New Brunswick Board of Commissioners of Public Utilities

In the Matter of an application by the NBP Distribution & Customer Service Corporation (DISCO) for changes to its Charges, Rates and Tolls - Revenue Requirement

Hilton Hotel, Saint John, N.B.
February 9th 2006

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Undertakings

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Hilton Hotel, Saint John, N.B.
February 9th 2006

CHAIRMAN: David C. Nicholson, Q.C.

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BOARD COUNSEL: Peter MacNutt, Q.C.

BOARD STAFF: Doug Goss
John Lawton

BOARD SECRETARY: Lorraine Légère

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CHAIRMAN: Good morning, ladies and gentlemen. Appearances please for the applicant?

MR. MORRISON: Terry Morrison for the applicant, Mr. Chairman. And beside me today is Mike Gorman.

CHAIRMAN: And that is it?

MR. MORRISON: Mr. Hashey isn't with me today.

CHAIRMAN: I see. Thank you. Canadian Manufacturers and Exporters?

MR. LAWSON: Gary Lawson appearing for CME.

CHAIRMAN: Thanks, Mr. Lawson. Conservation Council? Not here. Eastern Wind? Enbridge Gas New Brunswick? The Irving Group of companies.

MR. BOOKER: Andrew Booker for JDI.

CHAIRMAN: Thank you, Mr. Booker. The Jolly Farmer isn't here. Mr. Gillis isn't here. Rogers is not here. Self-represented individuals are never here. The Municipal Utilities?

MR. GORMAN: Good morning, Mr. Chairman. Good morning, Commissioners. Raymond Gorman appearing for the Municipal Utilities. This morning Eric Marr and Dana Young have joined me.

CHAIRMAN: Thanks, Mr. Gorman. And, Mr. Peacock here? No. Public Intervenor.

MR. HYSLOP: Good morning, Mr. Chair. Peter Hyslop with Professor O'Rourke and Ms. Power.

CHAIRMAN: Thanks, Mr. Hyslop. I'm not going through the Informal Intervenors. If there are any here they can raise their hand. And I will find out who it is. Mr. MacNutt, who is accompanying you today?

MR. MACNUTT: I have with me today, Mr. Chairman, Doug Goss, Senior Adviser, John Lawton, Adviser, John Murphy, Andrew Logan and Jim Easson, Consultant.

CHAIRMAN: Thanks, Mr. MacNutt. Any preliminary matters? If not, Mr. Hyslop, go ahead.

MR. HYSLOP: Just a preliminary matter, there were a number of undertakings. Perhaps Mr. Morrison might indicate the status of those undertakings.

MR. MORRISON: I can't detail them one by one. But we have people working on them. I anticipate probably Monday morning we will have the answers filed.

MR. HYSLOP: That is all they can do. Thank you, Mr. Morrison.

<u>CROSS EXAMINATION BY MR. HYSLOP</u>:

Q.774 - To start off I would like to refer to the transcript of evidence from Monday and in particular at page 3462 and 3463 if I might. This was cross examination by Mr. Gorman. Do you have it? Does the panel will have a copy now?

MS. MACFARLANE: Yes, we do.

Q.775 - And at page 3262 -- or 3462, I'm sorry, Question 295, starting at line 19, the question was put, "And at the present time there is no competitive market? Because I think, as we talked about yesterday, there is no exit fees established for example?" Mrs. MacFarlane replied "The exit fees can be established with some degree of expediency. In fact the Act allows for any customer wishing an exit fee to approach NB Power directly or to approach PUB. I don't see that as an impediment to create a competitive market."

Question: Okay. But none have yet been established yet. I'm sorry. I will repeat that into the record properly. "But none have been established yet, no exit fees?" Ms. MacFarlane: "The exit fee is not established yet. Again I don't see that as a barrier to a customer leaving NB Power's supply."

Mrs. MacFarlane, would you confirm that that is your evidence?

MS. MACFARLANE: That was my statement into the record, yes.

Q.776 - Yes. Thank you. And I would refer the Board to page 3478 which was a continuation of the cross by Mr. Gorman. And Mr. Marois answered these questions. So the transcript may be passed to him if he doesn't have a copy.

CHAIRMAN: That has got to be on the 7th which would be Tuesday. We got it from the 6th.

MR. HYSLOP: Yes. It would --

CHAIRMAN: You said Monday.

MR. HYSLOP: Yes, I apologize.

CHAIRMAN: It ends at 3441.

MR. HYSLOP: Yes. It would be on Tuesday. I apologize, Mr. Chair.

CHAIRMAN: No. That is all right. I was blaming it on Commissioner Sollows.

MR. HYSLOP: No. It is not Commissioner Sollows' fault.

CHAIRMAN: And what was the page number?

MR. HYSLOP: The first one was at page 3462 and 3463. That is the one I just had Mrs. MacFarlane confirm.

CHAIRMAN: Yes.

MR. HYSLOP: And now I'm referring to page 3478.

CHAIRMAN: Thank you.

Q.777 - And there is a question put, a fairly long question dealing somewhat with the issue of exit fees. But at line 14 Mr. Marois states, Well, I think it's important that I be clear. The intention is to -- if an exit fee is required we will generate one. So I agree with your question that if a customer is contemplating leaving the system, knowing the exit fee is an important component. Would you adopt that as your evidence, Mr. Marois?

MR. MAROIS: Yes, with the addition of the last sentence of the answer, And we will be able to provide a component in due time.

Q.778 - Yes. Thank you very much. So on the face of it, panel, it would appear Mrs. MacFarlane is saying, I don't see exit fees as a barrier to a customer leaving NB Power's supply. And a few minutes later we have Mr.

Marois saying if a customer is contemplating leaving the system, and knowing the exit fee is an important component.

So on the face of it there is a bit of an inconsistency. And so with that in mind Professor O'Rourke has mandated that we have another pop quiz relating to exit fees. So we have a question scenario we would like to pass out to review. I assure the Board it is not direct related to the issue that Mr. Gorman canvassed in his cross examination on Monday.

CHAIRMAN: For a business professor he has a certain flair, doesn't he, while you contemplate the essential elegance. Really, Mr. O'Rourke.

Q.779 - Just for the record we will read it in. It is May 31st and this is also after Disco received the magnanimous offer from the New England company for the five percent reduction that we talked about in scenario 1. And after Mr. Marois has passed on this information. You have just received a copy of the Board's revenue requirement on May 31st. While you contemplate the essential elegance of this decision you receive a second communication from the Board. An industrial customer has made an application under Section 78 of the Electricity Act to remove 100

megawatts of capacity and the attendant energy from -- in Disco's system in order to allow another supplier to meet the customer's needs.
So I guess first of all and very briefly the industrial customer can of course make the application to the Board, is that correct?
MR. MAROIS: Can you repeat the question, please?
Q.780 - Yes. The industrial customer can actually make an application to the Board, correct?
MR. MAROIS: That's my understanding of Section 78.
Q.781 - Right. Now here is the important part. You have just received this application from the Board and I guess my first question is what does Disco do? What would take place? What do you contemplate happening, Mr. Marois?
MR. MORRISON: Mr. Chairman, can I ask for clarification on the question, just so that I'm clear?
He says an industrial customer has made an application under Section 78 of the Electricity Act. And if I read Section 78, that's not the section that deals with an application to the Board. I'm just wondering if the Public Intervenor could clarify whether --
MR. HYSLOP: Well let me rephrase --
MR. MORRISON: No. Let me please finish. Whether it's on notice to the utility that it's reducing it's -- that it's

going to be leaving the system, just so I'm clear.

MR. HYSLOP: I will rephrase the question. An industrial customer in compliance with the Electricity Act has made an application to the Board to establish an exit fee. My question is what does Disco do?

MR. MAROIS: I guess this is somewhat different from your initial question, but I guess the first thing I would like to say is if a customer would indicate its desire to leave the system the first thing we would do is look at their contract, because if they have got a longer term contract with us this may prevent them from leaving until the contract has ended. So that's one of the things we would look at.

But the second thing is we would put together a proposal for an exit fee and submit it to the Board in compliance with the Act.

Q.782 - And what would be contained in this application to the Board? What type of evidence would you contemplate occurring, Mr. Marois?

MR. MAROIS: Well you would appreciate that I don't have a detailed lay-out of the evidence, I mean -- but we would have enough evidence to substantiate what should be the exit fee, if any.

Q.783 - Okay.

MR. MAROIS: The calculations and supporting information.

Q.784 - And who would be involved in this discussion and proposal and putting this evidence together? Who would Disco involve in it?

(Off the record)

CHAIRMAN: We will take an unscheduled break until this is figured out.

(Recess)

CHAIRMAN: Try again, Mr. Hyslop.

MR. HYSLOP: Thank you, Mr. Chair.

Q.785 - The question posed was assuming a customer has made a proper application and provided the proper notices to remove 100 megawatts from the system, my question was upon receipt of this information what happens at Disco? What does Disco do?

MR. MAROIS: The first thing I would like to say is we have done quite a bit of work on -- preliminary work on establishing an exit fee.

So we have never been -- we have not had an opportunity to finalize one and make an application to the Board. But we have done quite a bit of preliminary work. So establishing an exit fee should be a relatively expeditious process.

The second thing I would like to say is exit fees are

addressed in the vesting PPA. And the vesting PPA can be found in A-4. And Section 6.14 deals with exit fees. As a result we would need to get the Operating Committee of the Genco PPA involved in finalizing a proposal.
And this proposal would have to be approved by our board of directors before we file it with the PUB. So I guess at eye level that would be the process.

Q.786 - And you said you had some preliminary work. Can you outline some of the nature of the preliminary work that you have completed, Mr. Marois?

MR. MAROIS: Well, there has been some discussions as to what would need to be taken into account in establishing an exit fee. We have looked at some numbers.
So like I said, some legwork has been done. We would need to finalize that to be able to -- before being able to provide it to file it with the Board.

Q.787 - And within the scope of this preliminary work and the numbers -- you have looked at some numbers -- what type of numbers would you be looking at?

MR. MAROIS: What do you mean?

Q.788 - Well, that is what you said, some preliminary work. And you have looked at -- yes, you would be looking at and considering some numbers. I believe that was your evidence. What type of numbers?

MR. MAROIS: The purpose of the exit fee is really not to burden customers that stay with the system as a result of those who leave. So I guess at an eye level, if we still have to continue paying costs that pertain to customers that have left the system, that will cause a burden to the remaining system.

So the purpose of the exit fee is to recover any of those remaining costs from the customers who leave. And that's related to the stranded cost concept. Any utility in the world that has looked at opening its market has had to deal with the issue of stranded costs.

And what I mean by stranded costs is really the cost of the generators that have been built over the years prior to the market opening. So those costs are legitimate costs. They need to be recovered. And typically -- I mean, there is different ways of doing it.

Here in New Brunswick it's really I guess a combination of two factors. The way these costs are recovered are -- because Disco has still contracted for the Heritage assets. So the cost of the Heritage assets are being recovered through Disco to the customers. And if some customers leave and they leave behind some of these costs that would be borne by the remaining customers, the exit fee is there to recover those costs.

In other jurisdictions what they have done is for example they have inputed a surcharge on their rates to recover the cost of Heritage assets. So there is different formulas.

So basically what we will do is we will try to identify which cost would stay behind if a customer leaves, and how could we potentially mitigate those costs. And I guess in simple terms Disco has contracted for a certain level of capacity to Genco. If a customer leaves then really Disco is still paying for that capacity.

And Disco has a couple of options. One option is to reduce its nominations to offset these costs. That is one option. The other option is to sell the excess energy and capacity on the export market. So all this involves making assumptions to determine what is the best course of action.

And what the PPA does is the PPA provides that if Genco is left with some stranded costs as a result of a customer leaving, the PPA requires that they make a case to us and we make a case to the PUB essentially to try to recover these costs.

Q.789 - So would it be Disco that would make the case to the PUB?

MR. MAROIS: Yes, it would.

Q.790 - It would be. Okay. Now you mentioned that there would be some discussions between Disco and Genco with regard to this. Who else if anybody would be involved in a discussion of an exit fee application at NB Power?

MR. MAROIS: Well, what I said was the involvement of the Operating Committee which we would bring both perspectives, the perspective of Genco and perspective of Disco.

I don't have any specific people that would get involved. But definitely we would have financial analysis people involved to help analyze the situation.

Although we do have -- the Business Director does sit on the Operating Committee. So we do have financial expertise on that committee.

Q.791 - And if Genco and Disco didn't agree would it be Disco with the final say?

MR. MAROIS: Well, there is a clear dispute resolution process built into the PPA.

Q.792 - Now I just -- you may have touched on it a little bit in your prior answer, but what type of expertise is required to calculate and determine an exit fee, Mr. Marois?

MR. MAROIS: Well, from Disco's perspective what is required is a clear understanding of how the PPA works, which costs

would continue to flow to us in the event somebody left.
So really it's the understanding of the PPAs. And that expertise is within the Operating Committee.

Q.793 - So between Disco and Genco the exit fee would be determined on Article 6.14 of the power purchase agreement?

MR. MAROIS: I apologize. I'm going to have to ask you to repeat.

Q.794 - Oh, I apologize. I will move the mike a little closer if I can, Mr. Marois. Between Genco and Disco the exit fee that would be paid by Disco is set under Section 6.14 of the power purchase agreement, is that correct?

MR. MAROIS: Yes. Section 6.14 deals with really any stranded costs that would stay within Genco that Genco would want to recover.
So the exit fee that would be established under 6.14 might not be exactly the one we would bring to this Board. Because this is the stranded cost from Genco's perspective.
But if Disco also has any stranded costs we would have to combine the two, which would be the overall exit fee.

