20 The Board believes it is important to maintain
 21 the range as an incentive for Newfoundland
 22 Power to continue to seek efficiencies and
 23 productivity gains in its operations." Okay?
 24 A. I agree, which is--that's concluded in the
 25 discussion. I agree entirely with what the

Page 38

1 Q. And so the answer to the question which I just
 2 posed to you is you did not do that analysis,
 3 correct?
 4 A. I did not do that analysis and I feel it would
 5 be inappropriate for me to try to tell the
 6 Company where they should cut costs.
 7 Q. Good. Now, can I--I just want to turn then to
 8 one final point. This Board has in the past
 9 adopted a policy of having the Company look
 10 for productivity gains, efficiency gains
 11 between rate hearings which will then benefit
 12 customers at the next GRA. Are you aware of
 13 that policy?
 14 A. I'm not sure if it's an explicit policy or a
 15 defacto policy, but that is the implication of
 16 a multi-year regime. It creates an incentive
 17 to do that, so that is a defacto policy and I
 18 know the regulator has referred to that
 19 incentive. I believe the linkage though is to
 20 the creation of an ROE range which creates an
 21 opportunity for the Company to achieve a
 22 higher ROE and retain it, up to the maximum
 23 that's allowed.
 24 Q. And the purpose, let's just get it on the
 25 screen, because you asked whether the Board

Page 40

1 Board has stated.
 2 Q. And if you go back, sorry, a little bit
 3 earlier in the paragraph, "it is an incentive
 4 device to encourage Newfoundland Power to seek
 5 efficiencies between rate hearings which can
 6 then be passed on to customers." Correct?
 7 A. Correct, and that's exactly what I said in my
 8 direct evidence.
 9 Q. Okay. Now can I then just get you to turn
 10 with me to APCA 91. Should have -
 11 A. There's two attachments as well to that?
 12 Q. No, it should be--it's probably CA-NP-91.
 13 Maybe it's backwards, because I think it came
 14 in--it should be CA-NP-91, Chris, if you can
 15 just--there you go, and you were asked to
 16 "please confirm that the operating efficiency
 17 achieved by Newfoundland Power from 2003 to
 18 2006 provide benefits to customers in 2008
 19 Test Year," and the answer was confirmed, and
 20 I take it that's still your evidence?
 21 A. Yes, by definition any operating efficiencies
 22 achieved in the past will be reflected in the
 23 rebased rates, the cost levels in 2008.
 24 (10:00 A.M.)
 25 Q. Thank you, Mr. Todd. Those are all my

Page 41

1 questions.

2 CHAIRMAN:

3 Q. Thank you, Mr. Kelly.

4 MR. YOUNG:

5 Q. I have no questions. Thank you, Mr. Chair.

6 CHAIRMAN:

7 Q. No questions. Good morning.

8 MS. NEWMAN:

9 Q. No questions.

10 CHAIRMAN:

11 Q. No questions. Any redirect?

12 MR. JOHNSON:

13 Q. No redirect.

14 CHAIRMAN:

15 Q. Questions?

16 VICE-CHAIR WHALEN:

17 Q. No, no questions. Thank you, Mr. Todd.

18 CHAIRMAN:

19 Q. I just have one quick question, Mr. Todd. In

20 terms of--I mean, you indicated, I think, that

21 the productivity, the manner in which you've

22 addressed it has been on a global basis.

23 Certainly it's not been line by line. I mean,

24 how does a Board like ourselves set a

25 productivity allowance in relation to a

Page 43

1 declined during the year compared to what had

2 been forecast. The Company came back in the

3 first annual review and said, boy, did we have

4 a tough time. The inflation rate came down,

5 therefore, our target costs came down,

6 therefore we had to go out and find

7 productivity gains in order to achieve the

8 results that we achieved, ie, still have our

9 costs below the target and have some net

10 benefit to share. In other words, during the

11 year as they saw their target costs, allowed

12 costs, in effect, come down, they responded to

13 that by finding productivity gains, finding

14 ways to reduce those costs. So the issue is

15 not will you affect the metrics, the issue is

16 how much pressure are you prepared to put on

17 the Company to find efficiencies to reduce its

18 costs in the next year so that it can achieve

19 its ROE, because management is focused on

20 that. If you believe that it cannot prudently

21 achieve any gains, then you should not order

22 reduction in the allowed costs. If you

23 believe that the track record indicates that

24 they could hold costs level with past years,

25 then it would be within your jurisdiction to

Page 42

1 quantity or a magnitude? I mean, how does

2 one--what's your comment on how one goes about

3 that, if it's not with some particular

4 consideration of the overall metrics, let

5 alone the credit metrics of the Company?

6 A. Well, first of all, I think that the metrics

7 question is, or issue is a red herring here.

8 We're not talking about cutting--we're not

9 talking about cutting the allowed costs below

10 the actual costs. That's why we have a future

11 test year. What you're doing if you allow

12 costs below the proposed level is you are

13 adjusting the Company's budget, and the

14 Company, in order to achieve its ROE, will be

15 required to find productivity gains to achieve

16 that target. So I do not accept that the

17 consequence of an adjustment to the cost level

18 is that the ROE will not be achieved. The

19 consequence is they'll have to strive harder

20 to find productivity gains. An illustration

21 of the process is that in the very first PBR

22 regime for West Kootenay Power, which is now

23 FortisBC, the formula, the PBR formula was

24 based on actual, not forecast inflation, CPIBC

25 in that case. The actual inflation rate

Page 44

1 direct the Company to achieve, for example,

2 49/100 in operating costs.

3 Q. The example you use is a PBR example, which

4 doesn't exist in this jurisdiction as it

5 relates to the manner in which you regulate.

6 In any event, I guess, you know, my point is

7 if we assume, we accept your premise on the

8 productivity allowance, I mean, how does a

9 board like ourselves go about setting that

10 then, and that magnitude? I presume it would

11 have to be explicit in terms of the amount?

12 A. Yes, I mean, the Ontario Energy Board, for

13 example, on a number of occasions, has allowed

14 costs below the target level. If you go back

15 seven or eight years, you would see orders

16 where they took a particular cost item and

17 said, we are reducing that cost. And that was

18 the typical practice ten years ago, that it

19 was, in effect, the regulator and intervenors

20 would second guess the company, would pick

21 apart their budget and say we think this item

22 is too high. And my personal feeling was, how

23 do we really know. In more recent years, and

24 I say more recent, sort of back probably five

25 years it's more common that we see regulators

Page 45

1 MR. TODD:
 2 giving global adjustments and they say, we
 3 don't--we're not going to tell you where to
 4 cut, and in fact, we don't know the inside
 5 workings of your business well enough to tell
 6 you exactly where to cut. But we think the
 7 change in your operating costs is higher than
 8 necessary and therefore we are going to allow
 9 you this level of cost and not what you
 10 requested. It's similar to a negotiation.
 11 You know, in a lot of regimes and here now
 12 there's a negotiation process. And in some
 13 jurisdictions the negotiation process between
 14 intervenors and the company is what level of
 15 costs will we accept. And it is a negotiation
 16 process and there is a judgment process and
 17 it's a matter of how much of a squeeze there
 18 will be. Personally I feel more comfortable
 19 when it comes out of a negotiation process,
 20 but in Newfoundland it's not set up to
 21 negotiate that aspect, you know, the operating
 22 budget of the Company, so it doesn't happen.
 23 In other jurisdictions that number is
 24 negotiated too.
 25 Q. I have no more questions.

Page 47

1 year and say, well you did really well for
 2 those previous three test years, so we're
 3 going to knock you down, you know, a million
 4 dollars, whatever it is, because you did so
 5 well in the previous year? I mean, does that
 6 actually open up the opportunity for some risk
 7 that customers may not actually benefit on a
 8 go-forward basis?
 9 A. You're referring to the incentive effect?
 10 Q. Um-hm.
 11 A. Which is -
 12 Q. Or a disincentive, depending on your -
 13 A. Or the disincentive. And personally I think
 14 that what you have is incentive regime.
 15 Multi-year is incentive regime. And the core
 16 of the incentive of most Canadian PBR and
 17 incentive regulation regimes, two different
 18 labels, the same thing, is the multi-year
 19 nature of it. All the rest is bells and
 20 whistles. Multi year is what creates the
 21 incentive. You have that. You haven't worked
 22 through the framework around it because you
 23 haven't said, we haven't set a regime and
 24 let's look at those mechanisms. If you were
 25 designing an explicit incentive mechanism,

Page 46

1 VICE-CHAIR WHALEN:
 2 Q. I understand that you're actually, if I look
 3 at your evidence, you're actually proposing
 4 that we fix the test year operating costs at
 5 the forecast 2007 level, is that the way that
 6 you're looking to get at that number?
 7 A. It's essentially saying that from 2004 to
 8 2007, on average, the line was held flat. I
 9 also observed that the incentive to find
 10 productivity gains is greatest in the non-test
 11 years, so it's greater in 2005 and 6 and 7
 12 than in '08. So when I put together the
 13 incentive that is in place with the historic
 14 trend, a crude judgment you could say, I
 15 suppose, is that would it be unreasonable to
 16 expect the Company to hold the line on costs
 17 for one more year.
 18 Q. Is there some risk that the looking forward
 19 and imposing, the utility might actually view
 20 it as a penalty for previous productivity
 21 gains, that it might actually, in the non-test
 22 years, act as a disincentive to achieve
 23 productivity? If you're, you know, if you're
 24 going to have in the non-test years efficiency
 25 gains and then in the forward-looking test

Page 48

1 you'd want to address what's called the end-
 2 of-term problem, which is the absence of the
 3 incentive as you come to the next rate case.
 4 And so, the question is, I agree with your
 5 dilemma, is the solution to say, we will not
 6 exercise our own judgment as a regulator to
 7 look for more productivity or is the solution
 8 to say, perhaps we should look at the bigger
 9 picture of how this incentive works, recognize
 10 we have a multi-year regime, deal with the
 11 end-of-term process so that the Company is
 12 incented in every year to maximize its
 13 productivity gains, even in the year before
 14 test year. And in my view what you want in an
 15 incentive regime is deal with the end of term
 16 by having, in effect, a rolling mechanism so
 17 that the Company can always retain the
 18 benefits of this year's productivity for three
 19 or four years so that you've got that multi-
 20 year payback, which is necessary to have a
 21 strong incentive. Would cutback in 2008 be a
 22 disincentive? The major disincentive are
 23 sharing mechanisms where--because whatever the
 24 Company achieves in 2009 it will keep until
 25 2011, whatever you do in 2008. You adjust the

Page 49

1 MR. TODD:
 2 starting point, right, but the--on the margin,
 3 the change of--the shareholder will be better
 4 off by the amount of the productivity gain
 5 whatever the starting point is. So in that
 6 sense the incremental benefit, which is the
 7 incentive, is totally unchanged, unaffected by
 8 the starting point except from a symbolic
 9 gesture aspect of saying, you know, end of
 10 term, you know, the better you do, the harder
 11 we're going to hit you. But that depends on
 12 what your message is in saying holding things
 13 firm. You're saying be consistent in the test
 14 year with your non-test years.
 15 Q. Thank you.
 16 CHAIRMAN:
 17 Q. Any questions on matters arising, Mr. Kelly?
 18 MR. JOHNSON:
 19 Q. No, Mr. Chair.
 20 KELLY, Q.C.:
 21 Q. No, Mr. Chairman.
 22 CHAIRMAN:
 23 Q. Thanks very much, Mr. Todd.
 24 A. A pleasure to be back in Newfoundland on this
 25 gorgeous day. Hope you have a wonderful

Page 51

1 seconds time.
 2 CHAIRMAN:
 3 Q. Okay, fine. Thank you. By way of time, I
 4 guess, I'd like to--I know 11:00 is our normal
 5 break. Maybe the seven or eight minutes we
 6 had then, people who require a jolt of
 7 caffeine might have had it. But anyway, we'll
 8 see where we are at 11. It might be prudent
 9 to go on for another 15 or 20 minutes.
 10 KELLY, Q.C.:
 11 Q. Certainly that would be fine, Mr. Chairman.
 12 CHAIRMAN:
 13 Q. We might be into cross then, Mr. Kelly, we'll
 14 see where you are and how you feel about -
 15 KELLY, Q.C.:
 16 Q. I'd be happy to continue.
 17 CHAIRMAN:
 18 Q. Okay, that's fine. Could you introduce your
 19 witness, Mr. -
 20 MR. JOHNSON:
 21 Q. Yes, on the stand, Mr. Chairman, is Mr.
 22 Douglas Bowman.
 23 CHAIRMAN:
 24 Q. Mr. Bowman, welcome back. Good to see you
 25 again, sir.

Page 50

1 weekend.
 2 Q. Have a safe trip back. It's quarter after.
 3 Can we take five minutes just to--or do you
 4 need five minutes?
 5 MR. JOHNSON:
 6 Q. Yes, that would be appreciated.
 7 CHAIRMAN:
 8 Q. Yeah, I think it would be better for us to do
 9 that. Thank you.
 10 (10:13 A.M.)
 11 (RECESS)
 12 (10:23 A.M.)
 13 CHAIRMAN:
 14 Q. Thank you. Anything, Ms. Newman, before we
 15 get going again?
 16 MS. NEWMAN:
 17 Q. I'll just mention, there is a document that
 18 you should have a copy of up there. I won't
 19 label it now because I believe the Consumer
 20 Advocate will speak to it and introduce it,
 21 but just to let you know, to get out this
 22 chart here, this comparison of customer
 23 impacts. And we'll label it when it's -
 24 MR. JOHNSON:
 25 Q. Well, Mr. Bowman will adopt it in a couple of

Page 52

1 A. Thank you same.
 2 MR. DOUGLAS BOWMAN (SWORN)
 3 Q. When you're ready, Mr. Johnson.
 4 MR. JOHNSON:
 5 Q. Mr. Bowman, you have filed pre-filed evidence
 6 dated August 6th as well as supplemental pre-
 7 filed evidence dated October 15th. Do you
 8 adopt this pre-filed evidence as your
 9 testimony in the matter?
 10 A. I do.
 11 Q. Do you have any changes to your supplemental
 12 pre-filed evidence arising from revisions to
 13 RFIs filed after your evidence was submitted?
 14 A. Yes. Go to page 2, line 26, insert "First
 15 Revision" after "CA-NP-449."
 16 KELLY, Q.C.:
 17 Q. Could you give that again?
 18 A. My supplemental. Okay, I don't think we need
 19 to show it on the board. Yeah, just page 2,
 20 line 26 of my supplemental pre-filed evidence.
 21 After "CA-NP-449" just insert in brackets
 22 "First Revision." And page 3, line 3, change
 23 the number "9.586" to "9.030" and change the
 24 number "9.626" to "9.069".

