NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF an application by Enbridge Gas New Brunswick

to change its Small General Service Residential Oil, Small General Service Commercial, General Service, Contract General Service, Off Peak Service, Contract Large Volume Off Peak Service and Natural Gas Vehicle Fueling distribution rates

Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on March 26th 2008.

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Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on March 26th 2008.

BEFORE: Raymond Gorman, Q.C. - Chairman
Cyril Johnston, Esq. - Vice Chairman
Edward McLean - Member
Steve Toner - Member

NB Energy and Utilities Board - Counsel - Ms. Ellen Desmond
Staff - Doug Goss
- John Lawton
- Dave Young
Secretary Ms. Lorraine Légère

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CHAIRMAN: Good morning, everyone. This is a hearing of the New Brunswick Energy and Utilities Board to consider an application by Enbridge Gas New Brunswick for an order or orders approving changes to seven of its distribution rates. Hopefully I will get these right. Namely, small general service residential oil, small general service commercial, general service, contract general service, off peak service, contract large volume off peak service and natural gas vehicle refueling.

The application is being made pursuant to sections 52 and 56 of the Gas Distribution Act.

The panel for today's hearing is comprised of the following, to my left Steve Toner, Cyril Johnston, the Vice Chair, myself as Chair and Edward McLean.

At this time I will take the appearances and I will start with the Applicant, Enbridge Gas New Brunswick.

MR. HOYT: Len Hoyt and David MacDougall for the Applicant and I will introduce the panel in a moment.

CHAIRMAN: Thank you, Mr. Hoyt. Competitive Energy Services had applied for formal intervenor status. We subsequently received a letter from them indicating that they wanted to be informal intervenors and I don't believe there is anybody here from Competitive Energy Services. The Board has considered their request and has agreed to change their status from that of formal intervenor to informal intervenor.

So next would be the Public Intervenor.

MR. THERIAULT: Good morning, Mr. Chair. Daniel Theriault. Appearing with me this morning is Robert O'Rourke and Kurt Strunk.

CHAIRMAN: Thank you, Mr. Theriault. The New Brunswick Energy and Utilities Board?

MS. DESMOND: Ellen Desmond, Mr. Chair. And with me is Doug Goss, Dave young and John Lawton.

CHAIRMAN: Thank you, Ms. Desmond. And sorry about the microphone. I think we are going to have to share the microphones this morning and this afternoon I am told there is a pretty good chance we may have an additional microphone.

Informal intervenors, Department of Energy?

MR. ERVIN: Good morning, Mr. Chairman. Patrick Ervin and Steven Roberts on behalf of the Department of Energy.

CHAIRMAN: Thank you, Mr. Ervin. Now there are a number of documents that have been filed with the Board. I believe that a proposed exhibit list was circulated to the parties. And it would be my intention to mark all of those documents as exhibits at this time unless there are objections from any of the parties as to the documents that have been circulated.

So I am going to go with the Applicant's documents first and then the Public Intervenors. Mr. Hoyt, is there any documents the Public Intervenor has submitted that you have any objection to?

MR. HOYT: No. I just note though in the list of exhibits for the Public Intervenor it indicates that their PI-2 is responses to IRs of the EUB and EGNB. And as far as I know there were only IRs posed by EGNB. And that list may have been updated but the version I have got still has a reference to the EUB. So I just wanted to --

CHAIRMAN: Yes. The updated version I have I think has the -- just has EGNB in it.

MR. HOYT: Perhaps at a break we could get a copy of the updated.

CHAIRMAN: Okay. Mr. Theriault, any difficulty with any of the documents submitted by the Applicant being marked as exhibits?

MR. THERIAULT: None whatsoever.

CHAIRMAN: Ms. Desmond, any comments on the exhibits at all? All right. Then we will mark the documents as they appear on the draft exhibit list. For the Applicant we had marked exhibits A-1 and A-2 so we will now commence with A-3.

Exhibit A-3 are responses of EGNB to IRs of the EUB and PI submitted under cover letter from Len Hoyt dated February 20th 2008.

Exhibit A-4, attachment to EGNB response to EUB IRs 14 and 15 comprised of one CD containing spreadsheets for clarification submitted under cover letter from Len Hoyt dated March 4th 2008.

Exhibit A-5 attachment to EGNB's response to Public Intervenor IR-6, request for proposals issued by the New Brunswick Department of Natural Resources and Energy dated December 22nd 1998 (RFP) and addended to the RFP provided under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-6 attachment to EGNB's response to Public Intervenor IR-6 proposal filed by Gas New Brunswick volume I submitted under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-7 attachment to EGNB's response to Public Intervenor IR-6, proposal filed by Gas New Brunswick Volume II submitted under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-8 attachment to EGNB's response to Public Intervenor IR-6 proposal filed by Gas New Brunswick Volume III submitted under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-9 attachment to EGNB's response to Public Intervenor IR-6 clarification questions issued by the Province and the responses provided by Gas New Brunswick Volume I submitted under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-10 attachment to EGNB's response to Public Intervenor IR-6 clarification questions issued by the Province and the responses provided by Gas New Brunswick Volume II submitted under cover letter from Len Hoyt dated March 10th 2008.

Exhibit A-11 is the curriculum vitae of Mark Butler.

<u>Exhibit A-12</u> is the curriculum vitae of Jamie LeBlanc.

Those are all of the documents submitted on behalf of the Applicant that we have at this time.

With respect to exhibits submitted by the Public Intervenor, we have two exhibits. <u>PI-1</u> evidence of Kurt G. Strunk on behalf of the Public Intervenor submitted under cover letter from Daniel Theriault dated March the 10th 2008.

And <u>PI-2</u> responses to IRs of EGNB submitted by Daniel Theriault under cover letter dated March 20th 2008.

And those are all of the documents that the Board has at this point in time to be marked as exhibits. Anything else that the parties have at this stage or perhaps there may be other documents as we move forward.

Are there any preliminary matters before we swear the witness panel and commence the hearing? Anything, Mr. Hoyt?

MR. HOYT: Nothing from the Applicant.

CHAIRMAN: Mr. Theriault?

MR. THERIAULT: No.

CHAIRMAN: Ms. Desmond? Okay, I am going to ask Ms. Desmond to come forward and swear the witness panel.

<u>MARK BUTLER, DAVE CHARLESON, JAMIE LEBLANC</u>, sworn:

<u>DIRECT EXAMINATION BY MR. HOYT</u>:

CHAIRMAN: So the panel has been sworn so, Mr. Hoyt, you may proceed.

MR. HOYT: Thank you, Mr. Chair. First I would like to introduce the panel members. On the far side of the table is Mark Butler, the Manager of Business Development for Enbridge Gas New Brunswick. In the middle with the crutches is Dave Charleson, the General Manager of EGNB. And closest to me is Jamie LeBlanc, the Manager of Finance and Control.

And as you indicated, cv's have been filed for each of these three individuals.

Q.1 - At this time I would like to ask Mr. Charleson to confirm that the evidence dated December 19th 2007, which is marked as exhibit A-2, and EGNB IR responses dated February 20th 2008, exhibit A-3 and various attachments to EGNB IR responses marked exhibits A-4, A-5, A-6, A-7, A-8, A-9 and A-10 were prepared by you or under your direction and control and are accurate to the best of your knowledge?

MR. CHARLESON: Yes, they are.

Q.2 - And do you have any corrections to your evidence?

MR. CHARLESON: Yes. As indicated in the cover letter to exhibit A-4 that was provided by Mr. Hoyt on March the 4th, in preparing our responses to EUB interrogatory 13, EGNB identified a discrepancy in its original evidence filed on December 19th 2007.

In the derivation of distribution rates table, which is found at page 4 of the evidence EGNB provided the retail oil price in dollars per GJs in line number 2. These amounts do not correspond to the retail oil price in dollars per litre that is found in line 1 of the table. The dollars per GJ price is relied on a simple annual average of the oil prices in dollars per Gj rather than a weighted average oil price which should be used for consistency with the manner in which the natural gas commodity price is determined.

The correct prices using the weighted average are found in the response to EUB interrogatory number 13 on page 3 of that response. This discrepancy does not have any impact on the derivation of distribution rates as line 2 was only provided for information purposes. Line 1 is the retail oil price used for all subsequent derivation of rates calculations.

Q.3 - Thank you. And do you adopt the evidence as corrected and IR responses as the testimony of EGNB in this proceeding?

MR. CHARLESON: Yes, I do.

Q.4 - Could you please deliver your opening statement to the

Board?

MR. CHARLESON: On December 19th 2007 EGNB filed its evidence in support of an application to change the rates it charges for a number of its rate classes. At this time I would like to provide a brief overview of EGNB's evidence to provide what we believe is important context for this hearing.

In this application EGNB has continued to use the market-based methodology for determining rates. The methodology is the same methodology that has been used by EGNB in all its rate applications, including the recent contract large general service light fuel oil or LFO proceeding and is the methodology that the Board has used as the basis for approving EGNB's rates since its inception.

Before making a few comments in relation to the evidence of the Public Intervenor I want to first summarize EGNB's evidence for the Board.

This hearing is principally about the application of the market-based rates methodology to a number of EGNB's rate classes. There has been a change in the relationship between oil and natural gas pricing and as a result EGNB is proposing that the cap for the small general service residential oil or SGSRO, small general service commercial

SGSC, general service GS, and contract general service CGS be increased to reflect this change.

At the same time EGNB is proposing that the maximum rates for the off peak service OPS, contract large volume off peak service, CLVOPS, and the natural gas vehicle fueling NGVF rates also be adjusted as they have been established based on GS and CGS rates.

As part of EGNB's application the relative target savings for the CGS class is being reduced from 15 percent to 10 percent. As demonstrated in EGNB's responses to Board interrogatories number 3 and number 10, the target savings are being set in a manner that provides a reasonable pay back to incent conversion and savings that support continued use of natural gas.

Increasing distribution rates is always a concern for EGNB regardless of the size of the increase. Any increase affects our customers' cost of using natural gas. However, EGNB must also balance these concerns against the impact of the deferral account if rate increases are not applied for when they are supported by market conditions.

EGNB remains committed to living up to its value proposition of delivering target levels of savings to its customers. EGNB has demonstrated over the past few years that if market conditions dictate that the prices should be reduced it will do so through the use of a rate rider.