Q.795 - And does the exit fee under Section 6.14 correspond with the calculation of the exit fees that the customer would have to pay under Section 79 of the Electricity Act?

Is that the intention?

MR. MAROIS: Well, that is what I have just tried to convey. I guess my understanding of the situation is what 6.14 tries to do is say if Genco is faced with some stranded costs as a result of somebody leaving, they can make a case to us. And then we must make the case to the PUB. It is possible that Disco itself may have some additional stranded costs that it may try to recover. Because like I said, the philosophy here is that if Disco has some stranded costs as a result of a customer leaving, other customers will pay for it. And the intent is clear, to leave the existing customers neutral.

Q.796 - Is that the way -- again I guess my question is the calculation of exit fees between Genco and Disco, is that the same criteria as the criteria that would apply to the customer under Section 79 of the Electricity Act? I think that was my question.

MR. MAROIS: In terms of philosophy, yes.

Q.797 - In terms of philosophy. Okay. What are the criteria for setting an exit fee under the Electricity Act, Mr. Marois?

MR. MAROIS: My understanding is the response to your question is in Section 79(6) of the Act.

Q.798 - Yes. And that section provides "When determining the fee to be paid under this section, the Board shall ensure the fee is of a sufficient amount so that the cost of supplying standard service to the remaining customers of the standard service supplier, including the supplier in its capacity as a distributor, does not increase as a result of the decrease in consumption of the standard service. That would be the criteria, Mr. Marois?

MR. MAROIS: Yes, it would.

Q.799 - Okay. And as I read that section what it's really saying is if somebody leaves none of the other customers of Disco's should suffer a rate increase, is that correct?

MR. MAROIS: In short, yes.

Q.800 - Yes. Okay. And so in order to analyze the impact you would also not only look at the loss of revenues, but you would look at the decrease of costs that Disco would incur, would that be correct?

MR. MAROIS: Definitely, yes.

Q.801 - So there would be a two-pronged element to it. So really what we are talking about is if somebody leaves, you know, we would be looking at the marginal impact on the remaining customers of Disco?

MR. MAROIS: I agree with that.

Q.802 - Thank you. And a couple of questions on this. First of all, let's assume somebody left and you were able within two months to find another customer that took over this customer's hundred megawatts of capacity. Would I be correct in that case that there would be no marginal impact on the other customers because you have had one customer replace another, therefore there would be no exit fee in that assumption?

MR. MAROIS: Well I'm not too sure practically how your example would work. I guess the exit fee has to be set using certain assumptions like any rate. And what happens after I guess would not impact the rate that has been set.

Q.803 - Okay. Well let's assume the exit fee is paid and a month later you find a substitute customer for the first customer that left. Would you refund the first customer his money, because the other customers would be in a position of significantly benefiting at that point in time, would they not, Mr. Marois?

MR. MAROIS: To be frank, that's something I have not considered.

Q.804 - Well look, let's ask this question. If one of your customers was to leave, as a first step why wouldn't it be prudent to find out if there were other customers that might be able to take that capacity?

MR. MAROIS: Well --

Q.805 - This is a competitive market you want to play in.

MR. MAROIS: Well we -- I mean, again everything -- when you set a rate it's based on assumptions. I mean we have assumptions in terms of our load forecast. So we have a good idea what is coming in the pipes. I mean that would be part of the analysis what we anticipate as an increase in load forecast.

If something exceptional happens, a new customer comes out of the blue, well I mean I think that's something that happens after the fact and you can't -- I mean nobody has a crystal ball. So you do try to factor these factors in. But you only know what you know and you have to make reasonable assumptions.

Q.806 - You mentioned a customer coming out of the blue. Does Disco not have or actively seek possible new customers for the sale of its product on a regular and ongoing basis, Mr. Marois?

MR. MAROIS: I think your example was if somebody left or we do the consumption by a hundred megawatts. Customers taking up a hundred megawatts are not that common. So maybe they could come in the province as a result of a new plant being built, something like that, but --

Q.807 - Well maybe they are not common and I will defer to your expertise. But if I was running an electricity sale company, wouldn't it seem I would be out there hustling, beating the bushes to find new customers, especially when I seem to have a little bit of extra capacity? Is that something that's part of the Disco business plan or not?

MR. MAROIS: I really don't know where you are coming from. The point I am making --

Q.808 - Don't worry about where I am coming from.

MR. MAROIS: No, no, but I mean the point you are trying to make is --

Q.809 - Just answer the question.

MR. MAROIS: Well let me answer then.

Q.810 - Thank you.

MR. MAROIS: We have a load forecast that anticipates the growth that we anticipate seeing in a number of customers. If you are talking about a large customer leaving the system -- and by definition the customers that can leave the system are large customers, they are either wholesale customers or large industry. Finding a customer to replace those customers, if they don't exist you can't convert them to electricity. So they would have to potentially be a new customer or a new industry being built in New Brunswick that's not already there. Remember that the market we serve is within New Brunswick. So we can't invent customers.

Q.811 - Sure. Just to go on a little further. Under the proposed rate proposal, the firm industrial customers, according to the latest revenue cost ratios I saw, would have a revenue cost ratio of .92, Mr. Marois. And I guess my understanding is they are not fully recovering their costs through the rates.

My question is if some of this capacity did leave, wouldn't that in fact tend to benefit other customers if some of the industrial load left, because every time they buy electricity they are not getting -- not paying their full cost?

MR. MAROIS: I really don't understand your question.

Q.812 - Okay. I will read it here carefully. If as the recent cost of service study suggests the revenue cost ratio for firm industrial is 92, does this not suggest that there is a net benefit to other customers if some of the industrial load leaves?

MR. MAROIS: I think you are mixing two concepts here. The exit fee is really -- like you said yourself -- looks at incremental costs and incremental savings. The revenue cost ratio is really based on embedded costs. So they are two different concepts.

Q.813 - Okay. Well again, it may be on two different concepts, but I'm asking you and I will repeat the question. If as a recent cost of service study suggests the revenue cost ratio firm industrials is .92, does this not suggest that there is a net benefit to the other customers if some of the load leaves?

MR. MAROIS: No, because you have got an embedded cost that you allocate to customers. If somebody leaves and the embedded cost stays there, or part of the embedded cost stays there, it just gets reallocated to other customers. So it would not be a benefit.

The only time it would be a benefit is if a customer doesn't make any contribution at all. But that's not the case. So again the exit fee is a concept that is based on incremental costs and incremental avoidance of those costs, while revenue cost ratio is based on the allocation of embedded costs.

Q.814 - Mr. Marois, if exit fees are based on incremental or marginal costs, why is it necessary to analyze the embedded costs to determine the exit fee?

MR. MAROIS: I don't think I said we would analyze the embedded cost to determine the exit fee.

Q.815 - No. You clearly indicated to me that the cost ratios were based on embedded costs, but exit fees were based on marginal costs, and therefore the answer to my hypothetical question was no.

So I'm asking the question, if marginal costs are the basis of establishing exit fees, and according to what you told me about Section 79(6), you agreed that would be based on marginal costs, why do you look at the capital costs and embedded capital costs to determine exit fees? It's either marginal costs or embedded costs and if it's a marginal cost analysis, then what do the embedded costs have to do with it?

MR. MAROIS: What I tried to explain is Disco incurs a certain amount of costs to serve its customers. If a customer leaves the system, then we will lose some revenues, but we can potentially reduce our costs. So that's the incremental nature of the analysis. You lose some revenues and you try to mitigate by reducing some costs.

And it's really what is left that would compose the exit fees in simple terms because if you don't recover what is left the difference between the revenues you lose and the costs you can mitigate, other customers will pay for it. So that's the concept of exit fees and that's why it's an incremental approach to calculating it.

Q.816 - Yes. And then I will accept at least at this stage that that makes perfectly good sense. So in looking at these incremental costs and the decremental revenues, or the decrease in both of these, and finding the margin, are you telling me you don't have to look at the outstanding capital -- embedded capital costs as part of fixing the exit fee?

MR. MAROIS: Well the embedded -- I wouldn't say the embedded. The costs of generating power for these customers is built into the PPAs and Disco pays for those costs --

Q.817 - I am not asking about the PPAs. I'm asking how you deal with this issue within the context of Section 79(6) with your customer.

MR. MAROIS: I think I have explained that.

Q.818 - Okay. I will leave it at that. I know we have had -- this might be a good time for a short break, Mr. Chair. I am moving to another area and I just want to check my notes on the last thing. It's up to you. I can go, but --

CHAIRMAN: If by taking a break we are going to save some time I am all in favour of a break.

MR. HYSLOP: I think it would.

CHAIRMAN: Okay. We will take ten minutes.

(Recess)

CHAIRMAN: Is there an electronic version of exhibit A-75?

MR. MORRISON: What is --

CHAIRMAN: A 75(c) is the unredacted pink exhibit of confidential, et cetera.

MR. MORRISON: Yes.

CHAIRMAN: The redacted version is A-75.

MR. MORRISON: Yes. The Board Secretary mentioned that I believe to Ms. Gilbert late yesterday. I did make some inquiries. That information is not available in electronic format. I have some notes on that, Mr. Chairman, just a second.

CHAIRMAN: Okay.

MR. MORRISON: I made some inquiries about that last night. I am advised that the information doesn't exist in electronic format. As I understand it, it's part of a larger file, the information that's in that exhibit A-75, which contains a lot of other data. My understanding is that that data would have to be stripped from the larger data file, as I understand it. Then it would have to be -- I hate to say the word manipulated, but manipulated and then redacted. And I understand that's a fairly significant task.

CHAIRMAN: You explanation makes me believe that you grasp these things about as well as I do, Mr. Morrison.

MR. MORRISON: Sometimes, Mr. Chairman, when I hear how data is inputted and outputted it makes my head spin. But those are the -- that's the information I was given last night.

CHAIRMAN: Okay. Commissioner. Sollows has a comment.

DR. SOLLOWS: Just so that I am clear. I'm looking at for example the red tab 1 under this, the budget and business plan for Holdco and Genco, detailed modelling assumption. I take it this is a spreadsheet?

MR. MORRISON: I think the best thing that we can do, Commissioner Sollows, is perhaps at the break at lunch time if you and I can have a chat with someone who knows a little bit more about this than I do.

DR. SOLLOWS: Okay. Because if it's at all possible to get at least some portions of it available electronically it's very helpful to me because I search most of these things electronically.

MR. MORRISON: No, I understand that. I appreciate that.

DR. SOLLOWS: Okay. Thank you.

CHAIRMAN: Mr. Hyslop?

MR. HYSLOP: Yes. Thank you, Mr. Chair. The issue which has been raised by the Board has been part of the ongoing problems that the Public Intervenor has had with regard to completion of its PROMOD report and the expertise. And the issue, although we have been struggling with ways around it and trying to go for it, I would very much

appreciate a detailed explanation on the record from a knowledgeable witness as to why the request now of the Board can't be provided, because it's exactly the same request that my expert has made some time ago.
And as I understand it, the information is there in electronic form but it's part of a bigger package with information that goes out three or four years with projections on some of these inputs, and we have agreed that no, the three or four year projections aren't part of it. But I would like somebody to explain these spreadsheets and why certain parts just can't be copied and made into a sub-file. So I would ask --
CHAIRMAN: Well why don't you join in the conversation with Commissioner Sollows and somebody from Disco.
MR. HYSLOP: Thank you very much.
Q.819 - I would like to move on to the area of a few questions of overhead maintenance and administration -- operations, maintenance and administration. And I will start with exhibit A-50 which is the evidence. Under tab 3 -- or section 3, page 2, and I'm looking specifically at table 1. Do you have that, Ms. Clark?
MS. CLARK: Yes, I have that.
Q.820 - Yes. And in that regard with respect to table 1, page 2 of section 3 of the revenue requirement evidence of

October 17th, are there any updates to the OM&A costs for 2005/2006 and 2006/2007?

MS. CLARK: We do have a Q3 forecast for 05/06 which will be given out in the package of responses to interrogatories at noon today, and that will be an update to our OM&A, an update to our financial forecast for the fiscal year 05/06. There have not been any changes to the 06/07 revenue requirement.

Q.821 - Okay. And in that regard with these updates how will that impact on the reduction of $300,000 in OM&A costs from 2005/2006 to 2006/2007?

MS. CLARK: I don't have those details with me here.

Q.822 - Okay. You are going to have them at noon?

MS. CLARK: At noon.

Q.823 - And they will become part of the record?

MS. CLARK: Yes, they will.

Q.824 - Thank you. Okay. Under the same section, section 3, tab 2, evidence of Lori Clark, page 2, table 2(a). Can you provide for us an outline -- an explanation of the costs that were transferred between cost categories and companies that substantiates the figures provided in this table for both years?

MS. CLARK: Are you referring to the footnote that says, reclassification to reflect costs transferred between cost categories?

Q.825 - Yes.

MS. CLARK: There are no changes in 06/07. What we did in 05/06 was we reflected changes to employees moving from Disco into the holding company, so we could do year over year comparisons.

Q.826 - So are those the actual costs for -- they are estimated costs for 2005/2006?

MS. CLARK: Those are budgeted costs for 05/06. The total amount of 99.2 --

Q.827 - Yes.

MS. CLARK: -- is the total amount. We just reflected costs where employees have moved from Disco into either shared services or corporate services so that we could properly reflect what was really happening between the two years.

Q.828 - That's fine. Thank you. With respect to table 2(b) on page 5 under tab 2, which would be three pages further. Do you have that, Ms. Clark?