Page 53

1 CHAIRMAN:
 2 Q. Sorry, what's that first one again? I didn't
 3 catch that.
 4 A. Change the number "9.586" to "9.030". And do
 5 you want the second one?
 6 Q. No, I have that.
 7 A. No. Okay, then, page 3, line 4, change the
 8 number "9.666" to "9.108". And then on page 3
 9 you can delete footnote 1 when you include
 10 these updated numbers.
 11 MR. JOHNSON:
 12 Q. Mr. Bowman, in addition, the document that I
 13 spoke to just a second ago is before you and
 14 everybody has a copy of it. Could you explain
 15 what this is?
 16 A. Yes. This just combines the responses to CA-
 17 NP-197, first revision, and CA-NP-449, first
 18 revision. Yesterday when Mr. Johnson was
 19 crossing Mr. Henderson, he had to flip between
 20 the RFIs and was required to do math on the
 21 spot. And I'm not quite as quick on my feet
 22 as Mr. Henderson is, so this helps me avoid
 23 doing that. So it just shows the range of
 24 consumption. These are customer bill impacts.
 25 So it's the range of consumption, percentage

Page 55

1 Q. Can you explain to the Board why the Basic
 2 Customer Charge for Domestic customers should
 3 be reduced?
 4 A. Reducing the Basic Customer Charge improves
 5 the efficiency of the price signal by
 6 increasing the energy charge to a value closer
 7 to marginal costs. Okay, now the Basic
 8 Customer Charge can be reduced while
 9 maintaining consistency with regulatory
 10 practice elsewhere in Canada, okay. Now even
 11 if you reduce the charge by a dollar per
 12 month, the Basic Customer Charge continues to
 13 recover the basic cost of supplying a
 14 customer, and that includes the cost of
 15 metering, billing, customer information and
 16 service wire costs, okay. And it also--okay,
 17 now that might be considered a floor price.
 18 Now if you remember back, Mr. Brockman's
 19 report filed in 2003, he said that that
 20 represents a floor price used by many of the
 21 Canadian utilities, okay. Now in addition to
 22 that, it makes the contribution to the costs
 23 of the distribution system, the customer-
 24 related cost of the distribution system
 25 between the service wire and the distribution

Page 54

1 of customers in that range and then the
 2 cumulative percentage of customers. And then
 3 the increase of the Basic Customer Charge is
 4 left the same, the increase if the Basic
 5 Customer Charge is reduced by 50 cents per
 6 month, and then the increase if the Basic
 7 Customer Charge is reduced by a dollar per
 8 month.
 9 MS. NEWMAN:
 10 Q. Mr. Chairman, I propose that we call that
 11 Exhibit CDB No. 3.
 12 MR. JOHNSON:
 13 Q. Mr. Bowman, would you kindly summarize the
 14 issues that are covered in your supplemental
 15 pre-filed evidence for the Board?
 16 A. Yeah, the supplemental pre-filed evidence
 17 covers two topics that were not resolved in the
 18 Parties Settlement Agreement. The first
 19 relates to the need to reduce the Basic
 20 Customer Charge for the Domestic customer
 21 class and the second relates to the need for
 22 the Board to direct that a distribution
 23 reliability and service standard be prepared
 24 with Newfoundland Power reporting performance
 25 under the standard beginning in 2008.

Page 56

1 substation. Okay, now like I said, in Mr.
 2 Brockman's report he did that survey back in
 3 2003 and found that this is consistent with
 4 practice elsewhere in Canada, okay, that level
 5 of customer charge is consistent. Okay, and
 6 if you look at Table 1 on my pre-filed
 7 evidence, and I don't think you have to turn
 8 there, but a Basic Customer Charge of
 9 fourteen-sixty lies within the Canadian
 10 mainstream, so there's a wide range of Basic
 11 Customer Charges and this one is somewhere in
 12 the middle of that range.
 13 Q. And the Brockman paper is already identified,
 14 Ms. Newman, I take it, and numbered?
 15 MS. NEWMAN:
 16 Q. Yes, it is.
 17 MR. JOHNSON:
 18 Q. Yeah. Why is it important to improve the
 19 efficiency of the price signal?
 20 A. Okay, in my opinion the biggest challenge
 21 facing the power sector here in this province
 22 relates to Holyrood generating station and
 23 that's based on the amount of attention its
 24 given in the government's Energy Plan and
 25 also, as Mr. Ludlow stated during cross-

Page 57

1 MR BOWMAN:
 2 examination, it's--when asked about what's the
 3 major consideration with regard to rates going
 4 forward, he mentioned the price of oil and
 5 Holyrood production. Now, the issue with
 6 Holyrood is that it's a centrally fired,
 7 simple cycle, oil fired generating station and
 8 it's very expensive to operate. Compounding
 9 that problem is the fact that its on the
 10 margin pretty much every hour of the year,
 11 pretty much 8,760 hours of the year. That
 12 means that energy consumed at the margin is
 13 very expensive, about 10 cents per kilowatt
 14 hour at the Domestic customer level. Now
 15 further, Holyrood is a significant source of
 16 pollution. Besides the sulphur and
 17 particulate emissions landing in the immediate
 18 area surrounding the plant and the hardship
 19 this causes local residents, Holyrood is a
 20 major source of CO2, a greenhouse gas
 21 contributing to global warming. Now the
 22 proposed Domestic energy charge is less than
 23 the marginal cost of energy, current. Now,
 24 owing to elasticity of facts, increasing the
 25 domestic energy charge to levels closer to

Page 59

1 consumption customers. Now, if you look at
 2 the handout I just discussed, and if you look
 3 at columns 4 and 5, actually, look at column
 4 4, you'll see that the--okay, column 4 and 8,
 5 and then between 1500 and 2000 you'll see
 6 that's the crossover point, that's when the
 7 rate impact becomes higher if there's a one
 8 dollar reduction, and the rate impact at that
 9 level is .1 percent higher than under the
 10 proposed raise in the Basic Customer Charge.
 11 Now that represents something in the order of
 12 67 and a half percent of the customers. Now
 13 it's a little less than that because it falls
 14 somewhere in that range, but generally
 15 speaking the impact is comparable or less for
 16 anyone consuming up to about 1500 kilowatt
 17 hours per month, representing about 67 and a
 18 half percent of the customer class. Now if
 19 you look at the maximum, you'll see that under
 20 a one dollar reduction, the maximum increase
 21 is 4.93 percent, under the proposal it's 4.3
 22 percent. So the highest-consumption customers
 23 see a rate impact of about .6 percent greater
 24 than under the proposal. Now, say just to put
 25 that into perspective, the largest bill impact

Page 58

1 margin costs leads to reduced energy
 2 consumption and as a result less production
 3 from Holyrood, thus reducing the average cost
 4 of power supply going forward on the Island-
 5 Interconnected System and the attendant
 6 pollution associated with Holyrood. Okay, now
 7 in addition, increasing the energy charged to
 8 a level closer to margin cost is consistent
 9 with energy efficiency. Okay, as Mr. Delaney
 10 stated, it's very important right now to be
 11 engaged in energy conservation in this
 12 province, given where we are right now. Now
 13 Mr. Henderson verified that increasing the
 14 energy charge to levels closer to marginal
 15 costs improves the efficiency of the price
 16 signal during Mr. Johnson's cross-examination.
 17 Now, in fact, Newfoundland Power attempts to
 18 better reflect marginal costs in all of its
 19 rates, as pointed out by Mr. Henderson
 20 yesterday.
 21 Q. Can the Basic Customer Charge be reduced while
 22 maintaining acceptable customer impacts?
 23 A. Okay, the effect of reducing the customer
 24 charge is that you transfer costs from the
 25 low-consumption customers to the high-

Page 60

1 that which becomes close to five percent, it's
 2 still about two percent less than the seven
 3 percent originally proposed by Newfoundland
 4 Power and it is comparable to or less than the
 5 increases proposed by Newfoundland Power for
 6 segments of customers in the other customer
 7 classes. Okay. And I won't go into detail on
 8 that, but it's well documented. Specifically,
 9 rates 2.2, 2.3 and 2.4 have customers who do
 10 experience rate increases that are greater
 11 than one percent, but they're one percent
 12 greater than the average increase for that
 13 class overall.
 14 Q. Mr. Bowman, do you have any further comments
 15 to make regarding Mr. Henderson's testimony
 16 yesterday?
 17 A. Yes, I have two specific comments. The first
 18 relates to the suggestion that rate design
 19 changes like this should be left to the Rate
 20 Design Study and the second relates to his
 21 comment that customers may respond to the
 22 entire bill contrary to economic theory.
 23 Okay.
 24 Now, with regard to the first, I'm not
 25 proposing a change to the rate design. The

Page 61

1 MR. BOWMAN:
 2 rate design is exactly the same, it's still a
 3 flat, single-block energy charge and a
 4 customer charge, that will stay the same. All
 5 we're talking about is the difference in
 6 magnitude in these charges. And actually, in
 7 every rate--in the rates for every one of the
 8 rate classes, because there's a rate change,
 9 the magnitude of the rates within the
 10 components, magnitude of the charges change,
 11 they have to. If they don't change, that
 12 means that you're leaving rates exactly the
 13 same and Newfoundland Power won't get a rate
 14 increase, okay. So you have to make
 15 adjustments to the magnitude. So the issue
 16 is, are you making adjustments--if you're
 17 going to make adjustments anyway, you might as
 18 well make them in a way that results in
 19 improved efficiency, provided it doesn't have
 20 adverse customer impacts.
 21 Now, if you forgo a decision to reduce
 22 the Basic Customer Charge until after the Rate
 23 Design Study, you'll forgo the opportunity to
 24 reduce production from Holyrood for at least
 25 three years. Those new rates wouldn't be

Page 63

1 customers are not sophisticated enough to
 2 respond to a marginal price signal. If that's
 3 the case, should we set all our rates on a
 4 single flat charge with no price signal,
 5 because some customers maybe in every class
 6 aren't sophisticated enough to respond? That
 7 makes no sense to me. Now, in fact, many
 8 customers--the bottom line here, many
 9 customers are sophisticated enough to respond
 10 to the price signal. In any regard, even if
 11 they aren't, the market certainly is. For
 12 example, a manufacturer of energy-efficient
 13 light bulbs show on the package how much a
 14 customer can save in electricity costs by
 15 purchasing the energy-efficiency light bulb,
 16 and that's based on rates. Likewise, an
 17 appliance manufacturer shows how much a
 18 customer can save over the lifetime of an
 19 appliance by buying his brand relative to the
 20 average. So that savings is based on the
 21 rates paid by customers, it's not based on
 22 whether a customer's overall bill is going up
 23 or down. Now this is why rates are so
 24 important to the province's Energy Efficiency
 25 Initiative. If the rates reflect the marginal

Page 62

1 implemented for several years now. Now this
 2 would be entirely inconsistent with the Energy
 3 Plan and Mr. Ludlow's testimony that the major
 4 consideration with regard to rates is the
 5 price of oil and Holyrood.
 6 Now with regard to Mr. Henderson's
 7 suggestion that some customers may respond to
 8 the entire bill rather than marginal price
 9 signal, there's several issues here. I think
 10 I heard Mr. Henderson agree that economic
 11 theory is that pricing marginal consumption at
 12 marginal cost of supply will result in
 13 efficient allocation of resources in the
 14 economy. I think he said sometimes customers
 15 don't react according to the efficiency of the
 16 price signal. Now this is a basic premise,
 17 the efficient allocation of resources is a
 18 basic premise in every rate design training
 19 course I've ever been involved with or anyone
 20 I've ever seen anyone else involved with. As
 21 far as I know, this is, it's always been a
 22 rate-design principle here, and I believe Mr.
 23 Henderson reinforced that statement yesterday.
 24 Now, the issue here is this jurisdiction
 25 has never set rates on the basis that some

Page 64

1 costs, then the market responds accordingly
 2 and customers by default, responding to the
 3 marketplace, will consume the appropriate
 4 amounts of electricity.
 5 Q. So, Mr. Bowman, what is your specific
 6 recommendation and what does the Board have to
 7 consider in making its decision?
 8 A. Okay, my specific recommendation is that Basic
 9 Customer Charge for the Domestic class be
 10 reduced by one dollar per month. The energy
 11 charge would be increased to recover the
 12 remainder of the approved revenue allocation
 13 to this class. Okay, now this will improve
 14 the efficiency of the rate. It's consistent
 15 with regulatory practice elsewhere in Canada
 16 and it's consistent with the government's
 17 Energy Plan and priorities, concerns expressed
 18 by Newfoundland Power. What the Board needs
 19 to decide is if the benefits resulting from
 20 the efficiency gains trump the customer
 21 impacts and those customer impacts, I've
 22 already said, basically 67 percent of the
 23 customers are indifferent or will see rate
 24 reductions rather than increases.
 25 Q. Mr. Bowman, moving on to your second topic,

Page 65

1 MR. JOHNSON:
 2 can you explain just what a Distribution
 3 Reliability and Service Standard is?
 4 A. Okay, Distribution Reliability and Service
 5 Standard establishes performance standards and
 6 performance reporting and monitoring for
 7 electric distribution and supply services
 8 provided by a distribution company.
 9 Q. How is this different from what Newfoundland
 10 Power does now?
 11 A. Currently Newfoundland Power files quarterly
 12 and annual reports with the Board. Now the
 13 report submitted annually to the Board is the
 14 Company's Annual Report. Customer service
 15 related information is at a very high level,
 16 as it is with most company annual reports, so
 17 it's not nearly as detailed a document as the
 18 quarterly reports are.
 19 Now the quarterly reports cover
 20 highlights, customer service, system
 21 performance, financial matters, capital
 22 program, productivity, safety and environment
 23 and community aspects. There's also a number
 24 of appendices relating to financial
 25 statistics, electricity statistics,

Page 67

1 from the Consumer Advocate and approval by the
 2 Board. In addition, if NP missed a regulatory
 3 target in the standard, there would be a
 4 regulatory requirement that NP file with the
 5 Board and action plan to address the problem.
 6 The specific of what's missing in the current
 7 reporting regime are targets that have been
 8 developed with input from the Consumer
 9 Advocate whose first priority is to represent
 10 the interests of consumers versus targets that
 11 have been developed wholly by the Company
 12 whose first priority is to represent the
 13 interests of its shareholder. Now the targets
 14 are established without specific--and approval
 15 of the Board.
 16 Q. Why is it important that a Distribution and
 17 Reliability Standard be developed?
 18 A. Okay, Quality of Service Regulation is defined
 19 as regulatory regime with reliability and/or
 20 quality of service targets set by the
 21 regulator. There may or may not be penalties
 22 or rewards associated with the targets and
 23 Rate of Return may be set by traditional Cost
 24 of Service regulation, as it is in this
 25 province, or it may be tied to performance,