Similarly if market conditions allow for rates to be reinstated we will do so. These adjustments are all made with a view towards delivering on the value proposition of target savings.

At the same time EGNB must also be sensitive to managing the costs that are flowing to the deferral account. These amounts will have to be recovered from customers at some point in time and allowing this account to grow unnecessarily is not in the long-term interest of all customers.

EGNB must and does continually look to balance these interests providing the appropriate incentive to convert to and continue using natural gas while also minimizing additions to the deferral account.

The proposed increases represent a burner tip impact to customers ranging from 11 percent to 26 percent depending on the class of customer and while these are not inconsequential, they are still appropriate given the significant increases that have been seen in retail oil prices.

When looking at the impact of this application, it is important that the burner tip impact be considered rather than just the impact on the distribution rate.

The purpose of the market-based methodology is to look at target savings in comparison to the alternate fuel, in this case oil. Retail oil prices reflect the cost of commodity, delivery and other customer related costs all rolled into a single cost. The market-based methodology does the same for natural gas factoring in the commodity cost, customer or demand charge and delivery charge for natural gas.

The last time EGNB applied for an increase to the rate classes included in this application, oil was trading at $61.78 US per barrel. At the time this application was filed this had increased to $89.50. Since that time oil has continued to fluctuate but currently sits 13 percent higher at $101.19.

At the same time natural gas prices have remained relatively stable until a recent runup. In fact, even with the recent increase in natural gas prices, if EGNB were to have filed its application today, the proposed rates would have been between 7 and 10 percent higher than what is requested in this application.

In determining the delivery rate, it is the retail, not wholesale price of oil that is needed for comparison.

Given the limited transparency and variety of oil prices in the market, EGNB has relied on a formula for converting the wholesale price of oil to a retail price in New Brunswick since the market rates were first established.

This formula was developed based on work that was conducted by a consultant at that time and was considered to be a reasonable proxy. As the response to Board interrogatory number 13 demonstrates there are a number of variables that come into play in arriving at this retail price. EGNB expects that over time some of these variables will have changed given market forces over the past seven years, however to provide EGNB with confidence that the resulting retail oil price continues to be a reasonable proxy, EGNB reviews market data that is available.

As demonstrated by the chart in the response to Public Intervenor interrogatory number 12, information on retail oil prices in New Brunswick -- in the New Brunswick market that are available from NRCan would indicate that EGNB's formula has been arriving at oil prices that are lower than what NRCan is seeing in the market.

This conservative oil price provides EGNB added confidence that customers have the ability to achieve target savings through the delivery rates being proposed.

I would like to just briefly address a few aspects of the Public Intervenor's evidence. The evidence provides a number of comparisons to residential rates charged by Heritage Gas and those of EGNB. This comparison does not, however, take into consideration or at minimum downplays some important facts about Heritage Gas.

The "cost-based rates" referenced by Mr. Strunk that are charged by Heritage are not in fact recovering their costs. As the Public Intervenor has indicated in their evidence, Heritage defers a portion of its cost for recovery after the development period. Given Heritage's relatively small customer base, this would indicate that its rates would have to be significantly higher for Heritage to recover its costs. As a result, EGNB believes using Heritage's rates as a basis for comparison to another greenfield market is flawed and only reflects two different approaches that have been taken to rate setting in a greenfield market, both of which result in additions to a deferral account until sufficient customers are attached to the system.

The Public Intervenor's evidence also suggests that not increasing delivery rates would likely attract more new customers to the gas distribution network and that quote "over time having these additional customers may actually reduce the amount of deferred costs."

It is EGNB's position that such a proposition would have significant negative impacts on the deferral account.

In summary, EGNB's evidence is clear. The applied for rates result from the application of the Board approved methodology to changes in market conditions. The methodology as it is currently approved provides EGNB with the tools necessary to be responsive to changes in pricing of the fuels it is competing against. The applied for rates provide the proper balance between providing a sufficient economic incentive to convert to and to continue to use natural gas and maximizing cost recovery so that additions to the deferral account will be minimized and not unduly burden the utility and future customers. EGNB believes it is appropriate, just and reasonable that the Board approve the rates as applied for.

MR. HOYT: Thank you, Mr. Charleson. The panel is ready for cross examination.

CHAIRMAN: Thank you, Mr. Hoyt. Mr. Theriault, would you like to come forward?

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

Q.5 - Good morning, Mr. Chairman, Panel members.

CHAIRMAN: Good morning.

Q.6 - Good morning, Panel. Now, Mr. Charleson, I'm interested in your opening statement and in particular your interpretation of the facts of your application and of the evidence that I submitted.

First of all, you speak in the last paragraph on page 1 of your opening statement about the relatively modest proposed increases of 11 percent to 26 percent of the burner tip impact. Now I would like to get a translation in plain language of that statement. So for this application what is the range of percentage increases on the rates charged by EGNB for its delivery services?

MR. CHARLESON: I don't know if I have that number sitting here readily. Again because as we indicate within here and again -- within the opening statement we indicated that these -- we do not -- we see these increases as being not inconsequential. I don't think I used the word modest at all.

And again our focus has been on the burner tip impact. So I haven't calculated -- I don't have the calculation of the delivery rate impact. Actually -- actually I stand corrected. We -- if we are looking at the SGS RO rate would be looking at a 32 percent increase in the delivery rate only. For the SGSC there would be a 27 percent increase to the delivery rate only. For GS it would be a 39 percent increase to the delivery rate only, and CGS it would be a 72 percent increase if you are only looking at the delivery rate.

Q.7 - Thank you. Now on page 1, paragraph 5, of your opening statement, lines 2 to 4, you state, however, EGNB must also balance these concerns against the impact of the deferral account if rate increases are not applied for when they are supported by market conditions.

And on page 2, paragraph 2, lines 1 to 3, you state, the last time EGNB applied for an increase to the rate classes included in the application oil was trading at $61.78 US per barrel. At the time this application was filed this had increased to $89.50 per barrel. Since that time oil has continued to fluctuate but currently sits 13 percent higher at $101.19 per barrel.

So, Mr. Charleson, do we now conclude that EGNB will immediately be filing a new rate case seeking a 13 percent increase over the increases requested in this application?

MR. CHARLESON: No, we won't. The legislation allows for an adjustment to rates or a rate application on an annual basis. So the application that is before this Board right now is an application for 2008 rates. If at a later point in this year market conditions continue to indicate an additional increase should be applied for we would look to apply for an increase to rates in 2009.

Q.8 - Why did you not file an amendment if the price of oil has gone up so much --

MR. CHARLESON: Again --

Q.9 - -- in this application?

MR. CHARLESON: The challenge you run into, the market prices are fluctuating all the time. So at which point do you pick the price, you know? It's -- as I indicated in my opening statement, oil has fluctuated since the time we filed the application.

There were -- for a couple of weeks the oil price was lower than what it was when we filed our application. There has then been a more recent run up again in oil prices that has moved it higher. As those prices fluctuate around, you know, to try to keep pace with what is happening in the commodity markets would be very challenging. We file our application based on the evidence available, and the market data available at the time, and we stand by that application.

Again, if oil prices were to decrease below the level at the time of the application we do have the rate rider mechanism available to adjust downwards.

Q.10 - Now let's look at your interpretations of Mr. Strunk's evidence given on behalf of the Public Intervenor. At page 2, fourth paragraph, you state, the Public Intervenor's evidence provides a number of comparisons to the residential rates charged by Heritage Gas and those of EGNB. This comparison does not, however, take into consideration, or at a minimum downplays, some important facts about Heritage Gas.

Now I would like to look, Mr. Charleson, at what Mr. Strunk actually said about Heritage Gas and what comparisons he made between Heritage Gas and EGNB. First I submit he said that the SGSRO rate charged by EGNB was greater than the residential rate of Heritage Gas. Is that not correct?

MR. CHARLESON: Perhaps you can point me to the specific reference? I have the evidence here.

Q.11 - Yes. Page 12, lines 17 and 18.

MR. CHARLESON: Yes, that's correct. That's what Mr. Strunk's evidence states.

Q.12 - Okay. Second he said that EGNB's residential rate has more than doubled in four years. Is that statement correct?

MR. HOYT: Again perhaps if Mr. Theriault could point us to where these statements were made it would make it follow much easier.

CHAIRMAN: I agree. Mr. Theriault, maybe when you are referring to them if you can just take a minute before you ask the question and just determine where the quote is.

Q.13 - Yes. Let's see. Same page, page 12, lines 20 and 21.

MR. CHARLESON: Yes, that's correct. The rates have doubled -- more than doubled in the past four years because market conditions have supported that.

Q.14 - Thank you. Now I am going to -- with respect to Mr. Strunk's evidence again, he states at page 15, lines 9 and 10, that Heritage Gas rates are set based on cost of service using traditional rate of return techniques but allowing for deferrals during the development period. Correct?

MR. CHARLESON: Correct.

Q.15 - Now again at page 16, lines 3 and 4, and most importantly Mr. Strunk stated after his comments on Heritage Gas and his explanation of his experience in Ireland that cost-based rates are not incompatible -- incompatible with existence of a market development period. In other words, it's possible to have a development period and have cost-based rates, and Mr. Strunk provided examples of this, is that correct?

MR. CHARLESON: And I guess that is where I -- that is correct, that is what Mr. Strunk has stated. But that is where I do have some concerns with the way that has been characterized. When I read that statement it left me with the impression that the cost base rates were recovering all the costs during the development period, and to leave that impression I felt was misleading to me, and I wanted to clarify that in my opening statement, my understanding of Heritage's rates and what costs were truly being recovered.

Q.16 - Now did Mr. Strunk not say in his report that there were additions to the deferral account in Nova Scotia by Heritage Gas?

MR. CHARLESON: He did indicate that there were additions to the deferral. He did not indicate the extent to which deferral -- additions to deferral were occurring. And again the closing paragraph of this section has that opening sentence that you just quoted where it indicates that cost-based rates are not incompatible with the existence of a market development period, and that gave me cause for concern.

Q.17 - Why would that give you cause for concern?