MS. CLARK: Yes, I do.

Q.829 - Okay. And with respect to that, can you provide for me or undertake to provide for me in a format similar, the year to year increase in absolute dollars and percentage for each of the expense categories listed in that table for the period 1999/2000 to 2004/2005?

MS. CLARK: I think most of that information is in a PUB response. I don't think it goes back to '99. It goes back five years.

Q.830 - Okay. Well if you have it and could refer me to the proper response -- not right now, undertake. I will come back to it if you can't -- if it hasn't been provided is it something that you would be able to provide?

MS. CLARK: I think we talked about that at one point in time. It's very difficult to go back that far and show meaningful comparisons because there are so many transfers of employees and transfers of costs between categories. PUB IR-35 from July 14th shows five years I believe of history.

Q.831 - There would be difficulty in establishing this historical information because of the transfers that took place at the time of the reorganization.

Would that be your evidence on this, Ms. Clark?

MS. CLARK: Well, it's much more than that. It is we were a vertically integrated utility. Then we moved to business units. And then we further refined that before restructuring.

Q.832 - Okay. The business unit started sometime in the late '90's I understand?

MS. CLARK: In 1996 we began the process.

Q.833 - Did you keep a separate OM&A for each of the NB Power business units after 1996, '97?

MS. CLARK: At that point in time Transmission and Distribution was one operating -- one business unit.

Q.834 - We will look at PUB -- there is a PUB-35 or PUB-55, the IR?

MS. CLARK: PUB IR-35 from July the 14th.

Q.835 - Okay. We will look at that and see how much it helps us.

What prudency studies has Disco commissioned to determine the level -- whether the level of forecasted OM&A expenses are appropriate?

MR. MAROIS: I can talk to this generally. And maybe I could talk using the table we were at there on page 5, table 2(b). It's obvious from this table that the single largest component of our direct OM&A cost is labour and benefits.

As you can see for example in 06/07, 48,000,000 out of the 71.2 million budgeted OM&A results from labour and benefits. That's a little bit over 67 percent.

And I guess a couple of comments on that line item.

First, as you know, as of a little bit over a year ago, at the end of the fiscal year 04/05 we significantly reduced the number of employees, 150 people, 20 percent.

So in terms of the number of people for 06/07 we are at a reasonable level, if not a stretch level. Because we are still digesting those changes. But in terms of salaries I guess we do benchmark the salaries or the compensation of our labour.

First in terms of -- well, 90 percent of our labour is unionized. And when we negotiate collective agreements we benchmark with other jurisdictions. And we target to pay our labour at market. So that's a form of benchmarking in terms of knowing that the labour cost is indeed within market. In terms of a non-union labour cost, that represents 10 percent of the labour, we also benchmark. And the benchmark is we aim at 50 -- to be at the 50th percentile of market. And we use specialized firms like Hay to do this benchmarking. So when you look at the cost that is the single largest cost, which represents over 67 percent, we effectively benchmark with industry.

And the other thing that gives me a lot of confidence in that cost is because of the -- we really have a progressive human resource policy. And what that policy allows us to do is really lower our costs.

For example, because we have a positive relationship with the union we have little or no grievances. So there is significant cost reduction there in terms of disruption, in terms of dealing with those grievances.

We also have a relatively low benefit cost. We have introduced a program a couple of years ago, Flex benefits that has allowed us to lower our costs significantly. We also have low sick days. So that's another component really helping us to keep our labour cost low.

And because we have a really good safety record, we figure really, really well with the Workers -- WHSCC and the Workers Commission. And the comments I get is that we pay a lower rate than flower shops. So we really have an excellent track record in terms of safety. And that allows us to keep our costs.

So again when I look at it, I feel really, really comfortable in terms of our labour costs. We have reduced the number. We benchmark in terms of the rates we pay. Because of the progressive human resource policy we have we enjoy relatively low benefits cost.

And all that while not increasing our hired services. Because that's the other thing I track closely. I don't want us to reduce our labour and then hire more contractors. So these two components combined really represents the bulk of our OM&A which really tracks very well.

Q.836 - My question was what prudency studies has Disco commissioned to determine whether the level of appropriate -- OM&A expenses are appropriate?

From your answer, Mr. Marois, would I conclude that the answer to my question is that none have been so commissioned?

MR. MAROIS: Quite to the contrary. What I said is for the single largest component in our OM&A we do compare with other utilities. And we do -- we are quite comparable. Again, 90 percent of our labour is unionized. We pay at market. For the remaining non-unionized we pay at 50 percent of market. So that for me is a way to determine if our costs are reasonable.

Q.837 - Well, I appreciate that. But I have asked what prudency studies has Disco commissioned outside the company to determine whether appropriate levels of forecasted OM&A expenses are appropriate?

And I appreciate the efforts you are making within the company to control those costs. They are very admirable. But my question is exactly what it was.

And is the answer to that question none have been so commissioned?

MR. MAROIS: Not a comprehensive study. I don't think any utility would do that. What we do do though is for different components we do studies. As we mentioned in our evidence, for example, we are currently updating the Stone & Webster study that was done in '99.

And what that study allows us to do is to ensure that we focus our dollars in terms of maintenance in the right area, so that we maintain our reliability without overspending. So for me that's a form of analysis that again allows us to feel comfortable that our cost are indeed reasonable.

Q.838 - Well, you have mentioned to me that, especially with regard to labour costs, that you have used inter-utility comparisons, Mr. Marois, is that correct?

MR. MAROIS: I'm going to have to get you to repeat, sorry.

Q.839 - Sure. I think in your evidence you indicated that with regard to benchmarking your labour costs you look at inter-utility comparisons, is that correct?

MR. MAROIS: What we do is we use an external firm. And what we track by is -- I think it's called the Industrial Market Index.

Really the way you benchmark your compensation is in the markets you need to recruit from. So you need to be competitive within those markets. Otherwise you won't be able to either keep your people or recruit new people.

Q.840 - Are there other utilities included within that benchmarking study, Mr. Marois?

MR. MAROIS: Yes. All utilities in the Atlantic Provinces.
Q.841 - All utilities in the Atlantic Provinces?
Just a few questions on the Balanced Scorecard methodology, panel. And in regard to this, who designed the Balanced Scorecard methodology? Where did you get it?
MS. MACFARLANE: You have caught me off guard, Mr. Hyslop. It is a well-recognized methodology adopted by most Fortune 500 companies. I at this very second cannot remember the authors.
Q.842 - Well, you could get that for me though, could you?
MS. MACFARLANE: I certainly can. They have published many books and many studies.
Q.843 - Okay. And is the nature of this Balanced Scorecard methodology in the public domain?
MS. MACFARLANE: Very much so. It is a very well-recognized methodology. There is all kinds of information on the Web about it. As I say, the authors of the original methodology have published many books as have others. Harvard Business Review has many, many documents on case studies of companies using the Balanced Scorecard. And there is a website for an organization called the Balanced Scorecard Collaborative.
And as I say as well, documented, well-published and used by many, many of the Fortune 500 companies in the

world.

Q.844 - Would there be a nice little -- with law school I used to love Wills In A Nutshell. It got me through the course. Would there be a Balanced Scorecard in a nutshell type book out there?

MS. MACFARLANE: We could provide the reference to that for you, yes.

Q.845 - Thank you. Who administers the program?

MS. MACFARLANE: From a perspective of methodology, the process, the timing, et cetera it's administered by the Corporate Finance Group. The standards in terms of reporting and setting of targets and measures and so on are defined by the Corporate Finance Group.

The content of the Balanced Scorecard is a process undertaken by the management teams in each of the operating companies, and collectively for the group of companies by the executive which is the Vice-presidents of the affiliate companies, the CEO, the CFO and the other corporate Vice-presidents.

Q.846 - It is a performance management and measurement tool of some sort, I assume?

MS. MACFARLANE: Yes, it is.

Q.847 - Yes. And you know, what are the specific criteria used to evaluate management performance?

MS. MACFARLANE: If I could direct you to exhibit A-50.

Q.848 - Yes.

MS. MACFARLANE: It's under the direct evidence of Mr. Rock Marois, part 2, and it's page 7.

Q.849 - Is that exhibit A-50?

MS. MACFARLANE: That's exhibit A-50, direct evidence of Rock Marois, part 2, page 7. I refer you to question 10 which is an overview of the Balanced Scorecard methodology in a nutshell. I have been reminded that the authors of this methodology are Kaplin and Norton, both of whom hail from the Harvard Business School.

The lines 1 through 28 describe the methodology and in suggesting that there are criteria they really are in categories -- or lines 13 through 20. The Balanced Scorecard is about helping organizations clearly define their strategy and to articulate the balance that they necessarily have to make, the decisions they necessarily have to make to balance various competing objectives. And it ensures attention to that balance.

The four criteria are the financial objectives, to succeed financially how should we appear to our stakeholders, the customer objectives, to achieve our vision how should we appear to our customers, the internal perspective, to satisfy our shareholders and our customers at what business processes must we excel, and finally learning and growth, to achieve our vision how will we sustain our ability to change and improve.

The methodology calls for development of a strategy map that lays out objectives in those four categories and then it calls for development of a scorecard whereby you set targets and measures for achievement of the objectives in each one of those categories.

Q.850 - So let's take the first one, to achieve financially how should we appear to our stakeholders. How would you know if you were meeting the benchmarks with regard to financial success?

MS. MACFARLANE: Sitting behind the Balanced Scorecard methodology is the Board ENDS policies. We use, and I believe this was filed as an exhibit, the Board ENDS policies. We use the Carver Model which defines board policies for what in the long-term the corporation is to achieve. And the Board ENDS policy from a financial perspective talks about over the long-term and ensuring our rates are competitive providing a commercial level of return to our shareholders for payment of debt. That is the long-term objective. And so what we are setting as near term objectives in our three year business plan is progress towards that long-term goal.

Q.851 - Just by way of background, this is something you have just initiated in the last couple of years, the use of this Balanced Scorecard methodology?

MS. MACFARLANE: That's right. We introduced it in the fall of '04 for development of the 05/06 business plan and budgets. That was the first year. And we have proceeded with the implementation for the development of the 06/07 business plan.

Q.852 - Is it fully implemented at this time or are you still working away at it?

MS. MACFARLANE: It is not fully implemented at this time. The strategy maps are well developed and they are managed to the level of the management teams in the organizations. They have not been cascaded further down through the organization. And the Balanced Scorecards continue to be in development.

It is very, very difficult to ensure the proper measures are put in place, measures that are a combination of leading and lagging indicators, measures that are motivating the right behaviour. It's something that requires a lot of study and research and it requires that your information systems provide the information to populate them. And that's very much the focus of our attention right now, is ensuring proper definition of the measures and targets.

Q.853 - And I guess when would you expect to have the Balanced Scorecard fully implemented?

MS. MACFARLANE: Could I ask you to define for me what full implementation means to you?

Q.854 - Pardon me.

MS. MACFARLANE: Could you tell me what you mean by fully implemented?

Q.855 - Well when is this whole -- I'm too much of a meat and potatoes guy. I guess I want to know if you are going to use a management evaluation system and you are telling me that you are in the process of implementing it. What -- would it be two years out before we have this thing fine tuned to the point where we start seeing some benefits from it?

MS. MACFARLANE: Just to put that in perspective for you, there is an Atlantic Canada Balanced Scorecard Collaborative. And organizations like Irving, Atlantic Lottery, Maritime Electric, Nova Scotia Power, are in that Collaborative. They are further ahead in their implementation than we are and we are learning a lot from them on that front.

But they really indicate it's a period of three to five years to implement down to the level where supervisors in your organization understand fully the strategy and are adopting practices whereby the targets and measures are actually changing their behaviour to align with strategy. So we have got some work to do yet.

It is proving though even in its early implementation to be very effective in helping people understand what it is like to be a performance focused organization, how actions contribute to outcomes and particularly in helping the management teams understand how each company plays a part in achieving the overall objectives for the group of companies.

It has been very helpful in ensuring Genco knows what Genco has to achieve to move the whole group forward, having Disco understand what Disco needs to achieve to move the whole group forward, and who is responsible for what areas of ensuring success at the end of the day.

Q.856 - So from your answer am I to conclude that it takes about three to five years to get this all in -- I will use the word implemented because I am just not sophisticated enough for the New Age methodologies. We used to just do budgets and meet them, but that's what I worked under. But you are telling me three to five years.

MS. MACFARLANE: Three to five years for a full implementation where you are seeing the real outcomes.

Q.857 - Now who evaluates this program and senior management's performance? Is it done internally or is there some external that comes in and looks at how you are performing under the Balanced Scorecard?

MS. MACFARLANE: The Board of Directors has taken a great interest in the efforts undertaken by management to implement this.

Q.858 - So that would be internal?

MS. MACFARLANE: That is internal. They have asked Ernst & Young, the internal auditors for NB Power who report directly to the Board -- they have asked Ernst & Young to assist in and report on ensuring that risk assessment and risk measurement is part of the strategy mapping and Balanced Scorecard methodology, and part of the monitoring of that.

Q.859 - Are they doing the Balanced Scorecard -- is Ernst & Young doing the Balanced Scorecard for senior management?

MS. MACFARLANE: No, they are not.

Q.860 - They don't do that?

MS. MACFARLANE: No.

Q.861 - The Board of Directors does that?

MS. MACFARLANE: The senior management has developed the Balanced Scorecard --

Q.862 - For itself?

MS. MACFARLANE: -- the strategy map and the Balanced Scorecard for itself, presented it to the Board for adoption.