Page 66

1 electricity sold, weather adjustments,
 2 customer and employee statistics and service
 3 continuity.
 4 Now with regard to customer service, the
 5 quarterly reports show customer satisfaction,
 6 customer minutes of outage, SAIDI, SAIFI,
 7 first call resolution, customer calls answered
 8 within 40 seconds, trouble call response and
 9 injury frequency rate.
 10 Now customer service performance is
 11 compared to plan targets, which I understand
 12 from Newfoundland Power witnesses are the
 13 internal management metrics. Now the
 14 quarterly reports also include details
 15 relating to service continuity on a regional
 16 basis.
 17 So the basic difference, they're
 18 reporting more or less the same information,
 19 the basic difference between the standard and
 20 what Newfoundland Power is currently reporting
 21 relates to the development and justification
 22 of the plan targets and accountability in the
 23 event that the targets are not met. Okay, a
 24 standard would replace NP's internal targets
 25 with regulatory targets developed with input

Page 68

1 okay, and that's similar to a PBR scheme.
 2 Now, according to an Edison Electric Institute
 3 survey in the US, it's no longer considered
 4 adequate to simply file reports with the
 5 regulator. The industry is moving towards
 6 reliability and quality of service targets set
 7 by the regulator. Now, further, it's stated
 8 by the Alberta Energy and Utilities Board that
 9 news release filed with the Board titled "EUB
 10 to Implement Service Quality Plans for
 11 Regulated Utility Provides." This is a
 12 quote, "The EUB has a mandate to insure that
 13 customers receiving gas or electricity under a
 14 regulated rate tariff receive safe, adequate
 15 and proper service at just and reasonable
 16 rates. These service quality and reliability
 17 plans are one way for the EUB to fulfil its
 18 mandate." I believe the Board in this
 19 province has a similar mandate.
 20 Q. Mr. Bowman, what are the objectives of a
 21 Distribution Reliability and Service Standard?
 22 A. Okay, the objectives, of course, would be
 23 developed by the Parties, but the objectives
 24 as I see them, they include make transparent
 25 performance relating to the provision of

Page 69

1 MR. BOWMAN:
 2 distribution and supply service; provide an
 3 audit trail for monitoring and analysing
 4 performance during and between general rate
 5 applications. In this case it would help
 6 determine if Newfoundland Power is meeting the
 7 requirements under the Electric Power Control
 8 Act (1994) and more specifically, if its
 9 delivering power to its customers equitably
 10 and at lowest possible cost consistent with
 11 reliable service. It's also to provide a
 12 basis for determining the need and prudence of
 13 reliability and service related expenditures
 14 and it's to promote regulatory efficiency by
 15 enabling monitor of performance between
 16 general rate applications, thus increasing the
 17 time between general rate applications and by
 18 identifying and resolving service problems
 19 earlier and without the need for a public
 20 hearing. The idea here is to have a mechanism
 21 in place that actually reduces regulation.
 22 For example, if we had this in place now, we
 23 wouldn't be in this hearing on this subject
 24 right now. And in terms of prudence, if there
 25 was a prudence situation, this is something

Page 71

1 Now you've heard a fair amount of discussion
 2 on Newfoundland Power's 80/40, answer 80
 3 percent of the calls within 40 seconds. This
 4 is a similar, similar metric here. Now like
 5 it was pointed out, they use 40 seconds,
 6 Vermont has 20 seconds, I think Alberta has 30
 7 seconds, but basically they report on the
 8 basis of the equipment, the IT infrastructure
 9 that you have.
 10 Now there's also performance metrics in
 11 terms of the number of calls abandoned, number
 12 of outage calls not answered and number of
 13 calls that receive a busy signal or message.
 14 Now, Newfoundland Power in response to RFIs
 15 from 451 onwards, they provide--I've asked for
 16 this type of information. Sometimes they have
 17 it. They have pretty good information on the
 18 call answering, some of the other areas they
 19 don't. But basically with those responses we
 20 got probably, I'd say, about two thirds of
 21 what we need. And through the cross of Mr.
 22 Delaney we find that in the areas that are--
 23 they might not have specific metrics today,
 24 they actually are tracking metrics that would
 25 be suitable.

Page 70

1 you could address at the time and avoid any
 2 kind of pudency hearing as a result of that.
 3 Q. Mr. Bowman, what does a Distribution
 4 Reliability and Service Standard generally
 5 cover?
 6 (10:45 A.M.)
 7 A. Just bear with me a minute. Okay, basically
 8 it covers three things. There's general
 9 provisions, that's the purpose and framework
 10 of the standard measurement and reporting
 11 protocol and definitions. Performance
 12 reporting and standards, and I'll get into
 13 that in more detail in a minute. And the
 14 third thing is the service guarantees.
 15 Customer service related, service quality
 16 related and administration of grantees, just
 17 what form will the guarantees take.
 18 Now performance reporting and standards,
 19 many of those you've heard over the last
 20 couple of days, Newfoundland Power already
 21 reports performance in many of these areas.
 22 In Vermont they have call answer performance
 23 measures. Now that's the number of calls not
 24 reaching a company rep within 20 seconds,
 25 number of attempts to reach a company rep.

Page 72

1 Like, there's metrics related to work
 2 performance, for example, and that metric is,
 3 I think they have--they try to have new
 4 customers connected within three days of all
 5 the approvals going through. Like, that's
 6 something you could track. And I do like to
 7 see work performance tracked. I think we've
 8 all probably sat in our homes waiting for
 9 someone to show up who was supposed to deliver
 10 something or, you know, not just make a new
 11 connection, but deliver furniture or
 12 something, when they don't show up, it's very
 13 painful. So this is something that I feel is
 14 important to customers.
 15 We've also discussed to some extent the
 16 billing and metering performance. This is a
 17 direct service provided by Newfoundland Power.
 18 Customers, it's, you know, that's something
 19 customers see on a regular basis. It's
 20 important to track performance in those areas.
 21 All these other areas do track performance.
 22 Newfoundland Power tracks different things in
 23 these areas. The response in those RFIs was a
 24 little weak on the billing performance, but
 25 through cross yesterday it looks to me again

Page 73

1 MR. BOWMAN:
 2 like they have metrics, it's just a matter of
 3 fitting them to what they're doing now.
 4 Next area is customer satisfaction.
 5 Well, they carry out customer satisfaction
 6 surveys quarterly.
 7 Worker safety performance, they already
 8 do that, we have statistics for that.
 9 Reliability performance, SAIDI, SAIFI,
 10 CAIDI, they certainly have that. And they
 11 also report worse performing--worse performing
 12 feeders. And they do that now in their
 13 quarterly reports, and we've got plenty of
 14 information on the record here, as well.
 15 So that covers the reporting, performance
 16 reporting and standards.
 17 Q. Is the-how would the benchmarks--how are the
 18 benchmarks established?
 19 A. Yeah, well much the same as Newfoundland Power
 20 establishes its internal targets today.
 21 Benchmarks are based on specific needs of
 22 Newfoundland Power customers. They take into
 23 account the experience of a relevant peer
 24 group. Newfoundland Power often compares
 25 their performance relative to the CEA peer

Page 75

1 And that's something BC Hydro found. They're
 2 actually in the third quartile in terms of
 3 reliability performance, but their customers
 4 are happy. So, what's the sense of spending
 5 more money on reliability if your customer is
 6 already happy with service? Now, that doesn't
 7 preclude doing other things that might have an
 8 impact on reliability, like doing safety. If
 9 you have to reconductor (sic.) because sag is,
 10 there's too much sag and it becomes, you know,
 11 violates a safety standard, well, then you
 12 would have to upgrade that, you would have to
 13 reconductor, raise the poles or something,
 14 that might have an impact on reliability, it
 15 might improve your reliability but you really
 16 done that for safety. So it doesn't preclude
 17 you from doing any of these things. What it
 18 precludes you from doing is if customers are
 19 satisfied, you don't spend additional money
 20 for the sole purpose of improving performance
 21 in that area.
 22 Q. Why is Newfoundland Power opposed to the
 23 development and reporting under a standard, in
 24 your assessment?
 25 A. Okay. My understanding of Mr. Delaney's

Page 74

1 group, okay, but they take into account
 2 current levels of satisfaction in Newfoundland
 3 Power's customers. As Mr. Delaney said on the
 4 stand there the other day, again, he said when
 5 they set their 80/40 standard, they looked at
 6 how their customers rated their performance in
 7 that area and it was, I think he said it was
 8 typically 90 percent or better. They didn't
 9 feel they had to improve performance in that
 10 area because customers are satisfied with it.
 11 Okay, so, okay. And the issue here is while
 12 it's important that services, that service to
 13 Newfoundland Power's customers be compatible
 14 to that in other jurisdictions, it's more
 15 important that expenditures reflect the value
 16 of Newfoundland Power's customers place in a
 17 particular aspect of service. Basically
 18 current levels of SAIDI across the system are
 19 four--if it's four hours, and this happens to
 20 be double the peer group average, but
 21 customers are satisfied with the reliability
 22 of performance, there's really little
 23 justification to commit expenditures to
 24 improve system SAIDI performance even though
 25 its performance lags the industry average.

Page 76

1 testimony is that he has three concerns. One
 2 is how to deal with the difference between
 3 urban and reliability when setting standards.
 4 The second is cost, the standard could require
 5 additional data and reporting, and capital for
 6 new information systems, and there would be
 7 the cost and effort associated with developing
 8 the standard. And the third is reduce
 9 management flexibility.
 10 Now, with regard to the first, you can
 11 address the urban/rural issue by setting
 12 targets for the overall system, SAIDI and
 13 SAIFI. And that's what they do in Vermont and
 14 Delaware. In Alberta and Ontario they don't
 15 even require reporting and monitoring of
 16 reliability performance at the system level,
 17 they don't actually have targets, okay. Now,
 18 most jurisdictions reporting of worst
 19 performing feedings is also a requirement and
 20 as a result the urban/rural difference in
 21 reliability does not really have to be
 22 explicitly addressed. And I think Mr. Delaney
 23 agreed to that on the stand yesterday.
 24 Okay, now second, whether or not a
 25 standard requires additional cost depends on

Page 77

1 MR. BOWMAN:
 2 its design. Now, if the Parties in this case,
 3 the CA, the Board and Newfoundland Power
 4 believe that additional costs associated with
 5 standard are justified, then the costs are
 6 likely to increase and Newfoundland Power
 7 would be allowed to recover those costs. So
 8 it's basically the same process undertaken
 9 today, except it will incorporate input
 10 directly from the PA and approved by the
 11 Board.
 12 Now third, a standard does not reduce
 13 management flexibility to run the business.
 14 Newfoundland Power can keep its internal
 15 metrics and continue to apply engineering
 16 judgment. The standard simply helps to align
 17 NP management with regulatory priorities
 18 approved by the Board, basically just has the
 19 utility complying with Board orders. As I
 20 already stated, the Alberta EUB states that
 21 customers are entitled to receive safe,
 22 adequate and proper service at just and
 23 reasonable rates. These service quality and
 24 reliability plans are one way of regulatory
 25 entity can fulfil its mandate.

Page 79

1 wouldn't be in this hearing right now debating
 2 the merits and to a large extent Newfoundland
 3 Power's customer service related performance.
 4 Now the fact that a standard is in place
 5 enables the Board and the CA to be more
 6 receptive to longer time frames between GRAS
 7 because they'll have comfort in knowing that
 8 the NP customer service related performance
 9 will be monitored and reported relative to an
 10 external board-approved standard between GRAS.
 11 Okay, it makes it easier for us to agree to
 12 these regulatory mechanisms that allow the
 13 extension of the periods between GRAS.
 14 Q. Mr. Bowman, why should customer service
 15 related performance be monitored between GRAS
 16 in that fashion, ie, relative to an external
 17 Board approved standard?
 18 A. Yeah, well, as Mr. Delaney says, Newfoundland
 19 Power is not a cost plus utility. They build
 20 efficiency improvements into their revenue
 21 requirement totally about \$530,000. Okay, now
 22 as he stated, he doesn't know at the moment
 23 how they'll get these productivity
 24 improvements and he states the target is
 25 aggressive, okay. Now this means that

Page 78

1 Now, Mr. Delaney states that he believes
 2 that the current service and reliability
 3 reporting meets the reasonable needs of the
 4 Board and other stakeholders in the regulatory
 5 process. Okay, now that simply isn't true.
 6 The Consumer Advocate has not had input into
 7 the selection of targets so there's no
 8 countering input to the standards developed
 9 solely by the Company with primary
 10 responsibility to the shareholder. That's
 11 again, I say the Company's prime
 12 responsibility to the shareholder, you need
 13 someone on the other side whose primary
 14 responsibility is to the consumers. And when
 15 you have both sides developing the standards,
 16 then you come out with a reasonable outcome.
 17 And, of course, with the Board reviewing that
 18 and review and approval, then presumably you
 19 have something that's best for the system
 20 overall.
 21 Now finally, Mr. Delaney states that the
 22 adoption of a standard is not consistent with
 23 the recent focus on regulatory efficiency.
 24 And as I've already said, I couldn't disagree
 25 with that more. If we had a standard, we

Page 80

1 Newfoundland Power will need to cut costs in
 2 order to achieve its Rate of Return. Okay,
 3 now as a result of cost-cutting efforts,
 4 customer service may deteriorate. Now in
 5 order to guard against deterioration of
 6 service, a regulator needs to establish
 7 benchmarks with reporting of performance
 8 relative to the benchmarks, requiring the
 9 utility to file customer service related
 10 performance relative to performance raises a
 11 red flag to the Board when performance is
 12 deteriorating. This is particularly relevant
 13 when there are extended periods of time
 14 between rate cases. You don't want to leave
 15 performance deterioration until the next GRA
 16 in such cases.
 17 Q. Mr. Bowman, how are you proposing that the
 18 standard be developed?
 19 A. I'm proposing that it be a joint effort lead
 20 by the Consumer Advocate, so the effort will
 21 be lead by the Consumer Advocate and data
 22 information review undertaken by Newfoundland
 23 Power. The reason I feel they should take the
 24 lead is because the standard is customer
 25 focused and it's desirable to get the customer

Page 81

1 MR. BOWMAN:
 2 viewpoint incorporated from the beginning of
 3 its development. In addition, Newfoundland
 4 Power appears to be opposed to the standard,
 5 so it's appropriate for the Consumer Advocate
 6 to take the lead. Now, the Board would have
 7 full approval authority and participate in the
 8 process as it sees fit to facilitate the
 9 approval process. Now Hydro would, of course,
 10 also be a participant in the review and
 11 approval process, although not in the actual
 12 design.
 13 Q. Mr. Bowman, how soon could this be completed?
 14 A. I believe I could prepare a proposed draft of
 15 the standard for Newfoundland Power review
 16 within two weeks of receiving Newfoundland
 17 Power's response to the data request. Now
 18 we've got much of the information, as I said,
 19 probably about two thirds of it, picked up
 20 some more this week. But I do believe if I
 21 was able to sit down with Mr. Delaney for a
 22 few hours, I could find out exactly what else
 23 they're reporting in these other areas, ask
 24 him for historical performance in those areas
 25 and I think we could probably have this, have

Page 83

1 Q. Mr. Todd was here a few minutes ago arguing
 2 that that should be increased, that we should
 3 have even a further productivity incentive.
 4 I'm a little puzzled as to why we now need
 5 standards to protect against what the Company
 6 says we think we can meet in terms of
 7 efficiency gains, at the same time one of your
 8 other experts is saying, well, we should have
 9 a further productivity allowance. Can you
 10 square that circle for me?
 11 A. I'm not sure what the difference is. Like, he
 12 thinks the efficiency improvements should be
 13 greater. I'm not commenting on whether it
 14 should be greater or lesser, I'm saying that
 15 Mr. Delaney says it's an aggressive target and
 16 that cost cutting will be necessary. If
 17 there's cost cutting necessary, it may have an
 18 impact on customer service.
 19 Q. So to take that logic, then the more cost
 20 cutting, the greater the need for the
 21 standard?
 22 A. I don't know if the need for the standard
 23 increases, but I think there is a need for the
 24 standard.
 25 Q. Okay. Because I must say, I had some

Page 82

1 a decent draft within two weeks.
 2 Q. Does that conclude your evidence on direct,
 3 Mr. Bowman?
 4 A. Yes, it does.
 5 CHAIRMAN:
 6 Q. Thank you, Mr. Johnson. When you're ready on
 7 cross, Mr. Kelly, please?
 8 KELLY, Q.C.:
 9 Q. I'm prepare to start, Mr. Chairman. Mr.
 10 Bowman, I got--I'm going to deal with the
 11 reliability issue first, so we'll start there.
 12 But before I get into the meat of it, there's
 13 two points that I need to get clarified. I
 14 just listened to your evidence as what you
 15 just had to say about one of the purposes for
 16 it. And if I followed you correctly, you were
 17 concerned that in terms of trying to reach the
 18 Company's target of \$531,000 that the Company
 19 might engage in cost cutting measures that
 20 might impact reliability. Do I have that
 21 correct?
 22 A. No. I said it might impact customer service.
 23 Q. Might impact customer service, okay, same
 24 thing. But Mr. Todd -
 25 A. Well, actually, it's not the same thing.