MR. CHARLESON: Again I think it's important that the Board have a clear understanding in terms of what this alternative rate structure methodology is providing for. In Mr. Strunk's evidence he also provides a chart which I believe is attached in evidence as exhibit 2, which shows a comparison in terms of Heritage's rates against what is Enbridge Gas New Brunswick's rates, and the impression that chart left again from my read of the evidence was that Heritage rates were lower, they were recovering costs, although there was some allowance for deferrals, and -- but giving no sense in terms of the extent to which deferrals were there and, you know, was the pace at which deferrals are being created on Heritage greater than the pace at which Enbridge's rates contribute to the deferral, is it really a true comparison, you know? It struck me somewhat as an apples to oranges comparison.

Q.18 - Is it true that what Mr. Strunk is saying is that Heritage Gas has cost-based rates and made additions to the deferral account?

MR. CHARLESON: Yes.

Q.19 - Now were you employed by EGNB or any of its affiliates -- or any of the affiliates of EGNB at the time of the RFP?

MR. CHARLESON: Yes, I was.

Q.20 - Okay. And where were you so employed?

MR. CHARLESON: I was employed at the time with the Consumers' Gas Company which is now Enbridge Gas Distribution in Ontario.

Q.21 - Now are you familiar with the RFP process that led up to the general franchise agreement?

MR. CHARLESON: I am generally familiar but definitely not familiar with the intricate details of the whole process that went on.

Q.22 - Are you familiar with the documents you filed as part of the IR process in this hearing?

MR. BUTLER: I am generally familiar with them, yes.

Q.23 - Now were there any other parties that participated in the RFP process?

MR. BUTLER: Other than --

Q.24 - Other than EGNB -- or Enbridge?

MR. BUTLER: There would have been some consultants --

Q.25 - I meant parties though, parties -- any other applicants.

MR. CHARLESON: Yes, there were other respondents to the RFP process.

Q.26 - Do you know who they were?

MR. BUTLER: Irving Oil was one.

Q.27 - Any others that you can recall, or was there any others?

MR. BUTLER: Not that I am aware of, but there could have been.

Q.28 - Okay. And, Panel, to your knowledge what was the basis for awarding the gas distribution franchise to EGNB?

MR. CHARLESON: Our assumption would be that the proposal provided by Enbridge Gas New Brunswick was deemed to be the best path forward for introducing natural gas into the Province of New Brunswick.

Q.29 - Okay. Now, Panel, pursuant to section 4.4 of the General Franchise Agreement, this section refers to the fact that a review by the Board of the gas distributor's performance shall be completed every seven years. My question is when was this review conducted?

MR. CHARLESON: Again, that is a provision of the General Franchise Agreement. However, I think at the time when the General Franchise Agreement was being struck as well one of the elements of the proposal was that there would be light-handed regulation and a view that there would be limited regulatory oversight.

Since that time there have been a number of cases before the Board which have provided opportunities for the Board to examine EGNB on a more frequent basis than the seven years that were contemplated in the General Franchise Agreement.

Q.30 - Okay. Now I am going to refer you, Mr. Charleson, to interrogatory -- the response EGNB gave to my interrogatory number 7, I believe it is, and that includes as an attachment there -- sorry -- interrogatory number 6 -- it includes as an attachment the General Franchise Agreement. I am just going to read to you paragraph 4.4

of the General Franchise Agreement.

"The Board is required to carry out a mandatory review at at least seven year intervals from the commencement date of this agreement of the implementation of the plan by the gas distributor for the province-wide access to gas and for the performance by the gas distributor of its obligations under this agreement and the Gas Distributors' Act 1999. And the gas distributor agrees to cooperate fully with support and provide all information necessary to facilitate this review."

So your evidence is that that was ignored or amended or --

MR. BUTLER: This was discussed with government two or three years ago about this requirement, and as Mr. Charleson noted, the intent was that EGNB would not be before this Board and that there had to be a means of making sure that within a certain period of time that we did have this review that you are referring to.

And as Mr. Charleson noted, we have been before the Board at the time of these discussions with government 15 or 20 times, and government agreed that it was not necessary to have a mandatory seven year review, and has amended the legislation to remove the requirement for that seven year review.

Q.31 - So you are saying the legislation was amended?

MR. BUTLER: Yes.

Q.32 - And when was that?

MR. BUTLER: About a year-and-a-half ago. The Gas Distribution Act.

Q.33 - So I guess the evidence is there has been no formal review that would encompass what was required or what was anticipated to be caught by section 4.4?

MR. CHARLESON: That's correct. There has been other reviews and again to the extent --

Q.34 - There has been rate hike applications?

MR. CHARLESON: There has been rate applications.

Q.35 - And class -- breaking up classes.

MR. CHARLESON: And again EGNB has responded to any request from the Board for information throughout the time the franchise has been operating.

Q.36 - Now I'm going to refer you to schedule B of the general franchise agreement.

MR. THERIAULT: Mr. Chairman, at this point it might be easier because I'm going to be referring to references out of the interrogatories which are quite numerous. And I have actually photocopied and prepared to pass out to Mr. Hoyt and Ms. Desmond copies of the sections I will be referring to. So it might be easier for the Board to follow along that way.

CHAIRMAN: I think it would a lot easier, quite frankly.

Q.37 - Now even though this document wasn't in the evidence, Mr. Charleson, or panel members, whoever could help here, based on the information there -- it is graphic we prepared showing -- the first page showing the -- the first page of the document that I handed out, Mr. Chairman. It is entitled "EGNB Ownership Structure, Schedule B, General Franchise Agreement."

Is the ownership outline that I have described in this page accurate?

MR. LEBLANC: No. This is not the current ownership of the business.

Q.38 - Okay. Was it at one time, at the time the --

MR. LEBLANC: Yes, it was. Subsequently it was rolled into a limited partnership.

Q.39 - Okay. And when you say -- what was rolled into a limited partnership?

MR. LEBLANC: The joint venture.

Q.40 - Yes.

MR. HOYT: Mr. Chair, perhaps it should be marked as an exhibit just for future reference.

CHAIRMAN: Certainly. Mr. Theriault, do you want that marked as an exhibit?

MR. THERIAULT: Yes. That is fine. I mean, aside from that, all the other documents come from the record.

CHAIRMAN: Sure. That will be PI-3.

MR. HOYT: We will deal with each of the package individually.

CHAIRMAN: I appreciate. That front page is what I'm talking about. My understanding, having looked at the additional documents in the package, my understanding is that they came from -- or they are just excerpts from what has already been marked as exhibits already in evidence.

MR. THERIAULT: Except for the last one. It comes from the LFO.

Q.41 - So you say the joint venture was rolled into a limited partnership?

MR. LEBLANC: Yes.

Q.42 - And when did that occur?

MR. LEBLANC: I believe in 2000.

Q.43 - Were these changes -- was that change -- was that made with the agreement of the Province?

MR. LEBLANC: I'm not aware myself. I wasn't around at that time.

Q.44 - Now can I summarize the ownership structure as follows. Enbridge Inc. owns 100 percent of the voting securities of Enbridge Pipelines NW Inc., which in turn owns 100 percent of the voting securities of 311594 Alberta Ltd., which in turn owns 100 percent of the voting securities of Enbridge Consumer Energy Inc.

Would that be correct?

MR. LEBLANC: That was the structure at that time, yes.

Q.45 - Is that the structure now?

MR. LEBLANC: I don't have the exact structure in front of me. Generally Enbridge Inc. owns a group of companies. And Enbridge Consumers Energy I believe is now named Enbridge Energy Distribution Inc.

And there is another entity, sort of a sister, I guess you would say, named Enbridge Atlantic Holdings Inc. And those two entities hold Enbridge's, as well as EGNB Inc., in the limited partnership.

They are a piece of the limited partnership. I think actually we describe some of that in Public Intervenor interrogatory number 2.

Q.46 - So Enbridge Consumers Distributors, would it be fair to say they own the only outstanding common share of EGNB?

MR. LEBLANC: There is actually no common share. It's a limited partnership. And Enbridge through two entities own their -- 70 percent of the outstanding limited partnership units as described in Public Intervenor interrogatory number 2.

Q.47 - In what jurisdictions does Enbridge Consumer Distribution operate?

MR. LEBLANC: Enbridge Energy Distribution is an Ontario company, I believe.

Q.48 - And that is the only jurisdiction they operate?

MR. CHARLESON: We are not familiar with what all the holdings or what other interests Enbridge Energy Distribution may have. We are familiar with the relationship between that and Enbridge Gas New Brunswick.

Q.49 - Do you know if they are an LDC in Ontario?

MR. CHARLESON: Enbridge Energy Distribution Inc. is not an LDC in Ontario. Enbridge Gas Distribution is the local distribution company in Ontario.

Q.50 - Now let us suppose that EGNB had a net income of a million dollars available for distribution as dividends. Describe could you please how that million dollars would be distributed between the various companies and those who have signed onto the joint venture with Enbridge Consumer Distribution?

MR. LEBLANC: If EGNB limited partnership had a million dollars to distribute, 70 percent -- approximately 70 percent of that would go to Enbridge-owned companies, EEDI and EAHI. And the remainder would be paid to the non-Enbridge limited partners.

Q.51 - Now has EGNB ever distributed any earnings to Enbridge Consumers Distribution and/or those who have signed the joint venture with them?

MR. LEBLANC: Enbridge does on a quarterly basis pay dividends to its limited partners -- distribution, sorry, not dividends. Yes, it does.

Q.52 - But yes, it does distribute. Now you say they pay quarterly?

MR. LEBLANC: Yes.

Q.53 - And how much would that be? What is their take?

MR. LEBLANC: The number would vary.

Q.54 - Yes. Let's take the last quarter?

MR. LEBLANC: I can give you an approximation.

Q.55 - That is fine.

MR. LEBLANC: About $4.8 million.

Q.56 - And that would be for the last quarter?

MR. LEBLANC: For the last quarter paid, which would be the last quarter of 2007.

Q.57 - So if I understand what you told me, 70 percent of that $48 million would have gone -- sorry, 70 percent of the $4.8 million would have gone to Enbridge-controlled companies?

MR. LEBLANC: That is correct.

MR. CHARLESON: Representing their ownership interest.

Q.58 - Yes. Now are you allowed to distribute revenues if you are not making a profit?

MR. LEBLANC: Can you repeat the question for me please?

Q.59 - Are you allowed to distribute revenues if you are not making a profit?

MR. LEBLANC: We pay dividends, yes, distribution.

Q.60 - Without making a profit?

MR. LEBLANC: Yes.