Q.863 - Has the Board inquired from any independent agency to review the Balanced Scorecard that senior management proposed and comment on it?

MS. MACFARLANE: Other than the Ernst & Young audit, the only other external input they would have had would have been independent meetings with the consultant who worked with senior management to develop the strategy maps. As I say, when the Board was presented with the strategy maps they had an opportunity to speak independently with that consultant.

Q.864 - So when you get your scorecard, it's prepared internally but there is some assistance from outside?

MS. MACFARLANE: In the long-run that shouldn't be necessary, but because we are just in the implementation stages we have engaged assistance, yes.

Q.865 - Receive reports from Ernst Young on the type of evaluation of senior management?

MS. MACFARLANE: I'm sorry. Could I ask you to repeat your question.

Q.866 - Sure. Have you received reports from Ernst Young as to the performance of senior management under these

Balanced Scorecard reports?

MS. MACFARLANE: No. That has not been the objective of their assignment. The Board of Directors sets specific performance criteria for the President and the Board of Directors assesses his performance and through him the corporate performance. Many of the indicators in that are indicators that come from the Balanced Scorecard as it's currently developed; financial performance, customer survey performance, employee indicators like turn-over, like benefit costs, like union relations, et cetera. So many of the indicators that are in the Balanced Scorecard form part of the assessment. Public affairs relationships, et cetera, form part of the assessment that the Board makes of the CEO.

Q.867 - Thank you.

MS. MACFARLANE: Mr. Hyslop, if I may, I have been reminded that the Balanced Scorecard methodology, an important component of course is monitoring and reporting. And the monitoring and reporting that is done to the senior management group and the CEO, the information contained in that reporting is delivered to Electric Finance Company as part of the government's process. So if you consider them an external body looking at the performance of management, they do receive the reports out of that forum.

Q.868 - I think I had the chance to review some of those and I did appreciate the blue star. Anyhow, I have got a number of questions dealing with some follow-up on some IRs. So I refer you, if I might, to exhibit A-54. And the first one is PI IR-7 which deals with Mr. Morrison's favourite topic of Crown agency.
And my question is with respect to follow-up on that IR, and I do realize the statute calls for this, but someone must have thought through a good reason for keeping Nuclearco as the Crown agent.
Can you tell me who decided this and why? If you don't know you don't know, that's fine.
MR. MORRISON: Actually, Mr. Chairman, we kind of grappled with this when we answered the question. Quite frankly, the only answer we could come up with is the legislature decided that Nuclearco was going to be an agent of the Crown. And I don't know what more we can say about that.
Q.869 - So the short answer then, panel, and you can answer through your attorney if you wish -- the short answer to this is you don't know why the legislature decided this? If you do know why it was done this way, tell me.
MS. MACFARLANE: I don't know why it was done this way.
Q.870 - Thank you. PI-14. This deals with the $377,000,000 debt which I understand includes 140,000,000 that was used

to buy an equity position in Transco. My question is a very short one. Is interest still being paid on this $140,000,000 of debt that was removed out of Transco, notwithstanding that a share purchase was made for this money?

MS. MACFARLANE: The debt was transferred to Electric Finance. There are notes in the public debt markets issued by the Province of New Brunswick that support this debt of 377,000,000 in Electric Finance, and interest is still being paid on it. As we discussed yesterday the cash flow for the interest payments comes from the NB Power group of companies in the form of payments in lieu of taxes and dividends. It comes from the NB Power group into Electric Finance. Electric Finance then pays the Province of New Brunswick who pay the external debt holders.

The dividend portion in particular is supporting the 140,000,000 in Transco. You will notice that Transco is the only company in 06/07 paying dividends.

Q.871 - So we are in a position where we are paying interest on the debt and we might be paying dividends on the shares that were purchased as well?

MS. MACFARLANE: The NB Power group is paying taxes and dividends. The taxes and dividends are being used by

Electric Finance to pay the interest costs on this debt.

Q.872 - Sure. So the short answer to my question is yes, interest is being paid on the loan that was taken out and used to purchase the shares? It's not that hard a question.

MS. MACFARLANE: I just want to make sure that we are clear on this. The debt is held by -- the 377,000,000 used to be debt of NB Power. It was transferred to Electric Finance by virtue of them putting contributed surplus into the company in one hand and buying equity in the other hand.

Q.873 - I don't want to interrupt your answer, but my question dealt specifically with the $140,000,000 that was used to buy an equity position in Transco. And I understand the Electric Finance Corporation took that debt off Tranco's books and made it their own, and they also own shares in Transco.

So my question is are we servicing debt interest on that $140,000,000 and also using the shares to declare dividends to Electric Finance Corporation? Are we doing both those things? I think it takes -- it seems to me it's either yes, we are, or no, we are not.

MS. MACFARLANE: No, we are not. Transco is not paying interest on these. However, Transco does declare dividends and pay PILS into EFC, and they use that money to pay the interest on this debt that is on their books, not Transco's books.

Q.874 - Thank you. PI-19. Normally in income tax and stuff I remember vaguely something called carry-back and carry-forward, principles of losses. Are those type of elements part of the input on an ongoing basis for the payment in lieu of taxes?

MS. MACFARLANE: Yes, they are.

Q.875 - Thank you. PI-20. This deals with the debt management fee. I can refer you specifically to the decision but, Ms. MacFarlane, I will put it to you generally, but in 1993 at the rate hearing the Board indicated that it would like to see some evidence as to what the actual benefit or cost was for the debt management fee. And it directed in its decision that any amount in excess of that would be part of the return on the equity for the utility.

And my question is has NB Power ever done such an analysis internally and has such an analysis been made available? If you have had such an analysis, would you make it available to the Board as part of these proceedings?

MS. MACFARLANE: I would like to answer the question with two parts. First of all, we have done analysis to look at what the interest rate would be for a stand-alone distribution utility, and we have looked at the spread between a stand-alone -- the credit spread between a stand-alone distribution utility and the provincial borrowing rate.

And depending upon the time of -- the time period that you look at -- it's between 40 and 70 basis points and that was what helped EFC and NB Power determine that 65 basis points was a reasonable payment.

But the second part of my answer goes beyond that because we have since then had input from our financial consultant, Cathy McShane, who will be here on Monday. And Cathy believes frankly that our analysis is weak because we would never in the first instance be just paying a differential over the provincial rate in the absence of a provincial guarantee.

So the full benefit of the provincial guarantee in her view is not even begun to be measured in these 65 basis points. If Disco, without the benefit of a provincial guarantee, were to go to the markets now, we would likely not be able to get debt at all, let alone debt at 65 basis points above the Province of New Brunswick.

Q.876 - Okay. So the answer is you have done an internal analysis?

MS. MACFARLANE: That's correct.

Q.877 - And when was that analysis done? Was it an ongoing analysis, something you do from time to time, or --

MS. MACFARLANE: We do it from time to time, and I believe it was done most recently around the time of the preparation of the 06/07 budget.

Q.878 - Would you be good enough to file that analysis with the Board?

MS. MACFARLANE: Yes.

Q.879 - Thank you. For some reason -- no, that's not a fair question. IR-27, PI. And I direct you to question 3. It says, please provide copies of all value for money audits or other audits that Disco carried out before entering into all the shared services agreements. You see that, panel?

MS. CLARK: Yes.

Q.880 - And it said that no value for money audits were conducted by Disco prior to entering into the current shared service agreements. Section 3 of the Electricity Act caused Disco and Holdco to enter into those agreements. That was your response, correct?

MS. CLARK: That's correct.

Q.881 - Could I refer you to Section 3, subsection 2 of the

Electricity Act. I will read the section in and I will see if you take the same position.

The purpose of the corporation -- and this is referring to the Holdco -- shall include in addition to any other purposes the provision of assistance or services to the subsidiaries established under subsection 4(1) and this is the important part, as may be agreed upon between the corporations. You see that?

MS. CLARK: Yes.

Q.882 - Yes. So I go back and I appreciate that the Electricity Act may have caused people to enter into these, but in view of Section 3, subsection 2, it would appear that you had some latitude in determining the fairness of the shared services agreements. And you have told me there are no value for money audits.

Could I ask when you would anticipate completing a value for money audit with regard to the shared services you are receiving?

MS. CLARK: Disco itself has not conducted any value for money audits. The holding company in shared services did conduct a value for money audit and it has been filed with the Board, and that was part of the managed transition.

We -- at the time that group in shared services was carrying out a critical function for both our customers and our financial systems, and it was a legitimate or a necessary transition for them to continue to provide that service to us.

Q.883 - I don't read subsection 3(2) as compelling Disco to have to sign any agreements with Holdco. And my question will be would the financial management of Disco be prepared to take steps to ensure that it is paying fair fees for these services independently of the other NB Power group of companies?

MR. MAROIS: Mr. Hyslop, the study Ms. Clark is referring to was filed in PUB IR-186. It's a very comprehensive study and really is very positive in terms of all the steps that were taken by shared services in establishing the various services it offers and how it bills for them. And in particular it does state that a relatively high percentage of those costs are recovered through direct billings, around 60 percent. And I can tell you from my experience that this is very positive. So this study gives us the comfort in my mind that the prices we pay for shared services are indeed reasonable.

Q.884 - I'm glad you are comforted, Mr. Marois. I am just trying to be comfortable myself. I believe the exhibit you refer to was a Holdco report and I'm just saying, you know, this is the guy that's selling the services. And it would seem tome that you would lie to make your own independent analysis and not let Holdco anywhere near it if you were going to do so. And why wouldn't that be an effective management strategy to protect your costs, Ms. Clark? You know, you just accept the fact that what Holdco tells you is the fair way to do this?

MR. MAROIS: No. This is an independent study and I have got over 20 years in experience in utilities, and I can tell you that the structures of the shared services and the reasonableness of how they calculate for their services is very reasonable and substantiated. I would encourage you to read the study if you haven't done so.

Q.885 - I flipped through it.

MR. MAROIS: You should read it.

Q.886 - Okay. I will move on. I think I have got the answer.

MR. HYSLOP: This is Professor O'Rourke's short snappers, Mr. Chairman.

Q.887 - There are a bunch of questions out of this. And I have beat most of them to death. But I'm going to just pose one.

If competition hasn't actively developed in the New Brunswick electricity market by 2010, would NB Power consider the move to a competitive market a failure and revert to rates more closely identified as being proper

for a government-owned utility being cost-based?
If there is no competitive market established in five years, where does that leave this whole grand plan and experiment?

MR. MAROIS: Well, first of all this a hypothetical question. Second we don't make the rules. The Provinces make the rules. And third, like we mentioned, is the fact that there is an open market or not is not driving our rates.
What's driving our rates is the clear objective of the Province that we recover our costs, that we become commercially viable, that we pay down the debts. By doing so it puts us on a more level playing field with potential competitors.
So that's the positive side from developing a marketplace. But the main objective is still the same, pay down the debt. The debt will be there, competitive market or not.

Q.888 - I'm not opposed to any debt getting repaid, Mr. Marois. It has never been the purpose of the public interest. I guess I was just asking is there any type of a time that has been kind of benchmarked under the Balanced Scorecard system as to whether or not there will be a transfer of the competitive market.

But I mean, I have went through a lot of this before. And I'm not going to pound it any further.

IR-34?

MS. MACFARLANE: Yes, I have it.

Q.889 - Okay. And very briefly -- and I'm looking at the third paragraph to response 1 which says any cost overruns on the refurbishment will be to Nuclearco account?

MS. MACFARLANE: Yes.

Q.890 - That is the position as of today's date?

MS. MACFARLANE: That is a position that is stated in the PPA with Nuclearco.

Q.891 - Okay. And that is the PPA that is under review?

MS. MACFARLANE: Yes.

Q.892 - What guarantees can you give me that Disco is going to stand absolutely firm on that portion of the PPA that any overruns on the Nuclearco refurbishment don't get handed back down to Disco and its customers?

MS. MACFARLANE: Well, let me start by saying that the CEO of Nuclearco is adamant, as is the Board of Nuclearco, that there will be no cost overruns. Let me start with that.

And secondly --

Q.893 - I sincerely hope that you are right. Because really the ability of the Province of New Brunswick to provide services to its citizens, to hospitals and schooling is very much at risk if this goes seriously overrun.

So I certainly hope Mr. Thomas and the people at NB Power are on time, on budget. I want to -- can't tell you how supportive I am of you on that.

But having said that --

MS. MACFARLANE: It is --

Q.894 - -- what happens if it goes over?

MS. MACFARLANE: It is our highest priority. The contract, if it goes over, calls for that overage to be borne by Nuclearco and therefore by the shareholder. You mentioned the contract being under review. The portion of the contract that is under review is not related to that phrase.

What is the issue at hand is, which is why our business plan is not able to be filed yet, relates to how the fixed costs of the operation, of the nuclear operation are handled under the PPA in the year of the outage. As you know, the current construct is that if Nuclearco is not operating there is no revenue.

In the 18 months of the outage, Nuclearco is not running, there is no revenue. And yet 95 percent of their costs are fixed costs. The model that the financial advisers of the Province developed recognized those as deficits in 08/09 and 09/10 that would be recovered over the 25-year period of the contract.

The reality that is now being recognized by Electric Finance is that Nuclearco's results roll up to EFC's results, which consolidate with the Province's results. And of course the Province has no deficit legislation.

The financial advisers who put this model together are not accountants. And they are not familiar with regulatory mechanisms.

And what we are looking at is a regulatory mechanism to have those costs treated as regulatory assets as opposed to a deficit. And that's something that we will bring before the Board in due time.