Page 84

1 difficulty following that train of logic.
 2 Now, the next thing I just wanted to be sure I
 3 understand before we get into the meat of this
 4 relates to the fact that this issue, this is
 5 not the first time this issue has come before
 6 the Board. In fact, this came before the
 7 Board on Newfoundland Power's 2007 Capital
 8 Budget Application, correct?
 9 A. What issue?
 10 (11:00 A.M.)
 11 Q. The issue of reliability, how it should be
 12 dealt with. Are you familiar with that?
 13 A. No.
 14 Q. Okay. Chris, can we put up P.U. 30 (2006)?
 15 And just, Chris, could you go over to page 10?
 16 It actually begins on the bottom of page 9.
 17 Just scroll back to the bottom of page 9 a
 18 little bit first, Chris. It begins with a
 19 discussion of the distribution reliability
 20 initiative, Mr. Bowman.
 21 A. Yes.
 22 Q. And then if we come over to page 10, Chris,
 23 scroll up there, a bit more. There we go.
 24 And the discussion begins at line 12. And the
 25 Board explains in considerable detail how it

Page 85

1 KELLY, Q.C.:

2 goes about dealing with the reliability issue.

3 Have you read this before?

4 A. Sorry, what does this relate to again?

5 Q. This relates to how the--whether there should

6 be reliability and service standards and

7 whether one should get into this whole

8 process. Have you read this before?

9 A. What is this?

10 Q. Go back to the cover page. It's the Board's

11 decision, P.U. 30 (2006) on Newfoundland

12 Power's 2007 Capital Budget Application.

13 MR. JOHNSON:

14 Q. Why don't we print it off and give it to him

15 so he can see it?

16 A. I can't, I don't know. I don't remember being

17 a participant in that. Where was I? I think

18 maybe -

19 KELLY, Q.C.:

20 Q. Have you even, have you read the order?

21 A. From the Capital Budget?

22 Q. Yeah, this order that we have here.

23 A. Offhand I don't know. I'd have to take a more

24 detailed look at it. I'm not sure.

25 Q. Because it's kind of fundamental to, like,

Page 87

1 witness would be familiar with the Board's

2 order on it.

3 MS. NEWMAN:

4 Q. Mr. Chairman, the clerk has gone to get a

5 paper copy of this order now and we can

6 present that to the witness.

7 KELLY, Q.C.:

8 Q. I have no problem waiting for a moment or

9 taking a short break now or how do you wish to

10 proceed?

11 CHAIRMAN:

12 Q. Well, perhaps what we could do, in fairness to

13 the witness, if he hasn't seen this

14 information before, is really to take our

15 break now. You know, it was scheduled for 11,

16 in any event. We've been at it since nine.

17 And so we'll do that until 11:30 and then come

18 back. Would that be satisfactory?

19 KELLY, Q.C.:

20 Q. Certainly.

21 CHAIRMAN:

22 Q. So he can have a little bit of time to absorb

23 it. Mr. Johnson, is that okay?

24 MR. JOHNSON:

25 Q. That's fine.

Page 86

1 where we spent a lot of time and effort into

2 it and the kind of a starting point is, well,

3 okay, where are we so far in terms of the

4 regulatory decisions in this jurisdiction.

5 And this doesn't ring any bells to you?

6 A. It's not ringing any bells right now. I'd

7 have to have a look at it.

8 Q. Let me take you down to paragraph 26 and--

9 lines 26 and 27. The Board goes on to say,

10 "In addition" -

11 MR. JOHNSON:

12 Q. Mr. Chairman, I'm sorry, but it's fine and

13 dandy to put up something on the screen and

14 say have you seen it before. I mean, I think

15 in fairness to the witness, if there's a paper

16 copy that he could--you know, that's nearly--

17 that is very tough to do for a man on the

18 stand, I'm afraid. It's not fair.

19 CHAIRMAN:

20 Q. Will you be continuing to use this, Mr. Kelly?

21 KELLY, Q.C.:

22 Q. I was going to take the witness to lines 26 to

23 32. But I just, frankly, assumed, Mr.

24 Chairman, that, I mean, this whole hearing has

25 been about reliability standards, that this

Page 88

1 CHAIRMAN:

2 Q. Okay. Thank you. We'll reconvene at 11:30.

3 (RECESS)

4 (11:30 A.M.)

5 CHAIRMAN:

6 Q. Thank you. Mr. Kelly, do you have any idea

7 how much longer you might be?

8 KELLY, Q.C.:

9 Q. I'm kind of shooting for about an hour and a

10 half, Mr. Chairman. The questions are not

11 necessarily that long, it's the answers.

12 CHAIRMAN:

13 Q. Fair enough. So are you ready to proceed?

14 A. Yes, I apologize, I have seen this document.

15 I don't normally participate in the Capital

16 Budget Application, so I drew a blank on it

17 there, but go ahead now.

18 KELLY, Q.C.:

19 Q. Okay, so, Mr. Bowman, you did, you are

20 familiar with this document?

21 A. Yes.

22 Q. And you did participate with the Consumer

23 Advocate in the 2007 Capital Budget

24 Application?

25 A. To an extent, yes.

Page 89

1 KELLY, Q.C.:

2 Q. Okay. And the Board, at page 10, lines 12

3 through 24, sets forth the Board's approach to

4 how they deal with these reliability issues,

5 correct? And I'm not going to read it. I

6 take it it's agreed?

7 A. Yes.

8 Q. Okay. And then if you come down into the last

9 paragraph, I'm going to take you down to line

10 29. The Board says, "Should the customer

11 satisfaction level fall to an unacceptable

12 level, steps can be taken to make improvements

13 or additional information on reliability, the

14 expectations and the relationship to rates can

15 be sought. The Board is satisfied that

16 additional work in this area is not required

17 at this time." And I wanted to start just by

18 being, to try to understand this very simple

19 point. I went through all of your testimony

20 in detail, I went through all of the RFIs. I

21 couldn't find anywhere any testimony or

22 evidence that the satisfaction levels have

23 fallen. Is anything changed in the last year?

24 A. In regard to customer satisfaction?

25 Q. Customer satisfaction and reliability.

Page 91

1 said reliability is the best on record.

2 Q. And customer satisfaction is fine?

3 A. As near as I can see, customer satisfaction

4 looks -

5 Q. So this is not like something has changed over

6 the last year?

7 A. It's not about something that's changed with

8 regard to reliability or customer

9 satisfaction.

10 Q. Right. And in terms of the length between

11 rate hearings, nobody is targeting anything

12 different than past practice? Last time we

13 were was 2003.

14 A. Yeah, and the time before that was '96.

15 Q. Yeah. No, the time before that was '98.

16 A. For Newfoundland Power?

17 Q. Yes. You can take that subject to check. I

18 don't want to -

19 A. I don't think I was. I think that application

20 had to do with revenue requirement only. I

21 think this is only the -

22 Q. I was here in '98 for the full-blown hearing,

23 so we'll--anyway, let's move on. What I want

24 to focus on next is a little bit of the

25 history of how these standards come about.

Page 90

1 A. Well, certainly things have changed. Do you

2 want me to quantify?

3 Q. Well, no. Has there been any deterioration?

4 In other words, the thrust of my question is I

5 couldn't find anywhere in the testimony that

6 you're saying that things have gotten worse.

7 And so I'm trying to understand, are we here

8 because something has changed, something has

9 gotten worse, or are we here because you want

10 to have another shot at explaining this to the

11 Board?

12 A. No, we're here because I believe it's

13 appropriate--in the industry there's a move

14 towards quality service regulation. And a

15 dominant theme in this Application was the

16 extension of periods between rate

17 applications. And it's my belief that it's

18 easier for the Consumer Advocate and the Board

19 to agree to these extended periods of time if

20 there is a distribution reliability standard.

21 Q. So is the answer to my question then that

22 nothing has changed in terms of customer

23 satisfaction, to the best of your knowledge,

24 or in terms of reliability?

25 A. I think reliability is, I think Mr. Delaney

Page 92

1 First, I think we agree from looking at the

2 material that I've read from you is that these

3 reliability standards largely became about

4 because of deregulation and performance-based

5 regulation. Do we agree on that much?

6 A. I think the changes in the industry triggered

7 more focus on the distribution aspects of

8 service.

9 Q. In fact, if I take you to your Information No.

10 9, there's a bit there on PBR history and I'll

11 just read it out to you. It says,

12 "Deregulation and PBR have transformed

13 traditional Cost of Service rate making into

14 Quality of Service regulation tied to

15 penalties."

16 A. Yeah, I think that the trigger, like I say, I

17 think the changes in the industry caused the

18 various participants to say we've got to look

19 more closely at distribution. Now the

20 distribution aspect of service hasn't changed,

21 it's still fully regulated.

22 Q. Now, deregulation, that essentially involves a

23 breakup of integrated utilities into

24 generation, transmission and distribution?

25 A. No, that was more restructuring, I would

Page 93

1 MR. BOWMAN:
 2 categorize it at.
 3 Q. Or restructuring.
 4 A. The deregulation more to do with introducing
 5 competition in areas that you could actually
 6 introduce competition.
 7 Q. I'll put -
 8 A. Generation.
 9 Q. - the two of those together. So it's breakup
 10 of the industry and introducing competition?
 11 A. As what, what are you defining?
 12 Q. Essentially as the deregulation component.
 13 A. Yes, I think it's fair to say that that's,
 14 those changes in the industry drove the thing.
 15 Q. Right. And PBR is kind of a change in the
 16 regulatory structure so that the individual
 17 utilities then have incentives and profit
 18 sharing with customers?
 19 A. Well, PBR, like Mr. Todd said, PBR kind of
 20 extends the period between rate applications,
 21 okay. And within that Rate of Return is
 22 subject to performance by the utility. Now,
 23 but there's many different--of course, the
 24 definition of the PBR, you look at that
 25 report, they have a different definition of

Page 95

1 Q. Okay. And the purpose of the plan is kind of
 2 in the next paragraph. I'm just going to skip
 3 to the last two lines. "The plan to establish
 4 a means by which the EUB can insure that the
 5 quality of each regulated service provider's
 6 customers performance is being maintained."
 7 So it was to try to maintain the service
 8 levels, correct?
 9 A. Yes.
 10 Q. And next paragraph, they had a system--they
 11 had at least one penalty included. And down
 12 in the second-last paragraph it was pointed
 13 out, "The EUB was given the authority to
 14 create service quality standards under the new
 15 Electric Utilities Act and the Gas Utilities
 16 Act." So they actually had statutory changes
 17 brought in place in order to move to that type
 18 of quality service plan?
 19 A. Yeah, I think, you know, they had changes
 20 brought about to--they implement changes to
 21 bring about the changes in the industry and
 22 this is one of the consequences.
 23 Q. But one of the things that the legislation
 24 expressly did was to give the statutory
 25 authority to create service quality standards?

Page 94

1 PBR than that. They have Cost of Service
 2 regulation and they still call it PBR because
 3 of the penalties -
 4 Q. And with PBR there's many different variations
 5 on the theme?
 6 A. There's Cost of Service regulation in PBR and
 7 there's many variations in between.
 8 Q. Okay, now let's turn next then to Information
 9 No. 16, because I want to just have a quick
 10 chat about the Canadian experience here. Do
 11 you have that? That's the EUB press release,
 12 December 19th, put in this morning. And
 13 you'll see in the first paragraph that service
 14 quality plans were being introduced. I'll
 15 take you down to the second paragraph. "That
 16 the plans establish a process of receiving and
 17 reviewing information that will be used to
 18 confirm performance standards and that being
 19 created as a consequence of the implementation
 20 of the Alberta Government's policy on the
 21 restructuring of Alberta's electric industry
 22 and in response to complaints from customers,"
 23 etcetera. So it came about because of
 24 restructuring and complaints?
 25 A. Yeah, in this case, yeah.

Page 96

1 A. Yes, but that's, like I say, that's one of the
 2 things you do when you're restructuring the
 3 industry.
 4 Q. Right. Which hasn't occurred yet in
 5 Newfoundland? There's no specific legislation
 6 for service quality standards?
 7 A. Not that I'm aware of.
 8 Q. No, okay. Now, then let's have a quick look
 9 at Ontario, which is, let's go to CA-NP-432.
 10 Not the first revision, Chris, the attachment.
 11 Just go to the first page there. And in the
 12 first paragraph it says, "PBR provides the
 13 electric distribution utilities with
 14 incentives for economic efficiency gains to
 15 discourage utilities from sacrificing service
 16 quality in pursuing these economic incentives.
 17 Service quality performance measures are
 18 included in the PBR plan. Utilities will be
 19 expected to monitor and report on all the
 20 service quality indicators within the plan and
 21 the performance of the individual electricity
 22 distribution utilities will be made publicly
 23 available," etcetera. So the purpose of
 24 having those quality standards in the PBR
 25 jurisdiction Ontario was to discourage under

Page 97

1 KELLY, Q.C.:

2 investment in the utility, by the utility,

3 correct?