Q.61 - Now just going back a bit, this distribution that has been done on a quarterly basis, how far back has that gone as it started? When did it start?

MR. LEBLANC: It has been since the beginning of the limited partnership.

Q.62 - Has that been filed? The information on that, has that been filed with the Board?

MR. LEBLANC: I don't -- just one second please.

I don't know if we file anything directly. But when the financial consultant of the Board comes in to do a review, they are able to review the statutory financial statements which does show the distributions in total. But it is not in the financial -- regulatory financial statements that are filed with the Board.

Q.63 - I'm sorry. What is the last thing that you said?

MR. LEBLANC: It is not I don't believe in the financial

statements that are filed with the Board.
Q.64 - So it is very possible the Board wouldn't have that information?
MR. LEBLANC: They would certainly have the opportunity through their consultant to know that information.
Q.65 - Could I get an undertaking from you to file that information from 2000 to --
MR. HOYT: Mr. Chair, I assume the distinction is being made here between the regulatory statements which are filed in response to -- I believe it is Public Intervenor IR-22 -- and the regular financial statements of EGNB. This issue came up actually in the last proceeding.
And we indicated, in response to a motion by one of the intervenors in that case that the practice today clearly has been to file the regulatory statements with the Board but not to file the general financial statements.
And the Board ruled in that case that that was an appropriate distinction to make.
MR. THERIAULT: If I may, Mr. Chair, I'm not asking for the regular financial statements. The witness has stated that there had been, in his terms, $4.8 million in the last quarter distributed.
I'm simply going back, of which 70 percent went to

Enbridge-controlled companies, 30 percent went to the other investors. I'm simply asking to track that back to, as he said, 2000.

I'm not asking for their financial statements. I simply want a record of those payments.

CHAIRMAN: Mr. Theriault, I'm just wondering what the relevance is to take this back to 2000. I don't know how --

MR. THERIAULT: I'm trying to --

CHAIRMAN: I don't know how that is helpful in terms of the task I guess that this Board has to deal with in this hearing, which is obviously to deal with the application for an increase in rates and to go back and look at the general financial statements and distributions that were made several years ago.

In the context of this hearing, I guess what I'm really asking you to address is what would the relevance be?

MR. THERIAULT: Well, I guess if the Board feels it is not relevant to determine what EGNB has made when they successively have been going for rate increases, I think over the last seven or eight years, I would suggest is very relevant. And I would wrap it all up in the closing argument.

CHAIRMAN: Mr. Hoyt?

MR. HOYT: Mr. Chair, I certainly agree with the position of relevance. We are trying to let this go to a point. And we were getting very close to the point where we would have raised the same issue. I mean, we are trying to grant some latitude.

But it is difficult to see what the relevance is in a proceeding to determine how a Board-approved marked-based methodology for setting rates should be applied in this case, which is essentially the scope of this proceeding. So it seems like we are getting very far afield.

MR. THERIAULT: If I may, I will take exception with what my friend argues as the scope of the proceeding. I mean, this is the first opportunity that someone has had the opportunity to come before this Board and question EGNB on issues.

Now I understand the Board has approved a rate-making procedure. But I mean, whether that methodology is appropriate or not is subject to debate. But I would say that is not the only focus of determining if the rates are just and reasonable.

I mean, if that is the case we would just simply have to list and put here is the price of oil, here is the price of natural gas and let's go home, I mean.

CHAIRMAN: Well, I think the information that you currently have involves the last quarter. And I think, Mr. Hoyt, quite frankly one of the dangers of letting it sit at that is that Mr. Theriault then may say well, let's multiply that by 4 and let's multiply that by seven years, and that must be the amount.

And I'm going to presume that maybe that isn't the amount, maybe it is something less than that. So you know, once part of the information is out -- I'm not sure that I'm convinced on the relevancy of it.

Mr. Theriault, perhaps to go back to you for a second. And perhaps you can be very precise in what it is that you are looking for, as I said. And Mr. Hoyt, you may want to consider this.

The information that is being asked for, we have information on one quarter basis. And there may be questions from the Board with respect to this follow-up, how did you calculate that, was that based on the rate of return and -- you know.

So one could perhaps attempt to approximate. And if some information is on the table, it may be that it is more useful to have it all. But what precisely is it --

MR. THERIAULT: Actually -- well, perhaps, Mr. Chairman, I can -- instead of going back all the way to 2000 let's start at 2005.

CHAIRMAN: Yes.

MR. THERIAULT: And I'm asking for the quarterly distributions that the witness has referred to that they do on a quarterly basis. I would like to know what the amounts of those were.

CHAIRMAN: You are talking about the gross amounts for each quarter starting in the year 2005?

MR. THERIAULT: Yes, fiscal year 2005.

MR. HOYT: I think Mr. Charleson wants to respond.

MR. CHARLESON: Or Mr. LeBlanc.

MR. LEBLANC: Probably just to be helpful, the easiest way to approximate the distributions -- and actually, you can actually see them since however many years the financial statements -- I guess 2000 to 2006.

The distributions are in the ball park at least, fairly close to the regulated return on equity which is in each year's financial statements.

VICE CHAIRMAN: Could you direct us to a specific document, Mr. LeBlanc, so we can look on with you?

MR. LEBLANC: Sure. So let's go to 2006.

MR. HOYT: They are attached to Public Intervenor IR number 22.

MR. LEBLANC: Go to page 2.

CHAIRMAN: Just give us a moment.

MR. CHARLESON: We are going to look at 2006.

CHAIRMAN: Does everybody have that?

MR. THERIAULT: Just bear with me, Mr. Chairman.

MR. LEBLANC: So on page 2 of appendix A is a statement of income for regulatory purposes. And the final line in the table is titled "Regulatory Return on Equity." And the number of 2006 is 14.551 million.

That is approximately what would have been paid out in distributions during that year. And similarly for 2005 the number is there and so on. So a quarterly basis would be approximately a quarter of them.

CHAIRMAN: Mr. Theriault, is that the information you were looking for?

MR. THERIAULT: Yes.

CHAIRMAN: Or is it something --

MR. THERIAULT: No. That is fine. If that is what they are telling me is an accurate depiction of --

CHAIRMAN: I'm going to have a question at the end. I may as well just jump in here right now.

When you say "approximately" -- just in case Mr. Theriault doesn't ask this follow-up question -- how would it differ I guess?

MR. LEBLANC: Well, the main difference -- it would be within a couple of hundred thousand dollars of -- but there is a timing difference. Because we pay sort of a quarter after.

So you pay -- in 2006 for instance we paid a Q4 of 2005 and Q1 through 3 of 2006. So there is a time lag. But follow-up in dollars, it would be within a couple of hundred thousand dollars on a year.

CHAIRMAN: Mr. Theriault?

Q.66 - So that amount you just showed me in the financial statements, that would be basically the 13 percent rate of return?

MR. LEBLANC: Correct.

MR. CHARLESON: Yes. The distributions are designed to provide a fair return to the unit holders for their investment.

Q.67 - Has EGNB ever paid any management or other fees to any affiliated companies, any Enbridge affiliated companies?

MR. LEBLANC: What was the --

Q.68 - Management or any other type fees aside from what we just talked about?

MR. LEBLANC: We do pay other Enbridge entities for services that they provide to us that -- on a per unit basis based on agreements that actually get reviewed by the financial consultant of the regulator on an annual basis.

Q.69 - Are those amounts listed in the statements we just referred to you?

MR. LEBLANC: I believe there is a table talking about -- yes.

CHAIRMAN: I'm going to ask you again to when you are referring to documents, just so everybody can be on the same page, so that you could tell us where you are getting that information in terms of exhibit number and --

MR. LEBLANC: So in response to Public Intervenor number 22, the financial statements that we actually just finished looking at, appendix A -- for 2006 -- appendix A, page 13, notes to the regulatory financial statements, there is a table which outlines consulting and services paid to Enbridge affiliates.

Q.70 - So my new eyes aren't as good as they should be. But is that a -- the second to last column over on the top, is that a 5 or a 6 -- 855?

MR. LEBLANC: 5855 is actually the total consulting services for the year. And the column next to that is the amount provided by Enbridge entities which is 2.7 million.

MR. THERIAULT: Okay. Now there is a schedule E to part 2 of the general franchise agreement and dealing with essential elements.

And again that is filed, Mr. Chairman, as part of interrogatory number 6.

CHAIRMAN: That is not part of the material that you just quoted --

MR. THERIAULT: No.

CHAIRMAN: IR number 6?

MR. THERIAULT: Yes.

CHAIRMAN: And which document in IR-6?

MR. THERIAULT: Schedule E, part 2 of the general franchise agreement.

CHAIRMAN: That is the one that said, part 3, essential elements?

MR. THERIAULT: Yes.

Q.71 - Now panel, I have some questions about the essential elements. What is the purpose of the essential elements?

MR. CHARLESON: The purpose of the essential elements was to lay out in the proposal what Enbridge saw as being necessary to effectively establish the distribution franchise, so parameters that needed to be in place to make this a viable option to go forward with.

Q.72 - Now are these elements intended to be in effect only during the development period?

MR. CHARLESON: As it indicates right at the top of the page there, it does indicate these items will apply to and during the development period.

Q.73 - And who has jurisdiction to determine when the development period ends?

MR. CHARLESON: The Board does.

Q.74 - Now what is the basis for determining the aggregate annual revenue requirement for the gas distributor? Is it based on full cost of service according to that?

MR. CHARLESON: Yes, it is.

Q.75 - And is there any reference there to market-based rates as a method of meeting annual revenue requirement?

MR. CHARLESON: There is no specific mention of a market rate. However, if you look at point 9 in the list of the essential elements it does talk about within a year and at anytime or times during the year, the gas distributor will have full flexibility to adjust the rate for each class to a level below the target rate.

So it does contemplate or indicate the use of a target rate-setting mechanism and the ability to use what we use as rate riders to have that rate flexibility to adjust rates.

So I would see that statement being completely consistent with the market-based methodology that is in place.

Q.76 - Now what are the capital structure requirements in the essential elements?

MR. CHARLESON: It specifies it will be 50 percent equity, 50 percent debt.

Q.77 - Now does the Applicant view this as a requirement or as deemed capital structure?

MR. CHARLESON: Perhaps you can clarify the distinction between requirement and deemed structure.