That is why the contract is being examined, not with respect to change -- any attempt to change how overages, should they occur, are handled.

Q.895 - IR-36 dealing with the question of a plant performance agreement after refurbishment.

MS. MACFARLANE: Yes.

Q.896 - Will there be a plant performance -- and the only reason I ask this is I was around, when I looked at what was determined to be a fairly inadequate one a few years ago during the nuclear refurbishment hearings.

And I'm asking whether or not there will be a plant performance agreement with AECL after refurbishment of Point Lepreau?

MS. MACFARLANE: There will not be. The Robin Jeffries report, which was independently commissioned by the Province of New Brunswick before the refurbishment decision, agreed with your conclusion that that contract was not in the best interests of Nuclearco and its customer Disco and their customers.

And so the performance agreement was not signed. There will not be one.

Q.897 - There will not be one at all?

MS. MACFARLANE: No.

Q.898 - That is even worse than the one we had. But I will go along. I'm just wondering.

IR-38 you indicated that if there was a benefit from the Venezuelan litigation that this would end up going to Disco.

The converse of that, does that mean Disco is paying all the legal fees for the Venezuelan litigation?

MS. MACFARLANE: There is provision in the tolling agreement that the benefit net of legal fees will go to Disco.

Q.899 - Yes. But I'm saying if there is no benefit -- you know, I'm getting to learn how expensive legal fees are through these proceedings.

And if you spend a couple of million dollars on legal fees down in the States, is that Disco's expense? And there is no -- you get through this litigation, you throw your hands up.

And I'm not prejudging. I don't want to go there. But I'm just saying if at the end of the day you walk away from this litigation, who absorbs the legal fees?

MS. MACFARLANE: Let me answer the question this way. There is no recovery of these costs in the 06/07 Revenue Requirement, given that I would suggest, and given the fact that there is no retroactive collection of costs, I would suggest that certainly for 06/07 that these costs are not being passed on to Disco.

Q.900 - So Disco won't be paying any of the legal fees at anytime if this litigation is abandoned?

MS. MACFARLANE: There is nothing in the 06/07 Revenue Requirement to pass this cost on to --

Q.901 - Okay. What about in -- what happens in 07/08?

MS. MACFARLANE: We are not here for 07/08, Mr. Hyslop.

Q.902 - Okay. You can't guarantee me that Disco won't pick up the tab on these legal fees then, can you?

MS. MACFARLANE: I think the contract is quite clear as to what happens with legal fees.

Q.903 - I hope you win.

Just looking at IR-55, it deals with payment in lieu of taxes. We asked a question about amounts similar to. And I hope it is quite simple.

Could in theory the payments being made in lieu of taxes be greater than the actual taxes if this was an investor-owned utility?

MS. MACFARLANE: I can't answer the question. Because it would require a ruling through CCRS or --

Q.904 - CCRA, yes.

MS. MACFARLANE: CCRA, thank you, as to the tax value of the assets. And the tax value may be more or may be less or may be the same as the book value of the assets.

Q.905 - Okay. If you can't provide it that is fine.

IR-69. And this deals with issues between energy sales after meeting all firm commitments. And if we have a competitive market, purely competitive, Disco I assume would want to be able to maximize its revenue from sales. Would that be part of its mandate?

You have met all your firm commitments. So any excess electricity you have, if you could sell it, you would be looking to sell it at its best price. Would that be true?

MR. MAROIS: Yes. Typically we are price takers though on the export market.

Q.906 - Repeat that answer, Mr. Marois, I didn't quite catch it?

MR. MAROIS: When Genco sells excess electricity on the export market on our behalf, they are price takers. In other words the market in New England sets the price driven in part by natural gas driven by demand.
So your comment about getting the best price, it would be great if we could command the price. But we have to take the price that's there.

Q.907 - On the nuclear power purchase agreement we asked questions with regard -- IR-73, I'm sorry -- we asked some questions with regard to the renegotiation of the review of the nuclear PPA. And will Disco be receiving independent advice with respect to the renegotiation of the issues in this contract?

MS. MACFARLANE: Through the Operating Committee. The Operating Committee obviously would be reviewing these matters, and to the extent that they need to obtain independent advice, they certainly have the right to do that.

Q.908 - Well, this is a pretty important contract I expect to Disco. And during the negotiations, in order for Disco to get the best deal it can from Nuclearco, would you not be wanting to have independent advice to the officers of Disco? And no offence, Ms. MacFarlane. You are an officer of many other companies.

What would Disco do to protect its interest during these renegotiations?

Maybe one of the independent officers should answer this one. You are a panel. I appreciate that.

MR. HYSLOP: I'm almost done, Mr. Chair.

MR. MORRISON: I think we should also bear in mind, Mr. Chairman, with respect to that issue, it has no impact on the 06/07 application that is before the Board.

MR. MAROIS: I guess my answer would have to be it depends. Like Ms. MacFarlane said, the issue at hand right now is almost an accounting one. So from that perspective definitely I will be personally involved in any review of the PPA.

But my understanding of the current review would not be something that we would necessarily be overly concerned about. Because the issue here is -- we will have to pay for those costs. The issue is when. Currently the way the PPA is set is we would recover them over time.

The review that is being done is is there a way of recovering them, paying less to Lepreau but recovering those costs to a Board-approved mechanism, and again mainly driven by accounting realities. But definitely our interests will be represented.

Q.909 - That's one of your great strengths, Mr. Marois, is your ability to be a team player. Would you put the interests of Disco ahead of the team approach of the NB Power group of companies in these negotiations?

MR. MAROIS: I'm an employee of Disco, an officer of Disco. So that's my primary responsibility.

Q.910 - Sure. Good luck with Mr. Thomas.

MS. MACFARLANE: Frankly, I think you would find that the CEO and the CFO of the group of companies would also put the interests of Disco primary. Because our mission statement calls for us to be there to provide safe, reliable and reasonable -- reasonably priced service to the customers.

Q.911 - Looking at IR-74, and kind of flowing out. I think I'm quite safe in saying we are not expecting a load of Orimulsion to be delivered at Coleson Cove in the immediate future. And I guess I have a question. Would I be correct that had the Orimulsion contract been successfully negotiated, this rate increase probably would not have been required?

You have told me many times that this rate increase is driven by increased fuel cost.

MR. MORRISON: Are you relating to the capital costs that are included in the PPAs for -- in the Coleson Cove PPA, Mr. Hyslop?

MR. HYSLOP: No. I'm talking about the additional fuel costs that have resulted because a contract was not negotiated. Had that contract been negotiated and settled, would it be fair to say there would not have been a application for a rate increase at this time?

MS. MACFARLANE: Mr. Hyslop, I think if you read the papers you would realize that it is our contention that a contract was finalized in the -- was reached in the form of a term sheet.

And given that this matter is in the courts, I do not want to participate in this discussion, if that is okay.

Q.912 - Okay. I'm going to say assuming there hadn't been a dispute over the existence of a contract, would it be fair to say that there would not have been an application for a rate increase at this time?

MR. MORRISON: I'm just going to make a comment, Mr. Chairman, that I think discussion of that particular issue in a public forum while the matter is before the courts is not in the best interests of Disco or its ratepayers.

CHAIRMAN: I just frankly don't understand why. We are talking about some hypothetical. Presumably the Coleson Cove refurbishment hearing had the various price scenarios or the results thereof that came through on the basis of what NB Power Corporation at that time anticipated the price of Orimulsion would be. So to me that is all in the public record, using that as a basis.

MR. MORRISON: There are elements to the litigation which is now ongoing that a discussion of the details, particularly with respect to calculation of damages and so on -- and this proceeding I can assure you is being monitored by other parties in that litigation -- would not be in the best interests of Disco or its ratepayers.

CHAIRMAN: Well, all right. I will accept what you have to say, Mr. Morrison. Go on to something else, Mr. Hyslop. I can't get off again.

MR. HYSLOP: Mr. Chair, I anticipated some possible objection. My follow-up was to take the panel, of whom I think Mrs. MacFarlane was a member, through some of the numbers at the Coleson Cove hearing. If the objection is to leave it I will leave it.

CHAIRMAN: Look, if counsel, a member of the New Brunswick Bar, tells me that it is his advice that if this line of questioning were to continue it may cause problems in the litigation that is ongoing, then we will simply go on to another topic.

MR. HYSLOP: Thank you. That was the clarification I was looking for. Thank you.

Q.913 - IR-102. Has the debt management fee been set for fiscal year 2006/2007?

MS. MACFARLANE: The debt management fee for 06/07 has -- we do not have an order-in-council for it yet. We would anticipate receiving that order-in-council before the beginning of the fiscal year.

However, there have been discussions with Electric Finance Corporation staff. And they have indicated that the same rate will be applied against the debt.

Q.914 - That would be the 64 basis points -- 64.89 basis points?

MS. MACFARLANE: Yes.

Q.915 - I am referring to exhibit A-62.

MS. MACFARLANE: Yes, we have it.

Q.916 - In that IR -- PI IR-1?

MS. MACFARLANE: Yes.

Q.917 - And in particular I am looking at the issue of the question of the rate of return that Disco and Nuclearco are hoping to achieve. And further in PI IR-5, it was indicated that no independent study had been done of the appropriate IR of the rate of return that Nuclearco or Genco should receive.

My question is, is what steps will Disco take to ensure that Genco and Nuclearco's return on equity is not excessive?

MR. MORRISON: Mr. Chairman, I believe that the Board has made a ruling with respect to the ROEs for Nuclearco and Genco. And that they were not to be the subject of cross examination or reasonableness test in the course of this proceeding.

MR. HYSLOP: My questions, Mr. Chair, relate to the fact that the Operating Committee has to sit down and negotiate and re-negotiate these contracts on an annual basis. The return on equities for the upstream companies are not substantiated in any way by an independent assessment as Disco's is by Mrs. McShane's report.

My submission is that the chance for an abuse by someone holding all the cards upstream in its negotiation with Disco is very real and I would like to ask Disco what they are going to do to protect their interest in those future negotiations?

MR. MORRISON: Mr. Chairman --

MR. HYSLOP: So that's why I ask the question.

CHAIRMAN: Now, Mr. Morrison, I didn't hear your response very well previously. There is an echo.

MR. MORRISON: I will repeat.

CHAIRMAN: So go head.

MR. MORRISON: I believe the Board made a very clear ruling on January 11th that the ROEs in both Nuclearco and Genco were not to be the subject of reasonableness tests before this Board. They are built into the PPAs.

And I believe the Board -- and I don't have the decision directly in front of me -- I also believe that the Board ruled that it wouldn't be the subject of cross examination.

In any event, this goes directly to the heart of the argument that we will be making with respect to portions of the Strunk and Makholm reports that deal with ROEs in Genco and Nuclearco. I thought the Board made it quite clear that there would be no consideration of the reasonableness of the ROEs for Nuclearco and Genco that are assumed in the PPAs.

CHAIRMAN: Mr. Morrison, my understanding of what Mr. Hyslop was asking is what is Disco going to do to protect its interest in these negotiations with these contracts. Am I correct, there Mr. Hyslop?

MR. MORRISON: And that's fair, Mr. Chairman, but --

MR. HYSLOP: That was exactly my question, Mr. Chairman.

CHAIRMAN: Okay. Go ahead.

MR. MAROIS: Well, I guess I am going to start by commenting that Mr. Hyslop's characterizations of the PPA is totally false. He said that these contracts are up to renegotiation each year.

Q.918 - No, I --

MR. MAROIS: That is -- that is what you said. You read the transcripts. It's totally false. The cost of the generation company's -- the recovery of those costs over time, including a return, are hardwired into the PPAs. So the PPAs are structured in a way, the prices are set for the term of the contracts. There is no renegotiation of the prices. The only price that changes annually is the price of fuel. And those prices are set -- are pass through. There is no mark-up on fuel. It's purely a pass through.

And there are procedures in place to ensure that those costs are fair. There is an Operating Committee that reviews all of the components that go into fixing those costs.

So to insinuate that there is flexibility on either Genco's part or another generators' part to inflate the price during the term of the contract to generate a return is totally a mischaracterization.

Q.919 - If you believed at some point in time -- and I know it in 2006/07 or -- that this isn't the case, but at some point in time you believe that the returns that were being made by Nuclearco were excessive, and given their status in the market, is this an issue you would be prepared to bring before a Public Utilities Board to review to determine whether or not the return on equity for the upstream companies were fair and reasonable?

MS. MACFARLANE: Generally speaking when a Power Purchase Agreement is reached there is financing put in place behind it and that is the case for Nuclearco. The financing is in place for the existing capital costs of Nuclearco, and as refurbishment proceeds the financing costs will be put in place in the form of long-term debt and equity, the equity portion being owned by the Province of New Brunswick.

And it is the rates of the day when those long-term arrangements that are put in place that form the cost that underlie the contract. So since that will happen and the rates of the day will dictate it, I don't anticipate being in the situation that you are suggesting.

Q.920 - You are not a very hard negotiator, Mrs. MacFarlane.

MS. MACFARLANE: I would also point out that any changes in the PPA have to be approved by Electric Finance Company which is the shareholder of both of those companies, and they are then subject to review by this Board in terms of what costs are passed on to the ratepayer.

Q.921 - Okay. I will live with that for now. Mr. Chair, that completes most of my questioning. There may be a couple of points over noon hour I might filter out which wouldn't take much time. I don't anticipate it. Professor O'Rourke has kept me on track here.

So I would anticipate other than maybe a -- if there is any follow-up it would be very short and Mr. MacNutt should be ready to go this afternoon.