4 A. Yeah, I think it's fair to say that's one of

5 the reasons, for sure.

6 Q. Right. And, in fact, if you go then, if we

7 just turn up CA-NP-432, the first revision,

8 Ontario's plan was redone in 2005 and then is

9 further being reviewed again?

10 A. Yes.

11 Q. And if we go over to page 140 of the

12 attachment, Chris? You just go to scroll down

13 there. You'll see that--just go down a little

14 bit further there, Chris. That these are

15 minimum standards and intended to maintain the

16 performance on the system?

17 A. Sorry, where are you from on it?

18 Q. I can take you to--there's a number of places.

19 It begins at 140. You're familiar with the

20 plan, I think, are you?

21 A. Yes.

22 Q. And the purpose is minimum standards and

23 maintaining the reliability of the system?

24 A. Yeah, I think the purpose is to maintain

25 minimum reliability of the system and they

Page 99

1 A. Well, the distribution business was not

2 competitive. What they did was they put price

3 caps on a lot of utilities and they were

4 concerned they would cut costs down to the

5 point where they would -

6 Q. Fine, I'll accept that. Now, let's go next to

7 NP-CA-2. And in that particular question you

8 were asked about the reporting requirements in

9 Delaware and Vermont. If you go down to line

10 16 in your answer, I take it in fairness to

11 you, because I just want to be fair to you,

12 that you actually haven't conducted detailed

13 research into the reporting requirements of

14 the utilities in Vermont or Delaware?

15 A. That's true.

16 Q. That's correct?

17 A. Yes.

18 Q. Okay. Now, then come down to lines 22.

19 "Annual capital budget submissions are not a

20 requirement, but utilities in Vermont have

21 typically been submitting rate applications

22 every couple of years owing to increasing

23 purchase power costs." So Delaware and

24 Vermont, unlike Newfoundland, don't have a

25 process of having to get capital budget

Page 98

1 have minimum standards.

2 Q. Minimum standards, that's my point, it's

3 minimum standards. Okay, now let's turn next

4 quickly to the United States. If we talk

5 first about Delaware, let's go to CA-NP-65.

6 And if you go over to, I think it's the next

7 page over there, Chris, page 2. And if you go

8 to about lines 5 to 15? And that makes the

9 point, Mr. Bowman, at lines 5 to 6, it began

10 with certain outages. Lines 8 and 9, because

11 of industry restructuring. And then there's

12 the discussion there from the Delaware Public

13 Service Commission, and minimum standards were

14 then created. That's the source of it in the

15 United States, in Delaware?

16 A. In the State of Delaware?

17 Q. Right.

18 A. I think it's fair to say that they were

19 concerned, and this is based on discussions

20 with regulatory staff, they were concerned

21 that with restructuring that service levels

22 would deteriorate. And -

23 Q. Right. And so it came about because of

24 competitive markets and certain performance

25 problems?

Page 100

1 approval in advance?

2 A. I don't think they have--my understanding is

3 they don't have a specific process for that.

4 Now, they said--it wasn't clear to me, but

5 they said they have these--they've been having

6 regular applications and that's kind of been

7 covering that for them.

8 Q. Yeah, but the regular applications are, as

9 you've described them, rate applications every

10 couple of years. There's no program in

11 Vermont or Delaware that requires the utility

12 to come in in advance and get approval for

13 what they're going to spend on capital

14 projects?

15 A. Once again, I didn't conduct that extensive

16 research. It's my understanding that they

17 don't have that.

18 Q. Okay. And I'll take that as sufficient

19 answer. So now if I go down to line 38, you

20 make the point that Vermont doesn't have

21 retail competition, and at line 40, Delaware

22 does have retail competition, correct?

23 A. In theory, yeah.

24 Q. Okay. Now, then come down a little bit

25 further, at line 43, Green Mountain Power has

Page 101

1 KELLY, Q.C.:

2 now got a new regulatory framework called

3 alternative regulation, correct?

4 A. Yes.

5 Q. And you describe that over on the next page

6 through lines 1 through 10. And without

7 spending time reading it all, it's a form of

8 PBR, isn't it?

9 A. Yeah, they don't consider it PBR and that's

10 why they didn't call it PBR; that's why they

11 call it alternative regulation instead.

12 Q. But when you read the description a rose by

13 any other name sounds like PBR?

14 A. I would qualify it as an incentive regulatory

15 mechanism.

16 (11:45 A.M.)

17 Q. Okay, so if I can just summarize that,

18 Delaware has competitive markets, Green

19 Mountain Power, which is Vermont, has a form

20 of PBR alternative regulation incentives,

21 whatever you want to call it, and neither have

22 a capital budget process?

23 A. Actually, did I look at Delaware? I'm not

24 sure if Delaware does or not, I don't

25 remember. Did I say anything about that?

Page 103

1 percent or ten feeders, whichever is more, and

2 then these are the worse performing feeders,

3 in effect. And in the third line from the

4 bottom of that paragraph, "The EDC shall

5 insure that feeders, identified as having the

6 poorest reliability, shall not appear in any

7 two consecutive performance reports without

8 initiated corrective action." So there's an

9 obligation in Delaware to actually go out and

10 spend money to make sure you don't get on the

11 list twice, correct?

12 A. Well, yeah, not necessarily capital, but they

13 have to take action on it.

14 Q. Exactly right, not necessarily capital, could

15 be maintenance, but you got to do something,

16 you shall not be on the list twice?

17 A. They have to file a plan, a corrective action

18 plan.

19 Q. So Delaware is all about maintaining minimum

20 service reliability?

21 A. Yes.

22 Q. Okay.

23 A. Well, yeah, and I guess there's other services

24 in there, as well, but reliability is one of

25 them.

Page 102

1 Q. Well, if you go back to your answer -

2 A. Yeah, what's it say in there?

3 Q. You said annual capital budget submissions are

4 not a requirement.

5 A. Yeah, okay.

6 Q. For both of them. And I appreciate you

7 haven't done exhaustive research. Now, I want

8 to flip next to the Delaware standards. And

9 we'll find those in Information No. 8. We

10 won't go at these in any detail. But let me

11 just see if we can quickly turn you over,

12 Chris, to page 13, Section 3.1? There we go.

13 And the requirement is that the EDC, which is

14 the distribution utility, "shall provide

15 electric reliability service that is

16 consistent with pre-restructuring service

17 levels." So the idea was to maintain what

18 they had before they got into restructuring?

19 A. Yeah, they didn't want reliability slipping

20 following restructuring.

21 Q. Exactly my point. And then not to then spend

22 any more time going through too many sections,

23 let me jump you down to Section--page 19,

24 Section 1003. They have a requirement about

25 the distribution feeders to identify two

Page 104

1 Q. Okay. Now, let's just have a quick look at

2 our system here in Newfoundland. On the

3 capital side the Board has access to the SAIFI

4 and SAIDI information, correct, it's provided

5 for -

6 A. Oh, in the capital program?

7 Q. I just want -

8 A. In the capital budget.

9 Q. - to talk about capital first.

10 A. Okay.

11 Q. Okay, we'll come to maintenance in a second.

12 But on the capital side the Board has access,

13 as they said in their report, to the SAIDI and

14 SAIFI information?

15 A. It's in the quarterly report.

16 Q. It's in the quarterly reports. And the

17 Company targets the worst performing feeders

18 each year, correct?

19 A. They identify the worse performing feeders.

20 Q. Right. And the ones that the work is being

21 done on, the order of magnitude has been

22 several times above the Company averages and

23 the distribution reliability initiative?

24 A. Yeah, I guess that depends how you define it.

25 Like, it depends whether you're defining on

Page 105

1 MR. BOWMAN:
 2 the basis of SAIDI, SAIFI, you know, number of
 3 customer outages.
 4 Q. Which leads beautifully to my next question,
 5 Mr. Bowman, perfect segue. What the Board has
 6 is they have the ability then to look at all
 7 of those pieces of data as opposed to any one
 8 individual piece, like a single SAIDI standard
 9 or a single SAIFI standard?
 10 A. Yeah, like all these standards, they report
 11 SAIDI, SAIFI, CAIDI and worse performing
 12 feeders.
 13 Q. Right.
 14 A. Maybe, maybe not CAIDI, but.
 15 Q. And at the end of the day the Board can look
 16 at what the results have been, I'm not going
 17 to take you there, we've had it up on the
 18 screen a number of times, Graph 6 from the
 19 operations evidence which shows the previous
 20 performance of those feeders in and the
 21 current performance?
 22 A. That's true.
 23 Q. Right, okay. So and the--so we have an open,
 24 transparent process for approval and review of
 25 the capital budget process, correct?

Page 107

1 other means available to improve overall
 2 reliability performance that should not be
 3 ignored such as maintenance practices and
 4 operational deployment?
 5 A. Yes. I take no exception with the approach to
 6 reliability.
 7 Q. Right. And that then takes us then to
 8 maintenance. And if we just flip up Exhibit
 9 1, the first revision? Maintenance goes under
 10 distribution expense? You're familiar with
 11 that?
 12 A. Distribution maintenance goes under
 13 distribution expense?
 14 Q. No, the maintenance part of it is under
 15 distribution, the heading, 6.6 million for
 16 operations and maintenance on distribution?
 17 A. I don't--there might be maintenance associated
 18 with transmission substations, is that -
 19 Q. Right, but in terms of the distribution part
 20 of it, with undoubtedly bits under each one,
 21 but in terms of the distribution reliability
 22 part if it it would be under distribution?
 23 A. I suspect that's true, but I haven't looked in
 24 detail at these line items.
 25 Q. You haven't looked in detail at it?

Page 106

1 A. I believe so.
 2 Q. Right. Unlike Vermont and Delaware?
 3 A. Well I think it's -
 4 Q. Which doesn't have a process?
 5 A. Well, I think they have a process. They go
 6 through a general rate application, they get
 7 capital approved in that process.
 8 Q. But not in advance of expenditure?
 9 A. Well, yeah, they can go in in advance of
 10 expenditure in the rate application, they can
 11 say we want to spend this kind of capital and
 12 get approval at that time.
 13 Q. But that's not a requirement?
 14 A. I don't know.
 15 Q. Okay, all right. And the idea of targeting
 16 the worse performing feeders, I take it you
 17 agree, is a good process?
 18 A. It's a good process and I believe all those
 19 standards have that type of application.
 20 Q. In fact, if we go over to NP-CA-6, just pop
 21 that one up for a second, we actually put that
 22 question to you as an RFI. And your answer
 23 was you believe this represents a reasonable
 24 approach to improving overall reliability, but
 25 like Newfoundland Power, you believe there are

Page 108

1 A. Not at the line items, no.
 2 Q. Okay.
 3 A. But I'll take your--I would expect there to be
 4 maintenance included in that, I suppose.
 5 Q. Well then, let's just ratchet it up to a
 6 higher level. In this General Rate
 7 Application the maintenance expenditures have
 8 been reviewed. We've had 464 RFIs from the
 9 Consumer Advocate on every issue, including
 10 maintenance expenditures. So the process for
 11 review of maintenance takes place in an open,
 12 transparent process?
 13 A. A general rate application is an open,
 14 transparent process.
 15 Q. Okay, so that's our second process. The third
 16 process I want to take you to is every number
 17 of years the Board conducts an engineering
 18 review of the system. You're familiar with
 19 that?
 20 A. Could you repeat that?
 21 Q. Every number of years the Board will conduct
 22 an engineering review of the system. In fact,
 23 we marked this morning as Information Item 17
 24 and 18 the reports from Butler in 1991 and
 25 Brown in 1998.

Page 109

1 MR. BOWMAN:
 2 A. Yes, it's '91 and '98, I remember, yeah.
 3 Q. And so that's an open and transparent process,
 4 as well, isn't it, reports are ultimately
 5 filed with the Board and available?
 6 A. Yes.
 7 Q. So this Board has three open processes to deal
 8 with the capital, the operational and then the
 9 engineering review. We agree on that much?
 10 A. Yes.
 11 Q. Okay. Now, the next place I wanted to turn
 12 was to have a look at how you saw these
 13 standards working. Let me--we asked you a
 14 series of questions. I'm going to focus on
 15 just a couple to get the gist of it. Let me
 16 take you to NP-CA-8. Now this was a question
 17 to try to find out how you saw this standard,
 18 reliability standards, whether it would apply
 19 to the system as a whole or the individual
 20 feeders, okay. And if I--I'll start by taking
 21 you to the, I'll take you down to about lines
 22 17 and 18. You suggest that all customers
 23 should receive some minimum level of service
 24 reliability?
 25 A. I say that suggests--yeah, this suggests that

Page 111

1 taking into account that there's varying
 2 numbers of customers on each feeder. Like
 3 you'd rather them give priority to a feeder
 4 with 1000 customers on it than one with ten
 5 customers on it. So that's the thing I'm
 6 trying to -
 7 Q. People in rural Newfoundland might not agree
 8 with you on that, but.
 9 A. Well, and I gave the example of myself. I'm
 10 in a populated area of Virginia, yet I
 11 experienced over 40 hours of interruptions
 12 last year.
 13 Q. Okay. So, in NP-CA-8 you'd like individual
 14 standards for feeders. Can I take you over to
 15 NP-CA-9?
 16 A. No, what I'd like is a standard to apply to
 17 individual feeders.
 18 Q. A standard for individual feeders?
 19 A. Yeah.
 20 Q. Okay. And I take you over to NP-CA-9, I'll
 21 take you to line 11. And you say there you
 22 prefer a reliability target for the system as
 23 a whole with reporting on an annual and multi-
 24 year rolling average basis?
 25 A. Yes.

Page 110

1 all customers should receive some minimum
 2 level of service reliability.
 3 Q. Right. And then at lines 24 to 25 it says,
 4 "Mr. Bowman believes that there should be a
 5 minimum performance indicator related to
 6 individual feeders that if not met would
 7 require an explanation of why the target has
 8 not been met with proposed corrective
 9 measures." So one of the things you'd like to
 10 see is minimum performance indicators for
 11 individual feeders?
 12 A. Yeah, I believe that the Electric Power
 13 Control Act (1994) implies that.
 14 Q. Okay. And you then suggest that CELID and
 15 CEMI might be things to look at. And I take
 16 it you're now aware that the capital assets
 17 that would be necessary to do that, the
 18 Company doesn't have?
 19 A. Well, I'm aware of that applied to that
 20 specifically definition. On the other hand,
 21 you can just apply it to the number of
 22 customers on the feeder.
 23 Q. On the?
 24 A. On the feeder, individual feeders. Like, the
 25 intent here is that you want the utility

Page 112

1 Q. "He believes that reliability should be
 2 reported on a regional basis, as well, and the
 3 worst performing feeders with reliability that
 4 falls short of a specified target."?
 5 A. Yes.
 6 Q. And if we come down--I think I'll just leave
 7 that there. So, if I put those together,
 8 you'd like a minimum target for feeders, a
 9 minimum system target. Would you also have a
 10 regional target or is that just reporting?
 11 A. No, I would just have a minimum target for--
 12 what I would like to see is a minimum target
 13 for, on a feeder level.
 14 Q. Right.
 15 A. And then for the system. And that's what,
 16 that's what Green Mount Power has.
 17 Q. Right.
 18 A. Oh, actually, that's incorrect. Green
 19 Mountain Power has it for the system, but the-
 20 -on a feeder level, they're much like
 21 Newfoundland Power, say, like, report the ten
 22 worse performing feeders or the worse 15
 23 percent are much the same.
 24 Q. Green Mountain doesn't have an individual
 25 feeder target?