Q.78 - Is it actual or deemed?

MR. LEBLANC: It is actual. But the equity is capped at 50 percent. So if our actual equity went beyond 50 percent it would be capped at that level.

Q.79 - Does the Applicant currently have a 50 percent equity, 50 percent long-term debt capital structure?

MR. LEBLANC: Approximately, yes.

Q.80 - Now the Applicant is permitted to earn a 13 percent -- permitted to earn 13 percent on equity. Has the Applicant in any fiscal year actually earned 13 percent?

MR. LEBLANC: It earns 13 percent every year.

Q.81 - Okay. Does the Applicant have the ability to raise debt directly on the long-term debt market? Or does it have to go through one of the affiliate companies?

MR. LEBLANC: It actually borrows from one of the affiliate companies. Our credit rating on its own would not likely allow us to raise that money.

Q.82 - Okay. And which affiliate company does it borrow from?

MR. LEBLANC: Enbridge Inc.

Q.83 - Now in section 7 of the essential elements there is the following reference to forecast error.

"To the extent that in any year there is a difference which arises from forecast error between the actual revenue of the gas distributor and its actual cost of service."

I would ask you to explain how there can be a forecast error between actual revenue and actual costs?

MR. CHARLESON: Again given that none of us were party to kind of writing the language here, what this focuses on is really the -- you know, the difference between the actual revenue that is incurred in the actual cost of service. On a forecast basis you would forecast what your expected revenues are going to be and what your expected costs are going to be. As the year materializes you are going to have your actuals. And that is really what the focus of the deferral becomes.

Q.84 - Perhaps I could -- does it say that in that section? Or is that your interpretation of that section?

MR. CHARLESON: Again, it is my interpretation of the section. Because again if you read the sentence with the exclusion of what is in the commas there, which would still be a legitimate sentence, to the extent that in any year there is a difference between the actual revenue of the gas distributor and its actual cost of service. So that is the interpretation. And that has been the practice. And that has been the practice that has been accepted by the Board.

Q.85 - But that is not a forecast error, is it?

MR. HOYT: Mr. Chair, again I'm having trouble determining the relevance of this to an application to determine the market-based rates.

CHAIRMAN: Mr. Theriault?

MR. THERIAULT: It certainly goes to the deferral account, Mr. Chairman. And this is something that, you know, I intend to question on. Again maybe I misunderstood the role or the scope of this hearing.

But certainly the deferral account is up for questioning here. It has never been questioned before.

Surely that has been throughout the evidence anyway a concern that EGNB has expressed, is ensuring that the deferral account does not grow. And I certainly would mirror that concern.

CHAIRMAN: Certainly it does appear in the Applicant's evidence concern about an increased growth in the deferral account, which I think to a certain extent the Applicant has put the deferral account on the table there for as one of the issues that might be discussed. I think it is a reasonable question.

Q.86 - Now does the Applicant base its deferral account known as the forecast discrepancy deferral account on this section?

MR. CHARLESON: The -- and again I'm not entirely familiar with some of the history here. But there was a proceeding back in 2000 in which the evidence is filed in response to -- the response to Public Intervenor interrogatory number 7.

And that proceeding, that initial proceeding dealt with a variety of elements in terms of the operation and the accounting for costs within Enbridge Gas New Brunswick. As part of that proceeding, the treatment of the deferral account and the establishment of the deferral account was determined through that process. We would be relying on the outcome of that proceeding for our direction in terms of how the deferral account is --

Q.87 - In other words, you don't know the answer to the question. But it might be in the --

MR. CHARLESON: I'm indicating that the answer to the question is that we rely on decisions from this Board in terms of how we operate our business.

There are other elements of these essential elements that are not in place today. The return on debt component is not as listed in the essential elements.

The Board ruled differently on that. And as a result we follow the Board's decision.

Q.88 - The return on equity is?

MR. CHARLESON: The return on equity. Again each of those essential elements was subject to a proceeding of the Board.

There was evidence brought forward. It was examined and tested. And the Board rendered a decision based on that hearing.

The company has operated since that time based on the decision rendered by the Board, which we believe is the appropriate mode of operation.

Q.89 - So you would agree with me then that the essential elements can be modified by the Board?

MR. CHARLESON: Yes, and were.

CHAIRMAN: Mr. Theriault, I think this would be a good time to take the morning break. So we will take 15 minutes and be back at 5 after 11:00.

(Recess - 10:55 a.m. - 11:05 a.m.)

CHAIRMAN: Mr. Theriault, you can resume your cross examination.

MR. THERIAULT: Thank you, Mr. Chair.

Q.90 - Panel, with respect to light-handed regulation referenced in section 11 of the Essential Elements, can the Applicant confirm that for each fiscal year of operation the reporting requirements listed for the following have been provided to the Board. First is for the test year revenue requirement?

MR. CHARLESON: No, they haven't.

Q.91 - Cost of service components?

MR. CHARLESON: No.

Q.92 - Target rates?

MR. CHARLESON: The rates have been reviewed and approved by the Board through various hearings. So they would be aware of what the target rates were.

Q.93 - Actual rates?

MR. CHARLESON: Again, all rates are approved by the Board. So they would have those.

Q.94 - Actual revenue?

MR. CHARLESON: Actual revenue, yes.

Q.95 - Actual cost of service components?

MR. CHARLESON: To the extent that all those components would appear within the regulated financial statements, yes.

Q.96 - And cost deferral accounts?

MR. CHARLESON: Yes.

Q.97 - So the test year revenue requirement and the cost of service components have not been provided to the Board, if I understand?

MR. CHARLESON: Yes. We haven't been providing that information on a forward test year basis. And again that is something that has not been required by the Board.

Q.98 - Did you have Board permission to omit such information?

MR. CHARLESON: I don't recall specifically from the 2000 decision. And again I think it's important to note these essential elements were what was put forward by the company in its proposal. It's not -- and it did form the basis for a number of elements that were brought forward in the initial rate application, but different elements have changed, you know, in terms of, you know, the light-handed regulation.

There has been probably more regulatory oversight than originally anticipated just because of the rate setting model and also because of the market conditions that have happened since that time. So we have laid out a framework that the company believed was appropriate, but it was available to me at that initial hearing that established the framework with which the company should operate, and the company has continued to work with and comply with any direction from the Board in terms of reporting requirements.

Q.99 - Now the section -- section 11 -- refers to any such other information as required by the Pubic Utilities Board. Has the PUB or its successor, the EUB, ever requested any information above the explicit information requirements in this section?

MR. CHARLESON: Yes.

Q.100 - And what would that be?

MR. CHARLESON: There is a number of other reporting requirements that we provide. We have a construction report that we provide. We do provide quarterly financial statements. We provide reporting on customer numbers in throughput on a monthly basis. We provide reporting on Enbridge Utility Gas. Again as the business has evolved and as reporting requirements have been identified, the Board has put those to us and we have complied.

Q.101 - Is EGNB an LDC?

MR. CHARLESON: We are the local distribution company in New Brunswick, yes.

Q.102 - And does EGNB own the gas in its distribution system?

MR. CHARLESON: The reason I pause is because of the role of Enbridge Utility Gas. Obviously for the gas that it's providing on behalf of other marketers or end use consumers, no, we don't own that. I'm not entirely familiar with what the title requirement -- or the title may be in terms of Enbridge Utility Gas, at what point it transfers over to the customer.

So I would assume that the Enbridge Utility gas would be gas that we own at the time that we are distributing it. In terms of the gas that we distribute on behalf of other marketers or end use customers themselves we do not own that gas.

Q.103 - But it would be fair to describe the company as providing a delivery service?

MR. CHARLESON: It is a delivery service that we provide, yes.

Q.104 - In other words, a transportation company?

MR. CHARLESON: Yes.

Q.105 - Does EGNB have a monopoly over the provisions of this delivery service?

MR. CHARLESON: Yes. Obviously with the exception of where there is single end use franchises within the province.

Q.106 - So in effect can we say that EGNB is a monopoly seeking the continued application of light-handed regulation for an indeterminate period of time?

MR. CHARLESON: I guess I struggle with in terms of whether light-handed regulation was ever there. You know, I think what we are seeking is -- what we are seeking in this application is the approval of an adjustment to rates based on a methodology that has been approved for use within the development period, and that is the extent of what this application is about.

Q.107 - I would like to talk a little bit about the utility's past rate applications. And let's start with the 2000 application. And the document that I handed out earlier, Mr. Chairman, the second page, it's entitled NB PUB-299, exhibit A, pages 2 and 3.

CHAIRMAN: Yes. That's an excerpt, is it, from the 2000 rate case?

Q.108 - Yes. And I would ask the witness, you would agree that that is -- maybe if you want to take a second to review that -- that is an excerpt, I took it from the documents you provided to me?

MR. CHARLESON: Yes, it is.

CHAIRMAN: Perhaps we should mark that as an exhibit as well, in order to keep this straight.

MR. THERIAULT: Yes.

CHAIRMAN: That document goes on for several pages, does it?

MR. THERIAULT: That goes right up to the second to last page.

CHAIRMAN: So that will become -- I assume there is no objection, Mr. Hoyt?

MR. HOYT: I take it that these are just copies full, that they are not pieces of --

MR. THERIAULT: No. They are just from that page.

MR. HOYT: Just copies. No objection.

CHAIRMAN: And Ms. Desmond, no comment? Okay. It will become exhibit PI-4.

Q.109 - Now, Panel, do you agree that in this application in 2000 EGNB was asking the Board to approve rate based -- sorry -- rates based on five factors, a forecast of deliveries and customers, a capitol structure, a return on equity, a debt cost and a resultant cost of service?

MR. CHARLESON: Yes.

Q.110 - And do you agree that three of these factors, capital structure, return on equity and debt cost, were based on the essential elements?

MR. CHARLESON: Yes.

Q.111 - And given that the essential elements required that aggregate annual revenue requirement of the gas distributor be based on a full cost of service model, why was there no reference to this in their request for rate approval?

MR. CHARLESON: Perhaps you can just -- can you restate the question?

Q.112 - Sure. Given that the essential elements required that aggregate annual revenue requirement of the gas distributor be based on a full cost of service model, why was there no reference to this in the request for rate approval?

MR. CHARLESON: Again, at the time this request for rate approval was put together the company was looking at what rate structures needed to be put in place to -- so it could satisfy its commitments that it made within the -- within its RFP response.