CHAIRMAN: Right. Let me ask Mr. MacNutt, does he want to have the table the way Mr. Hyslop has it or does he want it back parallel with us?

MR. MACNUTT: I think we will square it up after.

CHAIRMAN: Okay. Well then can you ask questions from a squared up table?

MR. HYSLOP: Any I do have I take head-on, squarely on, Mr. Chair.

CHAIRMAN: All right. Well then that will allow people to move the tables over lunch hour. Okay. We will be back at quarter after one.

(Recess - 12:00 p.m. - 1:15 p.m.)

CHAIRMAN: Thank you, Mr. Hyslop.

MR. HYSLOP: And good afternoon, Mr. Chair. We checked our notes. There was one minor little thing that I spoke to the panel with informally and the corrections, if necessary, will be made and it won't affect anything on the record. So I am done. Thank you very much. And I thank the Panel and the Board for bearing with me over the last couple of days.

CHAIRMAN: Okay. Thank you, Mr. Hyslop. Mr. MacNutt, et al?

MS. MACFARLANE: Mr. Chairman, while Mr. MacNutt is getting ready, as Mr. Hyslop has made reference, yesterday when I was answering the homework assignment I did read one number into the record incorrectly. It's in the evidence correctly but I misspoke myself. It's on page -- the transcript of yesterday, page 3580 on line 21, and I don't think there is a need to look it up, I just want to correct the record. I said interest on short-term debt 3.7 million, and I should have said interest on short-term debt 2.3 million. As I say, it is corrected in the evidence. And when we answer the second version of the homework on Monday it will be corrected as well.

CHAIRMAN: Good. Thanks, Ms. MacFarlane. Mr. MacNutt, can I suggest you put the mic sort of directly between you and I. You will be looking at the witness panel. I'm just anticipating, that's all.

<u>CROSS EXAMINATION BY MR. MACNUTT</u>:

Q.922 - Good afternoon, Commissioners and witnesses. I am going to ask you to go to exhibit A-50 and there is two places I wanted you to go in that exhibit, and you might mark both of them. It's A-50, the direct evidence of Lori Clark, tab 3, page 2, table 1, and still in A-50 the evidence of Sharon MacFarlane, tab 3, sub-tab 4, page 1, table 4(a).

CHAIRMAN: That was table 4(a), was it, Mr. MacNutt?

MR. MACNUTT: The second reference, yes, Mr. Chairman.

CHAIRMAN: Thank you.

Q.923 - Now if we go to table 1 of Lori Clark's evidence, with respect to table 1, line 6 shows the estimated total interest cost for 2007 as $38.4 million, is that not correct?

MS. CLARK: That's correct.

Q.924 - That's column 1, line 6. And now if we go over to table 4(a) of Sharon MacFarlane's evidence, this table shows the details of the estimated total interest costs for 2007 of $39.4 million in column 1, line 6, is that correct?

MS. MACFARLANE: That's correct.

Q.925 - Now still with table 4(a), you would confirm for me that column 1, line 1, shows interest on long-term debt estimated for 2006/2007 to be 33.6 million.

MS. MACFARLANE: That's correct.

Q.926 - Now the details of the 33.6 million estimated interest expense for 2006/2007 are shown on table 4(b) which is on the next page. And that's shown in column 7, line 8, is that correct?

MS. MACFARLANE: That's correct.

Q.927 - Which is 33.6 million again. Now table 4(b) indicates in column 5 at line 6 that the principal amount of anticipated debt at March 31, 2006, to be incurred on February 15, 2005, is $100,000,000, correct?

MS. MACFARLANE: That's correct.

Q.928 - Now was that -- was there an actual financing?

MS. MACFARLANE: Yes, there was.

Q.929 - Would you give us the details, coupon rate, maturity and capital sum?

MS. MACFARLANE: I don't have that with me but I can provide it after the break. I have it with me but not on the stand.

Q.930 - Could you undertake to provide us with that number?

MS. MACFARLANE: Yes.

Q.931 - Okay. I am now going to ask you to go to exhibit A-52 which is the annual report -- 2004/2005 annual report for NB Power. And I'm going to ask you to turn to pages 54, 55.

MS. MACFARLANE: I have it.

Q.932 - And I'm going to ask you to go to the table -- at footnote 24 on page 54 it's stated that there is segmented information and that means related to Genco, Nuclearco, Transco, Disco and Holdco. And they are shown on the table on the facing page on page 55 at table entitled "Financial Overview". And I want you to go to the column entitled -- or labelled "Eliminations".

MS. MACFARLANE: That's correct.

Q.933 - What is meant by eliminations in that context?

MS. MACFARLANE: When there is an intercompany transaction, a transaction between two companies in the group, and they are on separate lines of the financial statement, they need to be netted out in order to present the consolidated whole, and let me give you an example. Let's look at the line called fuel and purchase power. It's about half-way down through the table.

Q.934 - Minus 823,000,000?

MS. MACFARLANE: Yes. So you would see costs of fuel and purchase power under Genco and you would see costs of fuel under Nuclearco, and yet both of those are passed on through the PPA to Disco. So there is an elimination of the inter-company charges. So that the external costs to the entity, the group of companies, is what is represented in the total.

Q.935 - Okay. Now would you please explain why the total of eliminations does not net to zero but shows as an $8,000,000 loss on the net income (loss for the year) row?

MS. MACFARLANE: Generally speaking it would net to zero. And there is a reason for it that I can't bring to mind, but I remember having to explain this to both our audit committee, our board and the standing committee. I can't remember the reason but I will get it after the break.

Q.936 - Yes. Could you undertake to give us that answer. And if you remember it before we finish this afternoon that would be fine.

MS. MACFARLANE: Excuse me. Ms. Clark just reminded me. This segmented information as described in the note is for the full year. For the first half of the year the business units were emulating transactions in preparation for the second half of the year. So they were paying dividends, proxy dividends, to Holdco in order for them to become familiar with the practice of paying and reporting and accounting for dividends once October 1st came. And of course those were not real transactions. So they were eliminated in the books and records in total.

So that is I believe the answer as to why this doesn't come to zero, but again subject to check and I will confirm or correct that after the break.

Q.937 - Okay. Thank you. Now the next one, I don't know if you really need to turn it up, but it's A-62 and the response to PUB IR-222 and exhibit A-54, response to PUB IR-195(c), and I will just ask the question and you may not have to turn it up as a result. I can give you the reference again if necessary.

Is Disco aware of the experience of Newfoundland Power regarding bad debt write-offs?

MS. CLARK: In the response to the IR I think we provided notices, butt bad debt expense for those -- for Newfoundland I don't have.

Q.938 - Okay. I wonder if you could undertake to provide us with the bad debts expense of Newfoundland Power?

MS. CLARK: Yes, we can.

MR. MORRISON: Maybe, Mr. MacNutt, I just want to make sure the witness has access to that information.

MS. CLARK: If that information is available and it will be released by Newfoundland Power, we will provide it.

Q.939 - Thank you. Do you know what the Newfoundland Power percentage of bad debts to revenue is, which figure you could know without knowing the first one, in other words the ratio?

MS. CLARK: No. I don't know the ratio. And again I don't know if that information would be disclosed by Newfoundland Power.

Q.940 - Thank you. That is the end of that.

MR. MACNUTT: Mr. Chairman, exhibit A-50 again. And you might leave it out on the desk. Because I will keep coming back to it unfortunately. Exhibit A-50, tab 3, Evidence of Lori Clark, page 2, table 1.

Q.941 - Now table 1 shows Disco's forecasted Revenue Requirement and revenue shortfall for several years ending March 31, is that correct?

MS. CLARK: That's correct.

Q.942 - Now in column 2, line 1 of table 1, Disco's estimate of purchased power for 2005/2006 is 907.9 million, correct?

MS. CLARK: Correct.

Q.943 - Now what reliance can the Board place on this figure?

MR. MAROIS: Well, I guess I can answer generally. I believe this line item will be the subject of more discussion next week when we talk about the PPAs.
But a significant portion of that amount directly results from numbers that are specified in the power purchase agreements. So again it is simply doing the math. And that will generate what is called the non-fuel cost.
Another significant component of that line item is the fuel cost. And the fuel cost has been the object of many,

many questions in this proceeding.

And in particular it has been the subject of a review by an independent third party, LaCapra. And the terms of reference of LaCapra were provided to the PUB at the onset of this process.

So I believe that these two factors combined, the independent review of the fuel cost combined with the fact that a large component of this number really directly results from the PPAs provides assurance that this number is accurate.

Q.944 - In view of the fact that it is an estimate for 2005/2006, and 2006 year-end is not until March 31, 2006 is there an element -- is there some aspect of the number which will change when actual numbers are available?

MS. CLARK: The largest areas of change would be in the hydro adjustment and in the export margin credit in 05/06. Our full-year results at the forecast, the Q3 forecast, are indicating some anomalous hydro credits and some export margin credits as a result of the significant rainfall this year.

Q.945 - Are you able to give us a -- well, you say -- you are indicating an anomalous situation. Are you able to give us some order of magnitude for those two sub accounts?

MS. CLARK: I think that's outlined in detail in PUB IR-261 which was filed today at noon.

Q.946 - Yes. We will save that for next week.

CHAIRMAN: Mr. MacNutt, if I could interrupt for just a second. Mr. Marois, I want to go back to your response to I guess two questions ago. And that is LaCapra. As a layman I will say their objective, and what is clear from their report, is that they did a review of the inputs that were put into the PROMOD run and then mathematically checked the outcome by way of sampling, et cetera to ensure that it was mathematically correct. They did not check as to the reasonableness of the inputs. I just wanted to have the record clear on that.

MR. MAROIS: They did do that, Mr. Chair. And I will let them expand next week as to what they did. But it was not purely a mathematical review of the calculation of fuel surcharge. They used their expertise to assess the reasonableness of each component of the fuel charge.

CHAIRMAN: Let's put it this way. That wasn't part of the engagement letter that I saw, was it?

MR. MAROIS: Well, that's what they ended up doing. So again --

CHAIRMAN: Okay. All right.

MR. MAROIS: -- I don't want to put words in their mouth.

CHAIRMAN: No. Certainly as I recollect the letter that I approved of when you folks when out and hired them to begin with, it didn't include that.

Anyway thank you. Sorry, Mr. MacNutt.

MR. MACNUTT: Thank you, Mr. Chairman.

Q.947 - I have got several additional questions on this with respect to that same table. But in light of your answer that there is additional data filed as a part of the response to PUB IR-261, I will hold asking that question until Monday.

MS. CLARK: Okay. I would just like to add it is not only high hydro. The other thing is export prices have also been abnormally high as a result of increases in natural gas due to production difficulties caused by the hurricanes in the southern United States.

Q.948 - And we will be better informed for questioning as a result of what you have filed today at noon hour.

MS. CLARK: Great.

Q.949 - Thank you. I'm now going to ask you to turn to A-56. That is response to PUB IR-34. And what we are going to look at is the management accounting system and cost control.

Now the response to the IR outlines the mechanics and the responsible parties for managing OM&A costs. In order to better understand this process and to gain an appreciation of the corporate culture in terms of costs and budgetary controls, please -- I would like to ask you several questions.

And either -- any three of you could answer this. On average how many business days after period end are monthly actual budget/forecast reports ready for management review at the cost centre level, at the director level and at the executive level, that is CFO, Vice-president or President?

MS. CLARKE: It's much of a multitiered process. So I'm going to take you through the steps.

Usually on the fifth workday we have the books closed. So our accounting records are closed. And they are reviewed by the Business Director at that point in time to look and see if there is anything that is obvious in terms of actual budgets that need to be reviewed with the individual cost centre owners.

The cost centre owners would see their information on day 6 or 7. The business -- the President would look at the results on day 11 or 12 when we have our review. It's called the CEO Forum Report where we get together with the presidents of the operating company and the President and the CFO and review the financial results.

And before that process actually takes place there is

also a review that's held with the senior directors in the business unit.
Q.950 - Those are -- can you tell us whether those are working days or calendar days?
MS. CLARKE: Those are working days.
Q.951 - Thank you. Now how would you assess the quality of the variance analysis provided by the cost centre managers in explaining budget variances?
MR. MAROIS: I would qualify that it is very adequate. People fully understand their business and are also appreciative of cost control. So everybody really collaborates to put together proper variance analyses.
MS. CLARKE: In most cases the results are typically known before they come out. If there has been a significant storm or something of that magnitude, we would obviously be very aware that costs may be higher than what are typically budgeted.
Q.952 - Now do the monthly variance reports contain suggested remediation for any negative budget variances?
MS. CLARKE: Yes. There are remediation plans put in place.
When the budget is reviewed at the senior levels, it is expected that when you come to the table with a variance that's significantly or even slightly higher than budget, that you have a plan to get your costs

back in line with

budget.

Q.953 - Thank you. Now the next question doesn't involve reference to existing exhibit. And it deals with firm capacity.

How did Disco determine the optimal amount of firm capacity that Disco committed to for 2006/2007?

MR. MAROIS: The initial capacity that Disco contracted for was when restructuring took place. So that was October 2004.

And what the Market Design Committee had recommended at that time was that Disco contract for 100 percent of the capacity available in Heritage assets. So that's what is reflected in the PPAs. Since then we have not reduced that capacity nomination.

And we expand on the reasons for not doing so in the response to one of the questions that were filed at noon today. I cannot recall the exact number. I believe it was a PUB question.

Q.954 - So we will revisit this again on Monday then.

MR. MAROIS: Well, if there is additional -- like I say, we do expand in the response as to why we have not done an analysis to reduce the nomination. If there are questions on that I would be glad to answer it.