Page 113

1 MR. BOWMAN:
 2 A. No.
 3 Q. No.
 4 A. I don't know of anybody who has one. I said,
 5 there's--I'm interested in that because of the
 6 Electric Power Control Act requirement. I
 7 recognize it's a difficult thing to come up
 8 with and probably something that won't be come
 9 up with immediately.
 10 Q. So, all of that, though, minimum targets or
 11 minimum standards, whatever words you want to
 12 use, all address the under spending issue,
 13 don't they? In other words, if you got a
 14 minimum, it's to make sure you spend enough
 15 money to get the minimum?
 16 A. It also implies that you don't have to spend
 17 additional money getting better if you're over
 18 that target.
 19 Q. It implies that, but that's not set out
 20 anywhere in the Delaware standard, for
 21 example, that we looked at?
 22 A. It's to guard against minimum, yeah, it's to
 23 guard against under investment, yes.
 24 Q. Under investment, exactly my point. Now, that
 25 takes me then to NP-CA-13. Let's go there.

Page 115

1 summarize, the purpose is to avoid
 2 overspending?
 3 A. Well, no, there's two purposes. Like, if you
 4 have a standard that's four, for example, for
 5 SAIDI, and the utility is well under that at
 6 two, then, and if they embark on an aggressive
 7 improvement program for reliability, I would
 8 say those costs are imprudently incurred. And
 9 I think that's what I said in my answer.
 10 Q. In fact, if you go down to line 34, you make
 11 the continual observation, "Under performance-
 12 based regulation, prices or revenues are
 13 capped, provide financial incentive for a
 14 utility to improve efficiency and reduce costs
 15 to improve profit margins. If Green Mountain
 16 were regulated under performance-based
 17 mechanism, there would not be the same
 18 emphasis placed on establishing the prudence
 19 of its reliability expenditures because it
 20 would be less able to pass the costs through
 21 to consumers owing to the price-revenue cap.
 22 In this case, the regulator would need to
 23 determine if Green Mountain were spending
 24 enough money on reliability." So when you're
 25 in a PBR system, you're focused on under

Page 114

1 Now as we saw, all of those standards were
 2 derived from PBR, competitive jurisdictions,
 3 etcetera. And this question was posed to you
 4 to try to understand how--what you would think
 5 in the, for example, the Green Mountain
 6 example, as to whether an expenditure, since
 7 they've always met their targets, is an
 8 expenditure going to mean they are imprudent
 9 or they're having good performance. You began
 10 the answer at line 19 talking about
 11 traditional Cost of Service regulation.
 12 (12:00 P.M.)
 13 And you say, "Utilities are allowed to recover
 14 prudently incurred costs plus a return." And
 15 then you go on to say, "Utilities can increase
 16 profits by increasing spending, providing they
 17 can show the costs were prudently incurred."
 18 "This necessitates that certain checks and
 19 balances be in place to insure a utility is
 20 not overspending in an effort to increase
 21 profits." And then you go on at lines 25 and
 22 following to say, "If Green Mountain were
 23 regulated under Cost of Service regulation, it
 24 would be necessary to establish that costs
 25 were prudently incurred." And so to

Page 116

1 spending as opposed to overspending, are you
 2 not?
 3 A. That's a concern, yes.
 4 Q. Okay. Now, if you were to be concerned about
 5 overspending, wouldn't you need to track all
 6 of the costs that are incurred?
 7 A. I think we do that now, don't we?
 8 Q. Well, let's just explore that a little bit.
 9 If you're going to--we're talking about
 10 capital and maintenance. Are you familiar
 11 with the Newfoundland Power Code of Accounts
 12 at all?
 13 A. No.
 14 Q. You're not. So you're not aware that they
 15 track it by item of property, as opposed to
 16 individual feeders, etcetera?
 17 A. I guess I'm familiar with the FERC system of
 18 accounts and I guess there's probably some
 19 similarities with that.
 20 Q. Let me give you a really simple example. If
 21 we send a linesman out to replace an eye bolt
 22 on some pole, he doesn't go around first of
 23 all spending the time and energy recording it
 24 in the system that tracks that that's on that
 25 particular feeder, and so if we were going to

Page 117

1 KELLY, Q.C.:

2 have to track every item of prudence, we would

3 need a system of accounts to track it all, and

4 then we'd have to get the linesman to enter

5 all the necessary data. So you're not

6 familiar with -

7 A. I see what you're saying, but I guess what I'm

8 talking about are specific expenditures

9 related to improving reliability on the

10 system.

11 Q. Okay.

12 A. If you embark on a DRA type program, you are

13 tracking those costs.

14 Q. Right, which takes me to the point that if you

15 limit it to DRI, to the Distribution

16 Reliability Initiative, the Board has all of

17 that now. They have what you're going to

18 spend on it. They have what we spend on it.

19 They have what the previous performance was,

20 and they have the after performance.

21 A. I'm not sure what your point is there.

22 Q. My point is that to the extent that you've got

23 DRI as the issue that we're focused on, the

24 Board has all of that information now.

25 A. Yeah, I'm not suggesting additional reporting

Page 119

1 A. Yes.

2 Q. And if you come down through the line, depends

3 how far you want to go down, you go down as

4 far as you find 300 minutes, which would be

5 five hours, it would be 18 feeders. Don't

6 need to do it precisely, just a visual view of

7 it.

8 A. Okay.

9 Q. With me?

10 A. Yeah.

11 Q. Can you tell me which of those feeders, from

12 the SAIDI number, needs capital or maintenance

13 work?

14 A. No.

15 Q. No, and why can't you?

16 A. Well, because you need input on the SAIFI,

17 SAIDI customer minutes. If you want to

18 determine the worse performing feeders, you

19 need to look at the overall reliability.

20 Q. But even if I gave you the SAIDI, the SAIFI,

21 and the customer minutes, would you still be

22 able to tell me which of those need capital

23 expenditures and which of those need

24 maintenance?

25 A. No.

Page 118

1 requirements.

2 Q. Okay. Just turn then to the next piece that I

3 want to pick up on this point. Let me take

4 you over to CA-NP-463 and you might want to

5 turn up the paper one on this. Just go to

6 Attachment A, the first page. Now this is

7 hard to read on the screen, which is why I

8 gave you the opportunity to--they're right

9 behind you if you need them. This was in

10 response to a question from you to provide the

11 SAIDIs on the entire system, right? And if

12 you start at the very top one, and I'm not

13 going to go through 300 of these, let me quite

14 clear on that.

15 A. Thankful for that.

16 Q. The average on the feeder is 703 minutes.

17 A. Where are we looking?

18 Q. Top line, GPD 01, and then come across about

19 two-thirds of the way across, you see the

20 average?

21 A. Yes.

22 Q. And it's 703.

23 A. Yes.

24 Q. If you want it by hours, just divide by 60.

25 So that one, for example, is over ten, okay?

Page 120

1 Q. No.

2 A. Just tell you which ones are the worse

3 performing.

4 Q. Exactly. How would you know which ones you

5 got to do work on?

6 A. Now that's Newfoundland Power's job.

7 Q. But don't what you need to do in order to know

8 what you got to do work on is to know the

9 conditions of the assets. You got to go out in

10 the field and look and see whether I got to

11 dig up the transformer or I got brush

12 encroaching or what?

13 A. That's right. That's Newfoundland Power's

14 job.

15 Q. Exactly. So that you can't manage the system

16 by looking at statistics. You got to manage

17 the system in terms of capital expenditure by

18 knowing the condition of the assets?

19 A. That's right, and that's why you develop these

20 things with the utility. Can't do it blindly.

21 Q. Now I just want to go very quickly to your

22 supplementary evidence, and take you over to

23 CDB No. 2. What you're proposing here, as I

24 understand it, is based upon the Green

25 Mountain experience in the United States in

Page 121	Page 122
<p>1 KELLY, Q.C.:</p> <p>2 Vermont, correct?</p> <p>3 A. No.</p> <p>4 Q. No?</p> <p>5 A. No.</p> <p>6 Q. I read your material. It says this is based</p> <p>7 off of Green Mountain. Have I missed</p> <p>8 something?</p> <p>9 A. I said I included that as template. I'm not</p> <p>10 basing it on Green Mountain.</p> <p>11 Q. Okay, but as the working template that you put</p> <p>12 forward, this is the Green Mountain template,</p> <p>13 isn't it?</p> <p>14 A. Yes.</p> <p>15 Q. Okay, I kind of minced words on it. Let me</p> <p>16 take you over to the attachment which you have</p> <p>17 as Exhibit CDB No. 2. Now I take you to page</p> <p>18 three, to--just scroll the other way there,</p> <p>19 Chris. You say "the goal of the standard"--</p> <p>20 that's fine--"is to move the Province towards</p> <p>21 a quality of service regulation format that</p> <p>22 better aligns management of the utility,"</p> <p>23 etcetera. So one of your objectives is</p> <p>24 actually to effectively modify the regulatory</p> <p>25 regime. Correct, Mr. Bowman?</p>	<p>1 A. No, I'm just saying do the same thing you're</p> <p>2 doing now, but develop the targets with input</p> <p>3 from the Board and the Consumer Advocate.</p> <p>4 Q. And you propose then that this process will</p> <p>5 take some cost. Have you gotten any budgetary</p> <p>6 approval from anybody to incur the cost?</p> <p>7 A. No.</p> <p>8 Q. No. Have you worked out what you think the</p> <p>9 cost will be?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 A. You need to develop scope of work first,</p> <p>13 before you do that.</p> <p>14 Q. Now page--let me take you over then next to</p> <p>15 page seven. Take you down to the bullet on</p> <p>16 the end of the page. Perhaps the piece you</p> <p>17 got there is good, Chris. Take you to the</p> <p>18 first bullet first. This is where you get</p> <p>19 into the discussion of the individual feeder</p> <p>20 requirements.</p> <p>21 A. Yes.</p> <p>22 Q. So you're proposing those with a CELID or CEMI</p> <p>23 mechanism?</p> <p>24 A. No, I'm not proposing that.</p> <p>25 Q. Why would you--why do you say you're not</p>
Page 123	Page 124
<p>1 proposing it?</p> <p>2 A. I put this in as something that we should</p> <p>3 explore.</p> <p>4 Q. Okay, and then in the next bullet down, you</p> <p>5 say "the Consumer Advocate is interested in</p> <p>6 development of service quality compensation</p> <p>7 metrics. Reward for performance represents a</p> <p>8 change in regulation than that practised</p> <p>9 historically in Newfoundland and Labrador."</p> <p>10 So you're proposing, in essence, a change in</p> <p>11 the regulation?</p> <p>12 A. No.</p> <p>13 Q. No? Explain why your answer reads different</p> <p>14 than how I read it on the page.</p> <p>15 A. Reward for performance represents a change in</p> <p>16 regulation from that currently practised. So</p> <p>17 I'm saying don't do that.</p> <p>18 Q. Let me take you next to page--if we go further</p> <p>19 through the document, Chris, there's an</p> <p>20 Attachment A over on page 11. There we go,</p> <p>21 and just scroll up a little bit so we got the</p> <p>22 worse--no, the other way. There you go.</p> <p>23 You've got proposals for system average</p> <p>24 interruption frequency, SAIFI, customer</p> <p>25 average interruption and duration, CAIDI, and</p>	<p>1 worse performing areas, and that section--I</p> <p>2 won't read the first part, will identify the</p> <p>3 ten worse performing circuits at the top and</p> <p>4 then "all circuits that have been identified</p> <p>5 shall be monitored each year over a five-</p> <p>6 year"--back up. "Newfoundland Power shall</p> <p>7 identify the ten worse performing circuits on</p> <p>8 the system, identify the factors underlying</p> <p>9 the performance, and institute economically</p> <p>10 feasible measures to improve the reliability</p> <p>11 of the circuits," and then they'll go on to be</p> <p>12 monitored. So the requirement would be we</p> <p>13 shall identify and institute economically</p> <p>14 feasible measures to improve. So in your</p> <p>15 requirement, would we have to do ten per year</p> <p>16 to make sure that they get improved?</p> <p>17 A. This is not my proposal. This is what Green</p> <p>18 Mountain does.</p> <p>19 Q. But it's not what you're proposing?</p> <p>20 A. I put this out as a straw man. Like I said, I</p> <p>21 want to develop this with Newfoundland Power.</p> <p>22 Q. Okay.</p> <p>23 A. I don't think the supply is in Newfoundland--</p> <p>24 many of these things, like I said in direct.</p> <p>25 Q. And I went all the way through this looking to</p>

Page 125

1 KELLY, Q.C.:

2 see whether you had any specific proposal with

3 respect to the overspending issue and I didn't

4 find anything in this Green Mountain one that

5 addressed this whole issue of are you spending

6 too much.

7 A. That's because that wasn't their focus.

8 Q. Okay. So if I can just, on this reliability

9 bit, see if I got this right. This proposal

10 that we're looking at here, this is drawn from

11 a different regulatory regime, Vermont,

12 correct, which doesn't have a capital budget

13 approval process, correct? To fix a concern

14 over under spending, have I got that much

15 right?

16 A. You've got that much right, but the point is

17 wrong.

18 Q. Okay.

19 A. The point is this is put up as a proposal.

20 This is put up as a template and you develop

21 it from there. Develop to suit the needs of

22 this province. This whole issue is does the

23 Board need something like this to carry out

24 its mandate? It's as simple as that. You

25 develop this for the regulatory regime here in

Page 127

1 customers over the mechanism?

2 A. The method of regulation?

3 Q. Yes, the current method of regulation.

4 A. I don't remember seeing any customers surveyed

5 on that.

6 Q. The reason I ask you that question, I was

7 really intrigued by your answer to NP-CA-3,

8 because NP-CA-3 was--wait until we get it on

9 the screen here. You were asked to provide

10 specific examples where the establishment of

11 formal distribution reliability and service

12 standards has established that reliability and

13 service-related expenditures are prudently

14 incurred? In other words, can you give us

15 some examples of where this actually works to

16 achieve that objective? And the answer at

17 line 17 to 19 was "it is difficult to come up

18 with specific examples of how these standards

19 have established that reliability and service

20 related expenditures are prudently incurred,

21 resulting in fair and consistent treatment of

22 customers."