You know, in here it has articulated some elements that were included within the essential elements. There is also other requests that are -- that are part of this request regarding pricing flexibilities and other parameters that are there. This is what EGNB brought forward as its proposal at that time for review by the Board.

Q.113 - So in essence you brought forward as part of the application some of the essential elements but ignored others?

MR. CHARLESON: We brought forward what we believed was important at that time to establish the proper rate setting methodology to -- so that a successful gas distribution franchise could be developed within New

Brunswick.

Q.114 - Now at this time EGNB was also asking for approval of two deferral accounts to recover the difference between the actual cost of service and the actual revenues received. Why would the utility need two deferral accounts? Was one of these accounts based on forecast errors?

MR. CHARLESON: If you just give me a moment, I just want to look at -- I know there is a section in the evidence regarding the deferral account. Yes. At that time there was two deferral accounts that were being requested, the pricing deferral account and the forecast discrepancies deferral account. And the rationale behind those are articulated in the evidence at that time which can be found in the response to Public Intervenor interrogatory number 7 behind the tab evidence of Marois Pleckaitis, Leuison and Maclure, on pages 13 and 14 of 28.

So at that time the company proposed the use of two separate deferral accounts to capture different types of discrepancies that could occur as the business began its operations. In the decision -- and again if I recall correctly -- in the decision the Board found that it wasn't necessary to have two deferral accounts but that a single deferral account be established that would capture in essence the nature of the variances identified to go into two distinct deferral accounts that were proposed by the company.

So it was the finding of the Board that suggested a single deferral account would be sufficient and there wasn't a need to segregate or attribute different elements of the kind of the shortfall in revenues.

Q.115 - Now EGNB asked the Board to approve a regulatory framework to facilitate the development of a market for natural gas in the province. Such a framework would include both the development period and a rate structure characterized by pricing flexibility. By virtue of this application does EGNB agree that the Board has jurisdiction to determine when the development period should end?

MR. CHARLESON: I think I have answered previously that yes, the Board has the ability to determine when the development period ends, and the Board in its January 18th decision on the motion in the LFO proceeding has identified a process that it's looking to follow to be able to determine the criteria for when that development period should end.

Q.116 - But they haven't identified that process for this particular -- these classes?

MR. CHARLESON: That's correct.
Q.117 - So the Board has jurisdiction to determine -- does it have jurisdiction to determine whether it could end for one customer class before other customer classes?
MR. CHARLESON: I suppose that based on the evidence within this proceeding the Board could find differently from what it found in its January 18th motion decision where it found that it didn't believe it was appropriate for the development period to end for one class and not another class.
Q.118 - Okay. And the Board I would suggest then has jurisdiction to determine what a market-based rate could be and how it could be designed?
MR. CHARLESON: Yes.
Q.119 - And also when a market-based rate for any customer class should be replaced with a cost-based rate?
MR. CHARLESON: Yes.
Q.120 - Now I would like to refer you, Mr. Chairman, to NBPU exhibit A, page 5, which is the subsequent page. And it's dealing, Panel, with the 2000 rate application. This is a list of specific risks that EGNB claims that it faced in 2000 as part of getting involved in the gas distribution in New Brunswick. For each of these risks has the level of risk remained the same, increased or decreased over the

eight years? Perhaps you could just go through and tell me?

MR. CHARLESON: The first risk, which is customer acceptance of natural gas and achievement of plan market penetration rates and levels. I would say the risk there has decreased as time has moved forward but it has not been eliminated. There is still significant risk around acceptance in achieving market penetration levels.

The second risk, competitive responses from suppliers of alternate energy sources, it may have decreased modestly. However, we still do see marketing materials out there, you know, where there is still aggressive marketing say on oil furnaces, where, you know, say Irving is offering free tanks of oil or free equipment. So there is still aggressive campaigns for the use of oil as an energy source. So I still see that as being a competitive response. There I guess it's more known now than what it would have been in 2000.

The third being adverse fluctuations in crude oil and natural gas benchmark prices. The -- I would say that risk likely remains the same today. We have seen dramatic fluctuations over the time obviously since the time of the original application. There was a significant run up in both crude and natural gas prices. We continue to see a lot of volatility in the market place. Today that volatility is creating market conditions that support this rate application.

However, we have also seen -- in 2005 we saw significant run up in natural gas prices because of hurricane activity. That could materialize again this summer. You could have a very hot summer, significant hurricane activity. I think the risk on that is still -- is pretty much unchanged.

In terms of higher than anticipated operating or capital costs, you know, in terms of the risk there it's probably diminished because we have more experience in terms of are operating costs say higher than what would have been anticipated back in 2000, and higher capital costs? Yes, they are.

In terms of it being a risk I would say less so because we have more experience. And the driver behind a lot of the higher operating capital costs is because the role that we are playing in the market place has been greatly expanded since 2000 out of necessity where we are now involved in doing installation activity and -- you know -- and also the utility in the gas provisions. So I would say from a risk perspective it's lower because there is more known, we have more experience and that ultimately will reduce your risk from that perspective.

In terms of lack of diversity of gas supply, I would say that is still quite limited, or in terms of the risks there I would struggle with saying that there is a reduction there. We still rely predominantly on Sable, on Sable production. There -- we still see a lot of fluctuations in terms of Sable supply. There is questions around the longevity in the reserves that are there.

You know, there is -- there has been the introduction of new supply within the province through Corridor and other exploration that is occurring in the Maritimes. But until we see more of those attached -- also the introduction of LNG could -- provides a little more diversity at least into the US Northeast market. But again that's not on line as yet and how it will affect the market and how regularly that will operate remains to be seen.

So there may be a slight reduction in terms of the diversity of gas supplied issue, but the reduction because of the introduction of Corridor could just as easily be offset by kind of concerns around the reserves off Sable.

In terms of the final one, the lack of established energy services marketers, there is a reduction in the risk there but that was predominantly addressed by the changes that allowed Enbridge to become an energy services provider. I think what material -- that risk materialized very much so in the early stages which led to the changes that have allowed us to move into that market place. There is still though some limitations in terms of the diversity of energy services and marketers that are available in the market place today. But I would say the risk has reduced there because of our ability to provide those services.

Q.121 - So if I understand your evidence then out of all of those categories the only one that -- everything has -- the risk has decreased, albeit it slightly in some, and the only one that remains constant would be the adverse fluctuations in crude oil and natural gas benchmark prices?

MR. CHARLESON: Yes, but recognizing that in a number of those where I had indicated it's down it's slight or limited. We are not saying I don't think in any of these we have seen a dramatic reduction in risk excluding the last one.

Q.122 - Now I would refer you to the next page, page 6, of the 2000 rate case. Mr. Chairman, it's contained in the same exhibit, the page. This is EGNB's list of the characteristics of the development period, and I would like to start with the first characteristic, low market share.

Would you agree that the market share is not restricted to meet overall market share or could be interpreted to mean market share by customer class?

MR. CHARLESON: If the development period can be segregated and broken down by customer class, which I don't believe can be done, but if you make that assumption then yes.

Q.123 - But if it can't be market share by customer class explain why there are different rates for different classes?

MR. CHARLESON: Again, because the rates that you provide have to be able to target towards the -- reflect the nature of the consumption by those customers and to be able to provide the right type of savings incentive needed for them to convert to and use -- continue to use natural gas.

Q.124 - So they are different markets?

MR. CHARLESON: There are different markets.

Q.125 - With respect to the second characteristic, high unit fixed costs, would you agree that the very nature of a gas distribution company is to have high fixed costs in relationship to total costs?

MR. CHARLESON: I think for this you have to be careful and read the entire bullet though, where it's high unit fixed costs due to low customer numbers and distribution volumes. I would agree that the nature of a gas distribution business is that you do have high unit fixed costs and there is significant capital that has to be invested.

In a mature utility you have sufficient customer base to be able to spread those costs over so that you can provide a competitive rate for all customers, and while-- you know -- with the volumes that you are getting from those customers. We are not at that stage yet and that's kind of one of the concerns -- and that's why this is highlighted as a difference between the development period and mature state of operation.

Q.126 - But you would agree that fixed costs per customers will be high relative to variable costs per customers even if there are only a few customers in a customer class?

MR. CHARLESON: Yes, I would say so.

Q.127 - With respect to the third characteristic, immature energy services market place, would you agree that this market place would grow when these service providers see some growth in the market for natural gas in New Brunswick?

MR. CHARLESON: Yes.

Q.128 - And would you agree that EGNB is responsible for growing the market place for natural gas in New Brunswick?

MR. CHARLESON: Yes.

Q.129 - With respect to the fourth characteristic, full cost of service exceeding sustainable revenues, would you agree that in any given fiscal period it is possible for EGNB to lose money?

MR. CHARLESON: Yes.

Q.130 - So you would agree that it would be possible for EGNB to lose money in a post-development period?

MR. CHARLESON: Yes, it is possible. You can always have extraordinary cost or expenditures that -- you know -- the same as any other business. You know, you plan and you forecast for what you anticipate your costs to be and -- but as the year materializes there can be extraordinary events which can lead to unexpected costs which could lead you to incurring a loss or earning a lower return within that given period. That's a risk that any business faces.

Q.131 - And you would agree that it is not the Board's responsibility to guarantee that EGNB makes a profit in any given year?

MR. CHARLESON: I believe the Board needs to look at the rates that are established for the company in a manner that it provides the company with an opportunity to earn a fair return.

Q.132 - Right. But it's not their responsibility to guarantee that EGNB makes a profit?

MR. CHARLESON: It's not their responsibility to guarantee. It's their responsibility to determine what are just and reasonable rates that provide a reasonable opportunity for the company to earn its returns.

Q.133 - In fact it wouldn't even be their responsibility to ensure that EGNB breaks even in a given year, would it?

MR. CHARLESON: No.

Q.134 - So there is no guarantee that EGNB will ever have sustainable revenues that exceed the full cost of service?

MR. CHARLESON: There is no guarantee, but again I think what we -- the differentiation here is we are talking sustainable revenues. So we are talking on an ongoing basis that you are able to establish full cost of service rates that will provide what seem to be sustainable revenues within any given year, you know, post the development period. There can be events that may cause it to earn less than that return or to, you know, heaven forbid have a loss.