Q.955 - Yes. That is all I'm saying. We will review the

information we got at noon hour today. And if there is a follow on -- if not there won't be a follow on.

Now I'm going to ask you a question arising out of something you said as a result of a question by Mr. Gorman on February 7th, Mr. Marois. It is pages 3475 to 3476. And it is perhaps not necessary to turn it up. Because I'm going to quote the key portions as a background for the question which is not dependent on the quotes.

Mr. Gorman asked you a question about Disco and the competitive rates. In particular he asked you at page 3475 at line 12, "Who is it that you would be looking to be competitive with, for an example?" In your response you referred to cost control, rate structure, price signals, cross-subsidization and so on.

And at page 3476 beginning at line 3 you stated "And in terms of competitiveness, what we do is we monitor neighboring utilities to ensure that we are definitely -- that we are in the ball park. And the other thing that we do is we also, as a part of surveying our customers, we have been surveying our customers on a quarterly basis since 1997. And that is one of the questions we ask them, what is their perception of the competitiveness of our rates."

- 3753 - Cross by Mr. MacNutt - Does Disco have these surveys on file?

MR. MAROIS: Yes, we do.

Q.956 - Would you undertake to provide copies of them back to -- beginning with January 1, 2004 to date, perhaps after indicating what the volume of them might be?

MR. MAROIS: Well, what we have internally are reports summarizing the conclusions. And I believe that is what would be most useful. So I can maybe start by providing that.

And if there is a desire to have more details then -- like I say, we do have internal reports that summarize the results of the surveys.

Q.957 - Yes. That would be fine. Thank you.

And again from the same transcript -- and this has to do with the meter reading. And it is at pages 3512 to 3514. And it may not be necessary to look up. So I'm going to quote to give you the background of which the question springs.

At page 3513 at line 3 in response to a question of Mr. Hyslop with respect to estimating electricity consumption of customers, rather than actually reading the customer's meter, you said that Disco has a pilot project that you started in the fall.

At page 3513 at line 7 you said "What the pilot
project entails for residential customers is
estimating the meter every third month."
Later in the same page at line 22 you said "And the way we estimate is we have got an algorithm. And the algorithm takes into account previous consumption. It takes into account temperature degree days in order to come up with an estimate."
And then on page 3514 in paragraph beginning at line 8 you mention some of the events that can make using an algorithm challenging.
Now the question is have you examined the accuracy of your estimating algorithm?

MR. MAROIS: Yes. We did test or validate the algorithm before implementing the pilot. So what we did is in parallel to the normal billing we estimated some readings and determined if the algorithm were generating reasonable results.
One thing I forgot to mention when I answered the question, or it came back to me after, was one of the challenges we are facing this year is the abnormally warm weather.
Because when we -- in the algorithm we put normal weather.
So normal weather we will bill to the customers. But

since the weather has been so warm, the estimate can

be overstated in some circumstances.

So that's one of the challenges of estimating bills. But again it gets corrected when the next bill comes out. Because the next bill is based on actual reading.

Q.958 - Have you done any checks on the algorithm since implementing the program, in other words, sometime between the fall and to date? And did you document that analysis of the accuracy of the algorithm?

MR. MAROIS: I guess I wouldn't call it an analysis but we are monitoring it on an ongoing basis. First of all we are forced to each time we get a customer inquiry we have to look at what is the concern of the customer. So it's a constant monitoring. And like I say the conclusion we have reached up to now is what is causing -- it's not -- we haven't concluded that there is anything wrong with the algorithm. The concern is weather, the weather is abnormally mild, and we knew right off the bat it would be challenging to estimate the consumption of a customer that changes their pattern. That's always going to be a challenge.

So for example if somebody is not there for a month because they are on vacation, naturally they will consume a lot less power than they would do otherwise. Things of that nature.

Q.959 - Do you have any staff reports to management on the accuracy and appropriateness of the current algorithm that you could make available to us?

MR. MAROIS: I'm not aware of any management report but I can commit to look into it, and if there are any we will provide that.

Q.960 - I'm sorry to keep beating on this. You have indicated that you have been surprised by several factors including the very warm weather. Would it be possible to adjust the algorithm on a monthly basis or -- not knowing the computer program or what have you, how short a notice or how shortly following a series of events can it be adjusted to accommodate the change in the trend?

MR. MAROIS: Well maybe I am skating on thin ice here because I am not a billing expert, but my understanding is when we do an estimate it's on a -- just a second. I will have to inquire to determine -- like my understanding is we have to use projected degree days, normal degree days, and that's the challenge. But if we could have actual degree days for the -- to put in the algorithm I don't know.

Q.961 - Could you undertake to advise us --

MR. MAROIS: Yes.

Q.962 - -- as to the timing of the adjustments and the degree

to which the algorithms is adjusted to reflect immediate past trend?

MR. MAROIS: Yes, I will.

Q.963 - Thank you.

MR. SOLLOWS: Before we leave this topic, may I?

MR. MACNUTT: Yes. Don't hesitate.

MR. SOLLOWS: What I would like to make sure we have on the record is, number 1) the algorithm you are using and -- is that on the record now?

MR. MAROIS: The actual formula? No, it's not.

MR. SOLLOWS: The algorithm, whether it's a formula or a series or whatever. If we could have that on the record and any analysis that has been done to ensure that it's producing central estimates. And then particularly I would be concerned that it not -- I would be looking for a model that took advantage of weather forecasts to project a month out, because you would normally be expecting that you would go to a meteorological service to estimate the weather forecast. So if you could provide all of the details it would be very helpful in assessing it.

MR. MAROIS: We will do that.

MR. SOLLOWS: Thank you.

MR. MORRISON: Excuse me. Commissioner Sollows, you indicated that you said you wanted to see whether it was

providing something results and I didn't -- I don't know if that was a term of art or just -- reasonable results?

CHAIRMAN: Good. Good results.

MR. SOLLOWS: Central estimates. Whether or not there was any bias in the estimate of the consumption either high or low, and if it has been -- apparently because of weather variations it is not apparently using up-to-date forecasts for the coming period, there seems to be a weather adjustment that is now overestimating. But based on the runs that they did was the estimating algorithm consistently high, consistently low, or right on -- on average right on target.

MR. MORRISON: Thank you.

Q.964 - Thank you. I am now going to deal with the calculation of payment in lieu of taxes. And as we are aware Section 37 of the Electricity Act deals with special payments. In your -- Ms. MacFarlane or Ms. Clark, in your pre-filed evidence you provide information on the payments to be made in lieu of taxes. In calculating the amount of payment in lieu of taxes included in your evidence what assurance can you give us that you took every advantage and all opportunities to reduce the amount of tax payable? For example, that you used capital cost allowance rather than depreciation amounts?

- 3759 - Cross by Mr. MacNutt -

MS. MACFARLANE: In exhibit A-50 under the direct evidence of Lori Clark, tab 4, which is actually my evidence, on page 7 --

Q.965 - That's in exhibit A-50?

MS. MACFARLANE: A-50.

Q.966 - Yes.

MS. MACFARLANE: Lines 7 through 12 speak to the calculations, showing the underlying rates which are specified by the Income Tax Act and the calculations. The calculation is done on the basis of accounting income and there is no allowance for any temporary differences in asset base between what might be capital cost allowance or undepreciated capital cost in the Income Tax Act, and the accounting value of the assets.

There was an IR that addressed that, PI IR-19 and 55. And this was a measure that was agreed to with EFC to avoid legal and accounting costs that would be associated both with set up and maintenance of the dual tracking of asset values and the cost of establishing initial tax values which would require rulings from CCRA. So the tax is done on the basis of accounting income and that is the amount that is remitted to EFC.

We did, by the way, seek advice from Deloitte & Touche about the nature and cost associated with tracking

separate asset values. Their advice was that we would require three to four tax accountants, perhaps tax assistants in our legal department, that there would be external consulting costs annually that would be very expensive. There would be very expensive systems costs associated with putting in place records that would track the tax cost of assets.

And then EFC would also have to have in place people with the competency to appropriately respond to what was being remitted, and it was a cost savings measure that we chose to not deal with the timing differences but instead pay on the income as it is occurring in the accounting records.

Q.967 - And in your answer you mentioned EFC, you mean Electric Finance Corporation, do you?

MS. MACFARLANE: Yes.

Q.968 - Thank you. Now I am going to ask you to turn up exhibit A-48, and that is the financial statements of New Brunswick Power and Distribution and Customer Service Corporation for the period ended March 31, 2005, prepared by Deloitte & Touche. And I'm going to ask you to go to page 2 of those.

CHAIRMAN: Let us get it, Mr. MacNutt.

MR. MACNUTT: It may be in the form of a letter to which the accounts are attached, or the exhibit number may be on the front of the account statement itself.

Q.969 - Thank you. And you might have at hand -- I'm sorry, I should have gone on. Exhibit A-50 again, table 1 of Lori Clark which is at tab 3, page 2, table 1. And A-50, Sharon MacFarlane's evidence, tab 3, sub tab 4, page 9, table 4(f).

CHAIRMAN: What was the last one?

MR. MACNUTT: Sharon MacFarlane, table 3, sub tab 4, page 9, 4(f).

Q.970 - Now the audited financial statements for March 31, 2005 which is in your exhibit A-48, indicate an asset of 5.4 million in relation to special payments in lieu of income taxes. The balance, which we assume is similar to the tax effect of a tax loss carried forward can be used to reduce any future special payment in lieu of income taxes payable to the Electric Finance Corporation.

Now would this carry-forward amount be used to reduce the payment in lieu of taxes as calculated on the forecasted Revenue Requirement and revenue shortfall for the fiscal year-end March 31, 2006 which is in the amount of $3.9 million?

MS. MACFARLANE: That is my understanding, yes.

Q.971 - Okay. Now I would like you to undertake to provide --

and maybe you have a noon hour today. I don't know. Would you provide a similar calculation for 2005/2006 in the manner shown in table 4(f)?

That table calculates the 2006/2007 forecast of special payments. And what we are looking for is the calculation for 2005/2006.

MS. MACFARLANE: If I could just clarify, for 2005/2006 budget?

Q.972 - Yes. Go on please.

MS. MACFARLANE: Yes. Okay. Yes. We will provide that.

CHAIRMAN: Mr. MacNutt, I would suggest we will take our break now.

(Recess - 2:15 p.m. - 2:30 p.m.)

CHAIRMAN: During the break Mr. MacNutt informed me that he has a few questions and then one particular long series. And then the Commissioners have some questions, maybe a long series. So you will be coming back on Monday.

Go ahead, Mr. MacNutt.

MR. MACNUTT: Thank you, Mr. Chairman.

Q.973 - The next question deals with exhibit A-58. And what it is is a package containing a whole -- each page contains a report.

Monthly electricity 2002 -- this is an example -- month of December 2002. And there are three paragraphs in that. And that is exhibit A-58, Appendix 1, tab 1, page 2.

CHAIRMAN: Just wait until we get her, Mr. MacNutt.

MR. MACNUTT: I will repeat it. A-58, Appendix 1, tab 2, page 1.

CHAIRMAN: You fooled us by looking at single pages. We have it in a binder.

MR. MACNUTT: Oh, I'm sorry. I have got it in a collection.

CHAIRMAN: Okay. All right. We have the exhibit. And what is the page references?

MR. MACNUTT: Appendix 1, tab 2, page 1.

MS. MACFARLANE: We have it.

Q.974 - Thank you. It is a very simple question. As you will note by reference to any of the pages, there are three numbered paragraphs. 1 is Energy Generated, 2 is Gross Receipts of Energy from Other Provinces and 4 is Gross Deliveries of Energy to Other Provinces.

And the question is what is paragraph 3 that is not shown there? And what is covered by paragraph 3 which is missing?

MS. MACFARLANE: I'm sorry. We don't have that information with us. But we will undertake to find out for Monday.

Q.975 - Thank you.

MS. MACFARLANE: Mr. MacNutt, I do have answers to two of the undertakings we committed to before the break.

Q.976 - Oh, fine.

MS. MACFARLANE: The first one is in answer to the question about the debt issue that came due December 31st '05 in table 4(b). So that is in exhibit A-50, the evidence.

Q.977 - Yes.

MS. MACFARLANE: It's under the Direct Evidence of Lori Clark. And it's tab 4, page 2. Your question was about the issue number D-7 on line 6. Was it refinanced?

It was refinanced in December of '05 for a term of 10 years. The coupon rate that we actually we able to obtain was 4.3650. And the estimate as you see is 5.2 percent, a difference of 83 1/2 basis points.

Q.978 - How many basis points?

MS. MACFARLANE: 83 1/2 basis points before tax. We did calculate the impact that that would have on the Revenue Requirement as 500' and -- after tax is $541,748. We chose not to refile the evidence. Because there were at least two other areas where after filing the evidence we determined that actual costs would be different than budget and what was filed.

One of those areas was in pension expense. Our actuary provides us with the calculation of our pension expense. And for 06/07 the actuary provided that information at the end of November after we had filed evidence. And the pension expense is in the evidence in the Revenue Requirement is understated by 1.3 million before taxes. That would be approximately 700,000 after taxes.

Two and it came up earlier in the hearing, the Transmission losses in the energy number in the evidence assumed that the second tie would be available in December '06. And as we now know it will not be available until December '07. So Transmission loss costs are also understated in the evidence.

And because the three of those netted out such that the Revenue Requirement is in total understated, we chose not to refile the evidence and delay the hearing.

Q.979 - So a recalculation as result of that is not reflected in the information that was filed at noon today?