23 A. Yes.

24 Q. Couldn't come up with any?

25 A. Well, the reason is because the standards help

Page 126

1 Newfoundland.

2 Q. And come back to where we started this

3 discussion an half an hour or more ago,

4 there's no demonstrated complaints about the

5 existing system. In other words, the

6 existing--nobody is complaining about the

7 adequacy of the existing system. No customers

8 calling in.

9 A. Well, according to Mr. Ludlow, there is, but I

10 don't see it in the customer service.

11 (12:15 P.M.)

12 Q. Complaining about the system, the regulatory

13 system.

14 A. Oh, the regulatory system?

15 Q. Customers aren't complaining about it.

16 A. The regulatory system?

17 Q. Yes.

18 A. Were they asked that?

19 Q. You don't have any complaints.

20 A. Oh, my complaint is that there is no input

21 from someone whose sole primary responsibility

22 is to represent the consumers. There's no

23 input in that in the targets. There's no

24 Board review and approval of targets.

25 Q. But you're not aware of complaints from

Page 128

1 you head off prudence issues.

2 Q. And in fact, when you come over the second

3 page, lines 5 through 13, I'll just pick you

4 up at about ten, your answer was the fact that

5 there has been no challenges to the plans, at

6 least publicly, implies that stakeholders are

7 reasonably satisfied that reliability and

8 service-related expenditures are prudently

9 incurred, resulting in fair and consistent

10 treatment of customers. In other words, the

11 fact that nobody challenges the regulatory

12 mechanism publicly, customers, implies they

13 must be satisfied.

14 A. I think because you have a coordinated effort,

15 like in Vermont, the Consumer Advocate was

16 part of the development of standards and part

17 of the ongoing review. When you have that

18 type of cooperation amongst the stakeholders,

19 you're probably going to head off those types

20 of problems.

21 Q. But can I not therefore suggest to you, Mr.

22 Bowman, that the fact that there have been no

23 challenges publicly by customer complaints to

24 the existing regulatory mechanism in this

25 province indicates that customers are

Page 129

1 KELLY, Q.C.:

2 reasonably satisfied that their needs are

3 being met prudently with the existing free

4 open transparent regulatory mechanisms that

5 this Board currently has?

6 A. If you're asking me as the consumer advocate,

7 I'd say the answer is no. I'm still concerned

8 that with these long periods between rate

9 applications, performance could deteriorate.

10 I'm concerned that there's nobody representing

11 the customers in this process.

12 Q. And the performance has not deteriorated, in

13 fact as in fact improved.

14 A. That doesn't mean that it will forever.

15 Q. Okay. So your view, if I follow you, is we

16 should spend a lot of money on information

17 systems to track something for a problem which

18 we currently don't have?

19 A. No, there's no money spent on information

20 systems. You would only spend money on

21 information systems if you decide that it's

22 worthy of it. You go to the Board, the Board

23 decides its worth, same as you do today.

24 There's no difference.

25 Q. Okay. Now let me turn next to this question

Page 131

1 efficient. I got that much right?

2 A. Yeah, my point is consistent with Mr.

3 Henderson's point that if you price at

4 marginal cost, you improve the efficiency of

5 the pricing.

6 Q. And in order to get marginal cost pricing, the

7 first thing you need is you'd want to get all

8 of the current costs into the price so that

9 customers are bearing all of the current

10 expenditures? In other words -

11 A. I'm not sure I follow that.

12 Q. - you want them to have the right price signal

13 so you wouldn't leave elements of cost out.

14 A. You would still recover the allocated revenue

15 to that customer class. You try to reflect

16 marginal cost, but in the end, you have to

17 recover the allocated revenue.

18 Q. Right, but you're a step ahead. You're at

19 point number two. I'll get you to point

20 number two in a second.

21 A. Okay.

22 Q. But the starting point is we want to get all

23 the current costs in first, as opposed to

24 deferring them out into the future if you

25 really want customers to have the full

Page 130

1 of the basic customer charge, and I don't know

2 that we're all that far apart in terms of the

3 principle, because the way you put it in your

4 evidence-in-chief, the question you posed for

5 the Board, I tried to get this down, right,

6 "do the benefits trump the customer impact?"

7 Is that the way you said it?

8 A. Yes.

9 Q. And so the question of does efficiency,

10 whatever the benefit out of that might be,

11 trump the impacts for the individual customers

12 is the issue the Board's got to grapple with?

13 A. Yes.

14 Q. Okay. Now that largely entails an element of

15 judgment, agreed?

16 A. The Board's in a position where it has to make

17 that decision.

18 Q. That balancing?

19 A. Yes.

20 Q. Between the rate effects and any potential

21 efficiency gains?

22 A. Yes.

23 Q. Now you can help us as an economist here a

24 little bit. As a matter of economic theory,

25 your point is marginal costing is more

Page 132

1 efficient price signal.

2 A. Sorry, I'm not following that.

3 Q. You wouldn't take, for example, cost items and

4 defer them for future recovery if you want the

5 most efficient rates.

6 A. The marginal cost should reflect the current--

7 well, no, current--no, you're reflecting--

8 actually, I think we've agreed in wholesale

9 power rate that we will reflect future costs.

10 What we're trying to do is get a judgment of

11 what marginal costs are in the future. I

12 don't understand your point. You mean--are

13 you saying marginal costs should reflect

14 today's costs? I'm just not following your

15 question.

16 Q. Let me try it a little more simply. We've had

17 a whole lot of discussion about how we should

18 deal with accounting for various things.

19 We've talked about--in the past, we've talked

20 about employee benefits. We've talked about

21 deferral reserves, etcetera, and if you wanted

22 customers to have the most efficient price

23 signal, you'd want customers to be bearing the

24 burden of cost so they'd get the full price

25 signal, not some watered down price signal.

Page 133

1 MR. BOWMAN:
 2 A. I'd want them facing the marginal costs, for
 3 economy efficiency.
 4 Q. Including all current costs?
 5 A. Well, it's the cost going forward.
 6 Q. Okay. I think we're saying the same thing,
 7 and so a lot -
 8 A. I'd be surprised.
 9 Q. What?
 10 A. I'd be surprised because I'm not following you
 11 at all on this one.
 12 Q. Okay. You want them to incur the full marginal
 13 costs?
 14 A. If you want to send an efficient price signal,
 15 economy theory says you would price marginal
 16 consumption at marginal cost.
 17 Q. Right, okay, and one of the balances which
 18 we've had in this whole rate discussion is
 19 about--and not simply on this domestic
 20 customer charge issue now but in the broader
 21 context here is inter-generational equity
 22 versus rate stability now, and one of the
 23 factors has been a heavy bias in terms of rate
 24 stability, correct?
 25 A. Yes.

Page 135

1 that right there, and I thank you for your
 2 patience. All my questions, Mr. Chairman.
 3 CHAIRMAN:
 4 Q. Thank you, Mr. Kelly. Mr. Young?
 5 MR. YOUNG:
 6 Q. I have nothing further than that, no, thanks,
 7 Mr. Chairman.
 8 CHAIRMAN:
 9 Q. Do you have any, Ms. Newman?
 10 MS. NEWMAN:
 11 Q. Yes, Mr. Chairman, I just want to explore one
 12 area a little bit further with Mr. Bowman, and
 13 that's to do with the cost associated with the
 14 proposed Distribution Reliability Service
 15 Standard.
 16 A. Yes.
 17 Q. I think you've addressed it a couple of times
 18 through cross-examination and direct, and as I
 19 understand what you're saying is that it's
 20 difficult to quantify the cost at this stage
 21 in time?
 22 A. Well, it depends on what your scope of work
 23 is, but I don't see this as a major effort.
 24 Like I said, Newfoundland Power is--like we
 25 would be using indices that they've already

Page 134

1 Q. Okay, and you'll agree with me that your
 2 proposal results in higher impacts on
 3 customers at the--especially all-electric
 4 customers, than does the Company's proposal?
 5 A. It results in a--it transfers cost from the
 6 low consumption customers to the high
 7 consumption customers.
 8 Q. Right, so if I was an all-electric customer
 9 this winter, and Mr. Henderson explained it at
 10 2500 kilowatt hours a month, I'm going to
 11 spend more on your proposal than on the
 12 Company's proposal this coming winter?
 13 A. Yes. Sorry, what was the average consumption?
 14 Q. About 2500 kilowatt hours a month.
 15 A. Yes.
 16 Q. Because the turning point is about 1200 to
 17 1500 kilowatt hours a month, isn't it?
 18 A. Yes.
 19 Q. And so what the Board has got to grapple with
 20 is well, how much rate stability do we want
 21 versus how much marginal cost pricing do we
 22 want at this point in time?
 23 A. Well, they're making the decision now, if
 24 that's what you mean.
 25 Q. Exactly, okay. Mr. Bowman, I think I'll leave

Page 136

1 developed. Now the issue is do you--you know,
 2 do you tweak these? I think we've already got
 3 two-thirds of what we need, and I think we got
 4 more this week and I think, you know, if I was
 5 able to sit down with Mr. Delaney, and you
 6 know, they were interested in developing
 7 standards as well and could give me an idea of
 8 what it is they track internally, I think we
 9 could quite easily come up with things that
 10 cover those areas where they aren't
 11 specifically reporting what's in the Green
 12 Mountain standard, but they could report what
 13 they are tracking.
 14 Q. Okay.
 15 A. So I don't see this as a major effort, and the
 16 reporting would be basically the same as
 17 they're doing today, it's just standards would
 18 be developed on the basis of input from the
 19 Consumer Advocate and approval by the Board.
 20 Q. Okay. So I guess there's several types of
 21 costs that are going to be associated with
 22 this, the first being the development of the
 23 standards?
 24 A. Development of standards, yes.
 25 Q. And that may involve Consumer Advocate's

Page 137

1 MS. NEWMAN:
 2 efforts, your efforts, the efforts of the
 3 utility?
 4 A. Yes.
 5 Q. And then in the approval process of the Board,
 6 I guess efforts of the Board?
 7 A. Yes.
 8 Q. So once these standards are developed then, I
 9 guess, depending on what the standards are,
 10 there may be costs associated within
 11 Newfoundland Power to implement these
 12 standards?
 13 A. Only if the Board and the parties to this
 14 decide that there should be.
 15 Q. Right, so to the extent the standards are
 16 different than exist now.
 17 A. Well, to the extent that the targets are more
 18 aggressive and they would only be made more
 19 aggressive if the parties to this decided that
 20 it was worth pursuing, same as it is today.
 21 Q. Yes.
 22 A. There's no difference today if Newfoundland
 23 Power says I need a new customer information
 24 system so I can do a better job on tracking
 25 customer service, then they'll go through the

Page 139

1 as to what costs were associated with the
 2 implementation of such a standard in other
 3 jurisdictions. Do you have any information as
 4 to what these costs, in terms of those types
 5 of costs were in Delaware or Vermont?
 6 A. No, I know Vermont, they developed it during a
 7 rate case.
 8 Q. Okay.
 9 A. So like when we went through the negotiation
 10 process here, that's what they did. They went
 11 through and developed it at that time.
 12 Q. Okay. Those are all my questions, Mr.
 13 Chairman, thank you.
 14 CHAIRMAN:
 15 Q. Thank you, Ms. Newman. Any redirect?
 16 (12:30 P.M.)
 17 MR. JOHNSON:
 18 Q. Nothing arising.
 19 CHAIRMAN:
 20 Q. Commissioner Whalen?
 21 VICE-CHAIR WHALEN:
 22 Q. No, I have no questions, thank you. Thank
 23 you, Mr. Bowman.
 24 CHAIRMAN:
 25 Q. No, I have no--I was going to proceed on the

Page 138

1 same process.
 2 Q. Right, so in the implementation within
 3 Newfoundland Power, to the extent that to
 4 track the information that's necessary is
 5 different than what they're collecting now,
 6 there may be costs, and that's a determination
 7 that the Board and the parties would consider?
 8 A. Yes.
 9 Q. Okay, and then I would take the third type of
 10 cost that would arise then from such a
 11 proposal would be the actual cost of
 12 administering the system as we proceed, both
 13 in terms of the utility's costs and the
 14 Board's costs?
 15 A. Yeah, well only in the sense that Newfoundland
 16 Power is already submitting these reports,
 17 their quarterly reports, so the only
 18 difference is the target would be different.
 19 The target may or may not be different.
 20 Q. Okay.
 21 A. So I don't see any significant administration
 22 costs associated with that at all.
 23 Q. Okay, and you know, understand that you can't
 24 quantify these particular costs right now, but
 25 I wonder if you could provide any information

Page 140

1 basis of addressing perhaps what the gaps
 2 might be, from what I understand you to say in
 3 this, you're not suggesting any additional
 4 reporting. I understand you to be saying that
 5 many of the standards, metrics or what have
 6 you that might be used to track reliability
 7 from your perspective, generally speaking,
 8 appears to be there. It's just that the
 9 Consumer Advocate has not had any sort of
 10 input or the process is not set up for the
 11 Consumer Advocate to have any input into that.
 12 We don't really know what the costs associated
 13 with implementing or developing and
 14 implementing some of those standards would be
 15 and I understand that. Would there be--and
 16 you talked about, I guess, in particular the,
 17 you know, establishing targets and how
 18 aggressive they might be. I mean, on the
 19 basis of going forward, for example, assume
 20 they're developed, assume they're in place,
 21 how do they get operationized on an ongoing
 22 basis then? Is it some continuing involvement
 23 by the Consumer Advocate in that process? Is
 24 it--and the Board--I guess I have some
 25 difficulty, we were chatting with Mr. Todd

Page 141

1 CHAIRMAN:
 2 this morning and he said, well, you know,
 3 these would be global standards, it would be
 4 very difficult to get involved on a line-by-
 5 line basis, certainly you wouldn't want to do
 6 that because that's really micro-managing the
 7 utility, so I'm trying to understand, I guess,
 8 beyond the concept and beyond the sitting down
 9 and developing these standards, how then do
 10 they go forward and proceed and how do targets
 11 set and that sort of thing, and how does that
 12 all operationalize and materialize?
 13 A. Well once you develop a standard itself and
 14 once a year or I guess Mr. Delaney said that's
 15 more efficient than any report quarterly. I'm
 16 not a big fan of quarterly reports on the
 17 reliability indices because we got 99.95
 18 percent continuity of service. The quarterly
 19 report really doesn't tell me much, but once a
 20 year the performance would be published next
 21 to that or a quarterly next to that standard
 22 and same as they do today. Now, if they don't
 23 meet that standard, then they would have to do
 24 something according to whatever the reporting
 25 requirements were, like they may have to file

Page 143

1 corrective action plan at this stage. If we
 2 thought, you know, that next year again it
 3 misses it, then maybe we will have to do
 4 something. Like, it just requires some action
 5 on the part of the utility that raises a red
 6 flag for the Regulator to know that something
 7 has gone wrong here. So instead of looking at
 8 these quarterly reports and looking at them
 9 against the utility internal target, you're
 10 looking at them against more of a regulatory
 11 target, the customer input to that, and it's
 12 just a more useful indicator for the Board in
 13 deciding whether or not something should be
 14 done.
 15 Q. Hence my question, I guess, you know, are
 16 these targets derived in by the Regulator in
 17 concert with the utility, in concert with the
 18 Consumer Advocate on almost a tripartite
 19 basis, is that what -
 20 A. Well my intent would be for Newfoundland Power
 21 and Consumer Advocate to develop the target
 22 and then submit it to the Board for approval.
 23 If we agree on a target, then the Board's
 24 review would be relatively minor.
 25 Q. Qualitative and quantitative?