But in terms of moving out of the development period it's at least having the ability that there is a reasonable expectation that full cost of service rates can be used in all rate classes that would remain competitive so that you can have sustainable revenues.

Q.135 - Let me put it to you this way. Would you agree that the responsibility for becoming profitable belongs to EGNB and whether it is ever profitable is a function of the quality of its marketing and pricing decisions?

MR. CHARLESON: I would agree that EGNB is responsible for the development of its business and the growth of its business. It has a responsibility to bring forward evidence to this Board so that it can justify the rates that it believes are required for it to develop and grow that business so that it can be a sustainable enterprise.

Q.136 - And that the marketing and pricing decisions are not relevant to profitability?

MR. CHARLESON: Pricing decisions are governed by this Board.

Q.137 - But the question was is whether the marketing and pricing decisions are EGNB's responsibility in order to determine a profit?

MR. CHARLESON: I definitely agree the marketing decisions that are made and the -- say the rate methodology or the rate structures that are in place are the responsibility for EGNB to develop and determine, but ultimately the pricing, the rate setting, has to be approved by this Board. So the decision supporting -- you know -- the decision around what rates EGNB believes will support the growth in the market place, like the application for -- you know -- under market-based rates, EGNB has the discretion to make decisions in terms of what should be brought in front of this Board, but ultimately the prices that are set are as a result of the decision of this Board.

Q.138 - And finally with respect to the 2000 application, for what customer classes were rates requested?

MR. CHARLESON: In the 2000 decision?

Q.139 - Yes.

MR. CHARLESON: I believe the request was made for all of the classes, all of the customer classes. It would have been the original small general service rate instead of the three small general service rates that we have today, but otherwise --

Q.140 - And the rest are the same?

MR. CHARLESON: Pardon.

Q.141 - And then the rest are the same?

MR. CHARLESON: And then the rest would be the same.

Q.142 - So do each of these customer classes represent a distinct market?

MR. CHARLESON: The reason I hesitate in terms of responding to that is when we look at the kind of commercial market sector between the small general service, the general service and the contract general service, you can have a bit of a blurring in terms of the market sector between those because there is threshold consumption levels that are set for each of those rate classes. You may have similar markets, like say an apartment building, you could have an apartment building that falls into the general service rate and an apartment building that falls into the small general service, or an apartment building that falls into the contract general service. It's really -- it's the amount of consumption they have that can differentiate that. So when we look at kind of the general service area I have difficulty in outright saying yes, there are different markets in each of those rates.

Q.143 - Okay. At the time of the application in 2000 were made were they viewed as being distinct markets each customer class?

MR. CHARLESON: The difference at that time was really around the competitive fuel rate that we were looking to compare to. And so that -- which enabled us for setting the target pricing that had to occur at that time. So again the volume thresholds were seen as driving different oil prices that they would be able achieve in the market so they would be able to set the target rates in the comparison to oil. That was the driver behind some of the distinctions.

Q.144 - I guess -- I'm sorry, but I didn't really understand that in relation to the question again. I'm just wondering is at the time of the application in 2000 were they viewed as -- where they were classified separately I'm assuming they were viewed as distinct markets?

MR. CHARLESON: Not necessarily distinct markets. They were distinct in terms of the commodity pricing that you would be competing against. It would be difficult to have one commercial rate that would provide savings for all oil -- for all oil customers because of the wide variety in oil pricing that can happen based on consumption.

Q.145 - Okay. Now I would like to turn to the next page which is the 2004 rate application. The document I have presented here, Mr. Chair, contains a section from page 1 of exhibit A of NBPUB 2004/001, which is the rate hearing from -- a rate application from a hearing. Now this application appears to request rate changes for three classes, small general service, general service and contract general service, would you agree?

MR. CHARLESON: I think it also specifies that there is also changes included for the off peak service, contract large

volume off peak service and natural gas vehicle fueling.
Q.146 - And I will get to that in a few minutes. I guess --
MR. CHARLESON: I just wanted to be clear that all six are included in the application.
Q.147 - Fair ball. And for the classes that I mentioned were the rates requested the same for each class?
MR. CHARLESON: No, they weren't.
Q.148 - Do each of these customer classes represent a distinct market, and, if not, why would they be requesting it?
MR. CHARLESON: Again, we are getting back to the same question around distinct market. For the same reasons I indicated before around the initial distinction between the three different rates, the three different classes is the reason why you would have a different rate for each of those classes. So we were consistent in terms of our methodology.
Q.149 - Now the application as you say appears to include a request by way of an amendment for rates for off peak service, contract large volume, off peak service and natural gas vehicle fueling, that's correct?
MR. CHARLESON: That's correct.
Q.150 - And is this application the first time that these classes were identified and rates requested for them?
MR. CHARLESON: No. I believe those rates were established

in the 2000 application as well.

Q.151 - And were the rates requested the same for each of these three classes?

MR. CHARLESON: No, they were not.

Q.152 - Now let's turn to the 2005 rate application which is the next page. This application appears to request a rate change for all of the existing customer classes, would you agree?

MR. CHARLESON: With the exception of the heavy fuel oil rate.

Q.153 - And were the rates requested the same for each class?

MR. CHARLESON: No. Each class -- the rate established for each class was requested to provide the target savings levels that were identified per class.

Q.154 - Were the rate changes the same for each class?

MR. CHARLESON: Perhaps you can clarify what you mean by rate change?

Q.155 - Percentages.

MR. CHARLESON: No, they weren't. No, they weren't.

Q.156 - Now I would like to turn to the 2006 rate application. This document contains a section from page 1 of exhibit A of NBPUB 2006, which is the rate application for that year, Mr. Chairman. The application appears to request rate changes for all existing customer classes, would you agree?

MR. CHARLESON: Excluding the HFO class, yes.

Q.157 - The heavy fuel.

MR. CHARLESON: Yes.

Q.158 - And were the rates requested the same for each class?

MR. CHARLESON: No.

Q.159 - And were the rate changes percentages the same for each class?

MR. CHARLESON: No.

Q.160 - Now I would like to turn to the 2007 rate application -- sorry -- reclassification application. And that's on the subsequent page, Mr. Chairman, entitled 2007 Rate Classification Case filed October 26th, 2007.
The application appears to request that small general service rate be eliminated and replaced with three new rates called small general service commercial, small general service residential oil and small general service residential electric, would you agree?

MR. CHARLESON: That's correct.

Q.161 - And were the rates requested for each of the new classes the same as the rate charged for the old small general service class?

MR. CHARLESON: No. The rate for the small general service residential oil and the rate requested -- or there was no rate change requested for the small general service residential oil or the small general service commercial. However, the small general service residential electric did request a different and lower rate to reflect -- so that target savings could be provided to residential customers converting from electricity.

Q.162 - Would it be -- could you consider this application also to be characterized as a rate application?

MR. CHARLESON: To the extent that rates were established, I would accept that characterization.

Q.163 - Do each of these new customers -- no, I'm not going to get into that one. I was going to ask you about your distinct market again. Have you ever heard of the term price discrimination?

MR. CHARLESON: Yes, I have.

Q.164 - Could you explain to me what you understand that to be?

MR. CHARLESON: My simple understanding of what I would take that to be is where one customer is provided with a -- or unduly provided with a different price than another customer for the same service. Again that's my simple understanding of it.

Q.165 - Would it be fair to say you are not -- that you are sure of your interpretation of price discrimination?

MR. CHARLESON: I'm not an expert in this area.
Q.166 - Okay. Have you ever heard of the term undue price discrimination?
MR. CHARLESON: Yes, I believe I have heard that term.
Q.167 - And what would you believe that to be?
MR. CHARLESON: Not very much different from what I just stated in terms of price discrimination.
Q.168 - Okay. Fair ball. Would the cost to serve each of the small general -- each of the new small general customer classes be the same?
MR. CHARLESON: Not necessarily.
Q.169 - How do you know?
MR. CHARLESON: We don't at this time because again we haven't done a cost of service study because at this point in time these rates were established based on the market-based methodology where we were looking to provide target savings. So there is no cost basis associated with establishing these rates.
Q.170 - So they might or might not, you don't know.
MR. CHARLESON: They might or might not.
Q.171 - Let's turn to the next page I believe which is another application in 2007. I guess this would be the second one in 2007. And this application appears to request rate changes for only one customer class, that's the LFO class.

MR. CHARLESON: That's correct.

Q.172 - And given that in August of 2005 EGNB was able to apply for rate changes for all customer classes in one application, please explain -- could you explain to us why the LFO customer class was separated from the rest of the customer classes when the 2007 application was prepared?

MR. CHARLESON: I think if you look at the company's response to Public Intervenor interrogatory number 1, we have indicated the reasons for that. At the time that the LFO application was being filed we were conducting analysis to look at the feasibility and appropriateness of some structural changes to rates that are covered by this application. You know, additional -- and we provide some additional information on what analysis was being done in our response to Board interrogatory number 15.

When we looked at -- because we hadn't completed that analysis and we were looking at the market conditions, and also considering there is generally differing stakeholder groups between the LFO class and the classes of customers that are included within this application, we decided to proceed with the LFO application while we were continuing to finish off our other analysis.

Q.173 - Now could a reason be because a much larger increase was being sought for the LFO class?

MR. CHARLESON: No.

Q.174 - Or could it have been because EGNB had captured all or almost all of the potential customers in the LFO class and could now charge them a rate equivalent to what the market would bear?

MR. CHARLESON: No, I disagree with that, because again I think from the evidence that was brought forward in the LFO application it showed that 20 out of 25 potential LFO customers were captured. So that only represents 80 percent of the potential customers. So there still are customers to capture in that class. What we brought forward there was an adjustment based on the market-based methodology, based on market conditions that were in place at the time that justified a change of the LFO rates.

Q.175 - Now I guess I would like to turn to the next page, if I could. It was another application in 2007. This section contains page 1 of exhibit A of NBPUB 2007 which is another rate application from EGNB for all customer classes except the LFO class -- or sorry -- I said PUB -- I should have said EUB.

MR. CHARLESON: That's this application, correct?

Q.176 - That's correct. So you would agree that this section has come from this application which includes everybody, but I guess -- I will call it everybody, but the LFO class?

MR. CHARLESON: LFO and HFO.

Q.177 - Okay. And the application appears --

MR. CHARLESON: Sorry. And also the SGSRE class. So there are three classes that aren't included in this application.