MS. MACFARLANE: Right. The --

Q.980 - What you are saying is you left the figures the way they are in that table. And that table carries all the way through?

MS. MACFARLANE: That's correct. And that's also true of the pension cost. We left it as it was filed. And that's true of Transmission losses. We left them as they were filed.

Both of those are understated as costs in the Revenue Requirement. This is an overstatement of costs in the Revenue Requirement.

The net total is an understatement. And we chose not to file the Revenue Requirement but to let that actual go through to the end results which would end up accruing to the shareholder.

Q.981 - Can you give us a reasonably accurate estimate of the understatement of the Transmission aspect?

MS. MACFARLANE: I don't have that number here. But if it would be helpful we can put in writing this answer and submit it on Monday including the estimate of the Transmission loss difference.

Q.982 - Transmission loss difference?

MS. MACFARLANE: Yes.

Q.983 - Thank you.

MS. MACFARLANE: Okay.

Q.984 - Now when you say that there was a 10-year issue --

MS. MACFARLANE: Yes.

Q.985 - -- coupon, 4.365 percent and 83 1/2 basis points, that is 83 1/2 basis points compared to what?

MS. MACFARLANE: Compared to the budget. The budget was at 5.2 percent. So that is what's in the Revenue Requirement for interest difference.

Q.986 - So you are not measuring against Canada's of the same maturity?

MS. MACFARLANE: I'm sorry?

Q.987 - You are not measuring against Government of Canada's at the same maturity?

MS. MACFARLANE: No, no, no. In the Revenue Requirement we included interest expense calculated of 5.2 percent that's shown on table 4(b). And when we actually -- that was an estimate that we made at the time of the budget preparation.

Q.988 - Yes.

MS. MACFARLANE: When we actually put the issue out to market the actual came in lower.

I have an answer to another undertaking.

Q.989 - Yes. Go ahead.

MS. MACFARLANE: You had inquired about the financial statements, the 2004/2005 published Annual Report which is Appendix A-52.

And you were referring to the table, the financial overview table showing the net income of all of the companies, the elimination and then the total for the group.

And you pointed out that in the net income line the total for eliminations would typically be zero. And here it's a credit of $8 million.

The answer that I gave, based on Ms. Clark's memory, was correct. If you have that table in front of you, this is exhibit A-52, page 55.

Q.990 - Yes. Go ahead.

MS. MACFARLANE: As I say, for the first six months of the year the financials in the companies were being emulated to give the companies practice as to what would happen -- pardon me, they were business units then -- to give the business units practice as to their methods and procedures that would be in place after October 1st, and as part of that they were paying dividends. They paid those dividends to Holdco.

Dividends of course are accounted for in the business segments below net income, but in Holdco they came in under the line called Other Intercompany Revenue, and that's about seven lines down. Other Intercompany, just below the line total revenues, if you look over under Holdco you see 139million. Most of that is recovery of shared and corporate services but 8 million of it is dividends.

So that amount was eliminated in the line 155 million. It leaves a net elimination against net income of 8 million, and the offset to that would be in the statement of retained earnings which isn't shown here.

Q.991 - Thank you.

MS. MACFARLANE: And the third undertaking was a request that table 4(f), which showed the calculation for payments in lieu of taxes, be done for 05/06. That was submitted in the 05/06 evidence that was filed with the Board earlier this year but we withdrew it. So we will provide that again on Monday in table form.

Q.992 - Thank you.

MR. SOLLOWS: If I may, just --

MR. MACNUTT: Yes. Please proceed.

MR. SOLLOWS: You were going to provide the details in writing on the transmission losses. Could you also provide the report that you must have from Transco detailing the calculations and the estimates that were used both for the losses before the prior loss estimates based on the in service date in the fall of '06, and the report that they are using to base the higher losses on for in service in the fall of '07?

MS. CLARK: We were provided the information from Mr. Larlee in load forecasting. So we will check with him and see exactly what information he has been provided from Transco and provide whatever information he has.

MR. SOLLOWS: Thank you.

Q.993 - I would like to go on and ask you to open exhibit A-55, and I have a series of questions concerning the information at Appendix 8, Schedule 1(c), page 24, and another couple of questions with respect to Appendix 8, Schedule 1(f). And I will give you those two schedules again. They are both in Appendix 8. One is Schedule 1(c)(i) at page 24. The second is Appendix 8, Schedule 1(f), at page 58. And if you would just tabs or a pencil between the two.
A-55, responses to IRs, Appendix 8, and Schedule 1(c)(i), page 24 at the bottom right-hand corner.

CHAIRMAN: And your second one, Mr. MacNutt?

MR. MACNUTT: Page 58 at the bottom right-hand corner. Are we there?

MS. CLARK: This was a response that was given to a question by the Public Intervenor and it was further updated at a later date. And I think if you go to -- it's under 112 and I will find you the -- I will find you the exhibit number. If you go to exhibit A-54 --

Q.994 - And it was a response to what, PI PUB or --

MS. CLARK: It was PI IR-112 from November 14th.

Q.995 - Yes. If you don't mind we will just take a quick second and see if we can find that. What I am going to do is -- we are not exactly sure if it will impact the questions we are going to ask, which essentially deal with year over year changes and their percentages. And we would like explanation of the -- why it's various things such as hard services are varying from year to year.

So let me go into the questions and you can tell us whether or not that reference you just gave us, the response impacts the questions we are going to ask. It's not so much the absolute numbers.

And what we are dealing with here is OM&A expenses and miscellaneous revenue variances. And several expense lines within the OM&A total are forecasted to fluctuate significantly from the actual results for fiscal year ending March 31, 2005. And I would like you to provide explanations for these variances for the following items, and the first four questions deal with page 24. And I will just go into it.

OM&A expenses on page 24, line 2, hired services. Cost of forecast to increase 20 percent from fiscal year end 2005 to fiscal year end 2006. Even though they are forecasted to decrease for fiscal year end 2007, they still remain 5.2 percent ahead of fiscal year end 2005. What is the reason for this increase from 2005?

MS. CLARK: The increase from 04/05 to 05/06 is largely related to the increase in regulatory costs, building improvements, focus groups and surveys and some costs for e-post program, which is a program that allows customers to make payments electronically through our Canada Post website -- through the Canada Post website.

Q.996 - Thank you. Just going back, you referred me to the --

MS. CLARK: You had also asked me about 06/07?

Q.997 - No. Yes. Excuse me?

MS. CLARK: You had also asked about 06/07. 06/07 --

Q.998 - Yes. Right through to the end of fiscal year '07?

A. The increase is largely related -- or the decrease is less cost for building renovations and maintenance, lower costs for some of the third party initiatives, where we would have an offsetting miscellaneous revenue decrease as well, and then lower costs for temporary manpower services in the contact centre as a result of business excellence initiatives in '05 -- in 06/07.

Q.999 - Thank you. Now you just referred me to exhibit A-54, Disco PI IR-112 as providing additional information in respect of the OM&A. And we have got it out and what we find is two pages that simply list, "Minimum Filing Requirements, Table of Contents". Are there any numbers updated that are not shown on those two pages? There is three pages in the response I should say.

MS. CLARK: I am sorry. My binder has completed minimum filing requirements that have 77 pages in it.

Q.1000 - Is that different than the one we have in our exhibit A-55? Appendix 8?

MS. CLARK: Yes. In the appendix what you have is Disco information only. In a further IR, the Public Intervenor asked that we complete the response by providing NB Power information. And I don't remember what date that was back to, but we did provide additional information. But this information didn't change. There was just additional information added on the NB Power consolidated results.

Q.1001 - Yes. Our focus in on Disco. So I will carry on with the questions. Question 2 is still on page 24 in Appendix 8 of exhibit A-55. Re OM&A expenses, line 5, vehicles. Costs are forecasted to drop by 23 1/2 percent from fiscal year end 2005 to fiscal year end 2006. And then increase by 15.4 percent for fiscal year end 2007. Can you please provide us an explanation for these fluctuations?

MS. CLARK: The decrease from 04/05 to 2005/2006 is a result of business excellence initiatives where vehicles were reduced when the manpower associated with those vehicles left as a result of the early retirement program.

And the increase in the following year is a result of a lower charge out to capital and additional fleet and maintenance costs and fuel costs.

Q.1002 - Thank you. The third question is still on page 24 of exhibit A-55, Appendix 8. Equipment. This is on line 8. Costs are forecasted to increase by 50 percent from fiscal year end 2005 to fiscal year end 2006. And then another 22.2 percent to fiscal year end 2007. Overall this is an 83.3 percent increase from the 2005 results. Can you give us the details as to the reason for this increase from 2005?

MS. CLARK: In 2004/2005, equipment expense was abnormally low. That was a year of significant cost cutting and the equipment expense was cut and pushed forward into another fiscal year. So in 2005/2006, we had also had increase for OMS, which is one of our -- which is our Outage Management System, information costs related to the software. And also electronic line design was a system we had implemented in that year, so there were ongoing maintenance costs associated with that system. And then in 05/06 to 06/07 it increased $200,000 and that's as a result of increased software costs for electronic line design, as well as rubber glove testing equipment.

Q.1003 - How much are your software costs?

MS. CLARK: I don't have -- I only have the change in the software costs. I don't have the total software costs.

Q.1004 - Could you undertake to give us that dollar figure?

MS. CLARK: Yes, I can.

Q.1005 - I will go on to the next question. This is again page 24 of line 8. Sorry. Line 12. Other corporate costs. Costs are forecasted to increase by 217 percent between fiscal year end 2005 and fiscal year end 2006 and remain constant for fiscal year end 2007. Can you give us details as to the reason for this increase form 2005?

MS. CLARK: So you are asking for the increase from 2004/2005 to 2005/2006?

Q.1006 - Well they are forecast increase from 217 percent between fiscal year end 2005 and 2006 and remain constant to fiscal year end 2007. And what we would like to know is the details of the reason for the increase to the fiscal year end 2007 level from 2005 year?

MS. CLARK: The increase is $1.4 million between 04/05 and 05/06. And that's primarily related to higher regulatory fees between the 05/06 -- the 04/05 and the 05/06 period. Those are direct and common costs.

Q.1007 - Thank you. And we are down to the last two questions on this topic. The first one of which you have to turn to page 58 and go to line 5. Inter-company services. Page 58, line 5, inter-company services.

MS. CLARK: Okay.

Q.1008 - Now revenues are forecasted to decrease by 27 percent between fiscal year end 2005 and fiscal year end 2006. And a further 6 percent for fiscal year end 2007. In total a decline of 31 percent or $2.2 million. Would you please provide an explanation for this decrease in inter-company services revenue?

MS. CLARK: The largest reason for the decrease from 7.1 in 2004/2005 to 5.2 million in 05/06 is a result of decreased inter-company revenue due to a lower rent, due to a lower interest rate being used in 06/07. And then third party revenue, which is miscellaneous-type revenue that we don't budget for. So we had some that actually occurred in 04/05, but we don't typically budget for in 05/06. And the primary reason for the further decrease in 2006/2007 is a result of change in the scope of the Aliant -- the work we are doing with Aliant.

Q.1009 - Why is the rent lower?

MS. CLARK: The rent is lower primarily due to a change in the interest rate that was being used in 04/05 versus 05/06.

Q.1010 - Thank you. Do you adjust the interest rate each year?

MS. CLARK: No, the interest rate isn't adjusted each year. In 2004/2005, we were using an interest rate that would have assumed a weighted average cost of capital. And in

05/06 and 06/07, we were using an interest rate that was the weighted average cost of debt.

Q.1011 - Now I would like to go on to the last question in this line, on page 58 go to line 6 and it's entitled, "Other". And in this other miscellaneous revenues are forecasted to decrease by 5 percent between fiscal year end 2005 and fiscal year end 2006. And a further 1 percent for fiscal year 2007. Would you please provide an explanation for this decrease in other miscellaneous revenues?

MS. CLARK: When I gave you my previous explanation, it included other in there, because inter-company would obviously be the inter company revenues between the NB Power Group. So when I gave you the answer for Aliant and other third party revenue, it was explaining the other category as well.

Q.1012 - In other words, it shows up in both categories?

MS. CLARK: Oh, when I gave you my explanation, I included the third party revenues in the inter-company services explanation.

Q.1013 - I am not going to go on to another line of questions, which may --

CHAIRMAN: You are going to do that Monday morning, Mr. MacNutt.

MR. MACNUTT: Thank you.

MR. DUMONT: I have would have one question.

CHAIRMAN: We have one question from Commissioner Dumont.

MR. DUMONT: Yes. Ms. Clark, I don't know if I heard correctly. When you answered the question about equipment on line 8 --

CHAIRMAN: That's on page 24.

MR. DUMONT: -- that's on page 24, yes. You mentioned that the year 04/05, if I heard correctly, was a cost cutting year?

MS. CLARK: Yes. There were cost reductions during the year. And the equipment budget was decreased significantly in that period.

MR. DUMONT: Because what came to my mind was that when you are running in a deficit all the time, every year should be a cost cutting year shouldn't it be?

MS. CLARK: Absolutely. But there was added pressure in that year. And we took a further look at our budgets at one point in time and they were able to cut some things out. Although they did know, they would need to be purchased in a future period. They were essential for the business, but could be deferred to a future period.

MR. DUMONT: Thank you.

CHAIRMAN: We will reconvene on Monday morning at 9:15 and have a good weekend.

MR. MACNUTT: I understand we are back at the Delta Hotel?

CHAIRMAN: There is my conscience. Yes, Mr. MacNutt, we are.

(Adjourned)

Certified to be a true transcript of this proceeding, as recorded by my, to the best of my ability.

Reporter