Page 142

1 an action plan. As Mr. Ludlow said the other
 2 day, he said if they find they continually
 3 miss their performance targets, then they
 4 would do an action plan. So the same process
 5 would be involved basically, the difference is
 6 that there would be a regulatory requirement
 7 to do so in this case.
 8 Q. So would the proposal that you're--the
 9 Consumer Advocate is putting forward here,
 10 engage the specific, not only the standards
 11 such as SAIFI or SAIDI, but the development of
 12 precise quantitative measures in respect of
 13 those standards? Is that what is being
 14 suggested?
 15 A. No, it's not quantitative measures, no, sorry,
 16 I understand what you're saying now. No,
 17 there would just be these targets, like same
 18 as in Green Mountain, they have their targets
 19 and in Green Mountain if you miss a target by
 20 more than ten percent, then you're required to
 21 file a plan. Now that plan, you know, the
 22 utility is given a chance to defend itself.
 23 It says, well, you know this is a one-time
 24 thing because of a bad storm or whatever and
 25 we don't feel there is any need to submit a

Page 144

1 A. Qualitative and quantitative target?
 2 Q. Yes.
 3 A. Yes, well they may or may not be, like on
 4 reliability may decide you don't want a
 5 standard. May decide we'll just monitor it,
 6 same as they do today. Like Ontario and
 7 Alberta just monitor the reliability and then
 8 they affirm targets for things like metering
 9 and billing and customer satisfaction. So
 10 that's what we would need to do is agree what
 11 has a firm target and what just gets monitored
 12 and you may default to something--like I put
 13 Green Mountain forward as a template, but I'm
 14 open to other suggestions if somebody wants to
 15 suggest we should use Alberta instead, I'm
 16 fine with that. I just put something on the
 17 table. There's no recommendation at this
 18 stage, I'm just trying to get the thing going.
 19 Q. I don't have any more questions, Mr. Bowman.
 20 Thank you.
 21 VICE-CHAIR WHALEN:
 22 Q. Is the only consumer interface then through
 23 the Consumer Advocate, I mean, do you see this
 24 being sort of public--published public
 25 information or how does--you say there's no

Page 145

1 VICE-CHAIR WHALEN:
 2 representation from the consumers, I mean
 3 right now the Consumer Advocate represents
 4 consumers by virtue of the each individual
 5 rate case. They don't have a standing office
 6 of the Consumer Advocate as a lot of other
 7 jurisdictions have, that are fully staffed
 8 and, you know, have this sort of ongoing
 9 interface with the utility customers and the
 10 same thing happens in insurance in a lot of
 11 jurisdictions. How do you see that happening
 12 differently than what happens now, you know?
 13 A. Yeah, well I think that consumer, like I say,
 14 these--once you develop a standard and it's
 15 going on and on, there really isn't any need
 16 for the Consumer Advocate to be involved on an
 17 ongoing basis. Now if something happens,
 18 something gets triggered, then you'd probably
 19 want to have the Consumer Advocate involved
 20 and help resolve the issues. Now, as far as
 21 input from the consumers, the Consumer
 22 Advocate would represent the consumers, like
 23 you wouldn't go out and canvass customers,
 24 Newfoundland Power already does that through
 25 their customer surveys. So the idea would be

Page 147

1 some input from someone whose primary
 2 responsibility is consumers, rather than
 3 someone whose primary responsibility is to the
 4 shareholder. And I take issue with
 5 Newfoundland Power, that's what their job is,
 6 they're supposed to represent their
 7 shareholder. So you need that countering
 8 influence on the other side for the consumers
 9 to make sure you got a balanced decision going
 10 on. The reason I like targets and
 11 reliabilities is because I like the Board to
 12 give direction to the utility. If you think
 13 reliability performance is fine, then base it
 14 on history like Delaware did. If you think it
 15 should be improved, put a more aggressive
 16 target in there, but when you do that, then
 17 you've got to be willing to prove expenditures
 18 for things like the DRA.
 19 Q. Thank you, Mr. Bowman.
 20 CHAIRMAN:
 21 Q. Any questions on either side?
 22 KELLY, Q.C.:
 23 Q. No questions rising.
 24 CHAIRMAN:
 25 Q. Okay. Thank you very much, Mr. Bowman, for

Page 146

1 to get customer feed back from Newfoundland
 2 Power and from those surveys and then just
 3 trying to use some judgment. How the Consumer
 4 Advocate knows what's going on elsewhere and
 5 makes a point that if things are improving in
 6 another area, the point would be to ask
 7 Newfoundland Power what it would take to
 8 improve service in that area here as well. If
 9 it requires a capital expenditure, then you
 10 say well is that worth it? Would consumers be
 11 willing to pay for that capital expenditure
 12 for the improvement in service or not? And if
 13 the Consumer Advocate and Newfoundland Power
 14 could decide well it is, then presumably you
 15 would put something up to the Board to suggest
 16 that this should be done and they should have
 17 approval for that expenditure. Now, it would
 18 still be subject to Board approval, of course,
 19 but that could be done through the regular
 20 capital programs. So I don't see any ongoing
 21 major effort involved with this. I said this
 22 is just a way for the Board to monitor
 23 performance between General Rate Applications.
 24 It just, as a Consumer Advocate, it gives me
 25 more comfort knowing that these targets have

Page 148

1 your testimony and have a safe journey home.
 2 A. Thank you.
 3 Q. That brings this part of the public hearing to
 4 a conclusion.
 5 KELLY, Q.C.:
 6 Q. Mr. Chairman, before you finish, we have the
 7 rest of the undertakings that we're now
 8 prepared to file, including the IFRS material.
 9 CHAIRMAN:
 10 Q. By all means, yes.
 11 KELLY, Q.C.:
 12 Q. We can perhaps just touch that.
 13 MR. JOHNSON:
 14 Q. Does that include the undertaking about the
 15 2007?
 16 KELLY, Q.C.:
 17 Q. I have all that too. Gerard, perhaps you can
 18 distribute those.
 19 MS. NEWMAN:
 20 Q. So that would be responses to 4, 5, 6, 7 and
 21 8?
 22 KELLY, Q.C.:
 23 Q. I think we've got 6.
 24 MS. NEWMAN:
 25 Q. Mr. Chairman, while this is ongoing and

Page 149

1 MS. NEWMAN:
 2 everybody is working away to pass out the
 3 undertakings, it might be a good time to just
 4 raise the issue about the closing final
 5 submissions and the public participation day.
 6 I note that the Board hasn't received--I'm
 7 advised by the Clerk, hasn't received any
 8 written requests to make public participation;
 9 however, I understand the Board has had, in
 10 the last 24 hours or so, a little technical
 11 difficulty with its e-mail, so we can't
 12 confirm at this time whether there have or
 13 have not been any that have come in by way of
 14 electronic correspondence. So, in that light,
 15 I would suggest that we sort that out this
 16 afternoon and I can undertake to correspond
 17 with the parties as to what makes sense in
 18 terms of timing for what's left to this
 19 hearing. And then I can report to you and
 20 perhaps the Board will issue a letter early
 21 next week?
 22 CHAIRMAN:
 23 Q. Sounds quite reasonable if everybody is in
 24 agreement, I guess. With regard to public
 25 participation, certainly if we have no

Page 151

1 breakdown. The actuals are in it, it's all in
 2 the one table.
 3 MR. JOHNSON:
 4 Q. It's all in one? Okay.
 5 KELLY, Q.C.:
 6 Q. The forecast reflects actual performance to
 7 September.
 8 CHAIRMAN:
 9 Q. So the current forecast is the actual
 10 projected to the end of the year, is that
 11 correct?
 12 KELLY, Q.C.:
 13 Q. Yes, the date of the actual is an annual and
 14 then projected to the end of the year.
 15 CHAIRMAN:
 16 Q. The September actual projected to the end of
 17 the year.
 18 KELLY, Q.C.:
 19 Q. And then projected to the end of the year.
 20 MR. JOHNSON:
 21 Q. That's fine.
 22 CHAIRMAN:
 23 Q. Okay. Anything else in relation to these
 24 matters? Okay, is there anything else in
 25 relation to any other matter?

Page 150

1 requests, there's an opportunity there to
 2 advance things in terms of written and final
 3 argument. And if that's the case, the Board
 4 would like to take advantage of that, given
 5 our schedule with regard to getting a decision
 6 and order out to allow the Utility to do what
 7 it has to do before the end of the year and
 8 all that, so every day would be an advantage
 9 to us. So certainly if there are no requests,
 10 if we can confirm that at a point in time and
 11 you were able to get together with all the
 12 parties and work out something sooner, rather
 13 than later, depending on their schedule, that
 14 would be ideal from our perspective. Is that
 15 okay?
 16 KELLY, Q.C.:
 17 Q. Certainly acceptable to us, Mr. Chair.
 18 MR. JOHNSON:
 19 Q. Just to--on the undertaking, on Undertaking
 20 No. 6, I take it we're providing the current
 21 forecast for 2007, this undertaking. Was
 22 there actuals to September 30th? I thought
 23 that was part of the undertaking.
 24 KELLY, Q.C.:
 25 Q. This is the 2007 forecast operating costs by

Page 152

1 KELLY, Q.C.:
 2 Q. No, Mr. Chairman.
 3 MR. JOHNSON:
 4 Q. Just a point that I raised with Mr. Kelly
 5 earlier, ordinarily the Utility in its
 6 quarterly reports to the Board, quarter
 7 regulatory filing with the Board, for instance
 8 as they did with September 30th, '06, files
 9 where they are relative to the plan on the
 10 particular year that's reflected in, I believe
 11 it's CA-NP-8. If you could just turn to the
 12 report ending September 30th, '06, page 17.
 13 No, that's March. See they quarterly filed to
 14 show where they are vis-a-vis their plan up to
 15 that time. I just wonder would--could
 16 Newfoundland Power undertake, I guess an
 17 additional undertaking to provide something
 18 similar to that, so that--up to largely like
 19 they did for September '06.
 20 KELLY, Q.C.:
 21 Q. I haven't got the foggiest idea what I'm being
 22 asked to do and the witnesses are all off the
 23 stand. We have complied with the undertaking
 24 to provide the data as requested in
 25 Undertaking 6 and I'm frankly not, at this

Page 153

1 KELLY, Q.C.:

2 stage, at all sure of even what I'm being

3 asked to undertake to do.

4 MR. JOHNSON:

5 Q. Well a similar--they report to the third

6 quarter year to date, et cetera, for the

7 period ending September 30th, 2006 and

8 September 30th, 2007 has past and I'm

9 wondering if it's possible to produce

10 something like we see on the screen here in

11 respect of the period up to September 30th,

12 '97.

13 KELLY, Q.C.:

14 Q. The September 30th report, that will be filed-

15 -it will be filed in the ordinary course.

16 MR. JOHNSON:

17 Q. When will it be filed?

18 CHAIRMAN:

19 Q. Just a matter of interpretation here. I'm

20 just looking at the transcript from October

21 25th, 2007 and Mr. Kelly: "So if I understand

22 it correctly, we're looking for the actuals to

23 the end of September and the current forecast

24 to the end of '07? It seems to me to be two

25 pieces similar to that. Mr. Johnson: "No,

Page 155

1 CHAIRMAN:

2 Q. I'll have to defer to Ms.--I mean, is it

3 something that you would really, really need

4 in respect of your final written submission.

5 MR. JOHNSON:

6 Q. It might frankly be of use. Next Friday

7 you're saying it would be available?

8 MR. HAYES:

9 Q. It will not be available for at least a week,

10 if not more.

11 KELLY, Q.C.:

12 Q. That's a regular report that we do and I think

13 the filing date is November 15th is the

14 required filing date, if I recall correctly.

15 MS. NEWMAN:

16 Q. Yes, I'm told it is 45 days to have the -

17 CHAIRMAN:

18 Q. We do have a piece of evidence which was filed

19 under Undertaking No. 6, Mr. Johnson--or

20 Undertaking 8 which shows the projection to

21 the end of the year. Is that -

22 MR. JOHNSON:

23 Q. Fair enough, it won't be ready by the time or

24 argument that we're trying to aim for, so

25 that's it.

Page 154

1 the forecast for '07. Mr. Kelly: "Just the

2 forecast of '07?" Mr. Johnson: "Yes, to

3 September." Mr. Kelly: "To September". Mr.

4 Johnson: "Yes." I don't know if there is a

5 forecast by--because you're forecasting in

6 September so whether there's a forecast '07

7 that can be produced, I think you're forecast

8 to the end of the year. I don't know if Mr.

9 Delaney can shed any light, end of the year.

10 KELLY, Q.C.:

11 Q. So this is the current forecast to the end of

12 the year -

13 CHAIRMAN:

14 Q. This is the current forecast to the end of the

15 year and the only distinction--the

16 distinction, I guess, that I see is you're

17 looking, requesting this information which

18 shows to the end of the third quarter. Is

19 that -

20 MR. JOHNSON:

21 Q. Yes, to the plan, the '07 plan.

22 KELLY, Q.C.:

23 Q. And that material, I'm told, will be filed in

24 the ordinary course in about a week's time or

25 so.

Page 156

1 CHAIRMAN:

2 Q. Thank you very much. Anything else? No? I

3 just want to thank you for the week, certainly

4 for everybody's adherence to the general

5 schedule and your co-operation. It's been a

6 good week, I think. We have a fair piece of,

7 chunk of information before us on the matter

8 at hand and we'll await to see what the

9 schedule is to be worked out in relation to

10 written submission and final argument and I

11 guess we'll see probably some of you back

12 then, whenever that date might be. Okay,

13 thank you very much.

14 Upon concluding at 12:50 p.m.

CERTIFICATE

1
2 I, Judy Moss, hereby certify that the foregoing is
3 a true and correct transcript in the matter of
4 Newfoundland Power's 2008 General Rate Application
5 heard on the 26th day of October, A.D., 2007 before
6 the Board of Commissioners of Public Utilities,
7 Prince Charles Building, St. John's, Newfoundland
8 and Labrador and was transcribed by me to the best
9 of my ability by means of a sound apparatus.
10 Dated at St. John's, Newfoundland and Labrador
11 this 26th day of October, A.D., 2007
12 Judy Moss