Q.178 - So the application appears to request rate changes for all the classes -- all those classes except the ones we have just mentioned, LFO, HFO and SGR --

MR. CHARLESON: SGSRE.

Q.179 - I was hoping I could say that. So you would agree with that?

MR. CHARLESON: Yes.

Q.180 - And were the rates requested the same for each class?

MR. CHARLESON: No.

Q.181 - And were the rate changes in terms of percentages the same for each class?

MR. CHARLESON: No.

Q.182 - Okay. Now I just want to be clear before I move on. Since EGNB began in the Province of New Brunswick since 2007 -- or sorry -- since 2000 -- there has been seven rate cases before this Board or its predecessor, the PUB?

MR. CHARLESON: This being the seventh.

Q.183 - Yes. And then there has been three customer classifications or reclassification applications?

MR. CHARLESON: There is only -- I am only aware of one reclassification application and I am including that in my account of seven rate applications.

Q.184 - Just hang on for a second. Now the seven rate cases and the reclassification or classifications --

MR. CHARLESON: Seven including the reclassification.

Q.185 - Yes. I am sorry.

MR. CHARLESON: Yes.

Q.186 - All of which have been done without the benefit of a cost of service or rate design study?

MR. CHARLESON: I believe there was some cost of service study done on forecast numbers back in the original 2000 application. There was some information that was provided at that time that related to, you know, forecast cost of service, but since that time the basis has all been on the market methodology with no cost of service studies being done.

So there has been no cost of service study done on actual costs.

Q.187 - And so all these applications have been justified from 2000 forward on the basis of the so-called market-based ratemaking?

MR. CHARLESON: Correct.

MR. THERIAULT: Mr. Chairman, I am moving into another area and I notice it's about -- according to my watch, about four minutes to 12:00. I don't know if this would be a good time to take a break?

CHAIRMAN: Yes, this might be a good time to take a lunch break. And I think an hour and 15 minutes probably should do it. So we will come back about 10 after 1:00 So we will be adjourned until that time.

(Recess - 12:04 p.m. to 1:10 p.m.)

CHAIRMAN: All right. Mr. Theriault?

MR. THERIAULT: Thank you, Mr. Chairman.

Q.188 - Panel, this morning, I just want to follow up on a few things we touched on this morning. And this morning I believe you mentioned that EGNB is operating other businesses other than distribution services, and so I am curious to know what businesses are you operating and when did you start operating them?

CHAIRMAN: In addition to the distribution service, we also do sales service and installation of heating equipment, and you know natural gas appliances. And also we provide Enbridge Utility Gas the sole -- the commodity service. And both of those we were authorized to do that in --

Q.189 - 2003?

MR. CHARLESON: -- in May of 2003.

Q.190 - Thank you.

MR. CHARLESON: Basically commenced operation shortly after.

Q.191 - Are these operations regulated by the Board?

MR. CHARLESON: The rates and the manner in which the services are provided under the service and installation business are not regulated by the Board. However the revenues that are generated from that do flow towards the overall earnings of the company and are -- and do play a factor in terms of the final -- say deferral account impacts that are there. EUG that is, you know, subject to -- there is legislation around the manner in which that is provided and our operations under the -- on EUG are reviewed by the Board on an annual basis, And we also provide -- update the Board in terms of the monthly EUG pricing.

Q.192 - With respect to the financial statements that were provided in response to PI IR-22, can you identify the revenues of cost associated with these other -- these operations starting at the time when the began just so I can follow it?

MR. LEBLANC: So as you indicated in response to Public Intervenor No. 22, I believe just let me flip for a second to choose the year to start with. Yes, 2003 is the first year where those businesses were operated.

Q.193 - If you could just give me a second to pull that out. Okay.

MR. LEBLANC: So in 2003, page 12 of 20 of Appendix B --

Q.194 - Yes.

MR. LEBLANC: -- the page is titled, Statement of Income for Regulatory Purposes

Q.195 - Right.

MR. LEBLANC: Down about, oh, a third of the way down the page there is a heading called, Installation Services.

Q.196 - Yes.

MR. LEBLANC: The revenue and cost of goods sold related to the installation business are there. And the gas revenue and costs are actually not in the statements. And that's because we -- through regulation we are directed to charge exactly what it cost us to provide gas. So if we buy gas for a million dollars, we sell it for a million dollars. There is no profit on the gas.

And similarly in the other years you can see these installation numbers going forward. So in 2004, Appendix A, page 2, under the title, Installation Services, you see the numbers and similarly going through the rest of the years.

Q.197 - Okay. Does EGNB understand the concept of price elasticity?

MR. CHARLESON: Generally. It's been awhile since I took my economics courses.s

Q.198 - Okay. Could you explain to me your understanding of price elasticity?

MR. CHARLESON: Price elasticity, you will typically -- my understanding of it is that there is a certain response that you will see from the marketplace as prices move. So as prices move higher, how will the market respond in terms of adopting or purchasing a product? You know, if there is -- if you can basically continue to escalate the price and people will buy it -- will continue to buy, then it is -- my recollection is that means it is highly elastic, if there -- if a slight movement in the price will severely impact peoples' purchasing patterns, then it is deemed to in inelastic.

Q.199 - Would you agree with me if I said that in the relationship between price and demand generally that in increase in price leads to a decrease in demand under price elasticity?

MR. CHARLESON: Generally, yes.

Q.200 - Then when EGNB raises prices for its delivery services, customers will consume less gas under that principle?

MR. CHARLESON: I think there are -- again, we have to be careful as well when we are looking at the pricing for EGNB. In terms of consumption of existing customers, I would say as prices increase there is the potential that people will look to conserve more or the economics of undertaking conservation measures will increase and it may lead to a reduction in consumption.

In terms of attracting new customers, it's really the relationship between the competing fuel, the alternate fuel source. So if they can achieve a savings against the alternative, then that's really what's going to drive the conversion decision. It's what's the economics around that conversion. So it's more the comparator to the other fuel source as opposed to the change in the natural gas -- the cost of using natural gas on a stand alone basis.

Q.201 - What about with respect to existing customers if EGNB raises prices for its existing customers, then customers will consume less gas, would you agree with that?

MR. CHARLESON: I agree there is the potential that they will consume less gas. Again, it will depend on the extent to which they can undertake conservation measures.

Q.202 - So if EGNB increases price and will consumers -- consumers will demand less gas? It's potentially a possibility?

MR. CHARLESON: There is a potential for some reduction, the degree to which would be difficult to predict.

Q.203 - So what will happen to the demand-related revenues for EGNB?

MR. CHARLESON: To the extent there is any reduction in demand, the revenue would be lower, but I guess it's difficult to speculate in terms of whether that reduction in the demand-related revenue would be greater than the incremental revenue that would be received from a higher delivery rate.

Q.204 - But if it's lower how does that help EGNB reduce the deferral account?

MR. CHARLESON: Again if you are achieving a higher overall revenue because of an incremental -- again, if you are charging -- you know, they are consuming a hundred units today and you are charging, you know, a dollar a unit, you are going to get a hundred dollars from that. If you now charge say $1.20 a unit, you are going to get $120 from that. If they reduce their consumption say to 95, you are still going to get more than a hundred dollars. So your overall revenue is going to be greater.

Q.205 - One of EGNB's stated goals is to maximize throughput through its system, is that not correct?

MR. CHARLESON: That's one of our stated goals, yes.

Q.206 - And could you explain how you maximize throughput through your system when your practising practices may have the effect of reducing the demand.

\ MR. CHARLESON: By continuing to provide a market price as competitive with alternative fuel sources enables us to track more customers through the system and continue to grow the system which helps to maximize throughput.

Q.207 - Now I would like to talk a little bit of marketing practices and the information you consider important when attempting to convince a customer to switch to natural gas. I believe in your evidence you claim that are many factors that influence a customer's decision to switch to or continue to use natural gas, is that correct?

MR. CHARLESON: Yes.

Q.208 - And do you have any studies that support this argument?

MR. CHARLESON: I think if you look at the response to Public Intervenor interrogatory number 9 --

Q.209 - Just bear with me a second.

MR. CHARLESON: In that interrogatory response we articulate a number of the other benefits or factors that may drive a consumer to choose to use natural gas. That's in addition to providing target savings so the pure economics, then there is also these other benefits. And as we indicate in the response to part 3 of that interrogatory, given the -- you know -- we believe the information that is there is self-evident, or it would be commonly understood, we haven't done any analysis studies or looked at any reports.

Q.210 - If you have no studies, analysis or reports can we conclude that this argument is merely speculation on your part?

MR. CHARLESON: I think you can look at the success that we have had in terms of signing customers. So it's beyond speculation. There is empirical evidence in terms of customer growth. Also Mr. Butler has been in the business for many years on the marketing side and I have been -- I haven't spent as much time in this market but Mr. Butler has spent a fair amount of time in this market and has direct experience in terms of customers.

MR. BUTLER: These are the kind of -- this is the feedback I have heard from customers over the 30 or more years I have been in this business.

Q.211 - Now there is many factors that you suggested in your IRs -- offered up, you know, to the Board in a series of rate cases from 2000 on. I'm just going to list a few and ask you with respect whether they are either variations on the cost savings argument or are they relatively minor considerations in the minds of potential customers. So one is natural gas is more convenient and reliable?

MR. HOYT: Could we ask Mr. Theriault to cite which of the previous applications he is referring to?

MR. THERIAULT: Well I will do better than that. I will refer you to IR number 9 and that's exactly what I'm referring to.

CHAIRMAN: Where precisely in IR-9, Mr. Theriault?

MR. THERIAULT: Response number 1.

CHAIRMAN: Thank you.

Q.212 - So if we could look at that maybe -- could you let me know if these are either variations of cost savings or are they minor considerations?

MR. CHARLESON: The first one in terms of convenience and reliability, it's not a variation on cost savings, it's just another factor for consideration.

Q.213 - Right.

MR. CHARLESON: The elimination of the oil storage tanks providing additional space, that's again not related to the cost savings, it's additional factors.

Q.214 - Why would that be on that one, if it improves the efficiency of someone's business?

MR. BUTLER: In some cases we have had commercial customers that have converted solely because of the extra space in their building or their parking lot by getting rid of their storage tank.

Q.215 - And that would be relating to the efficiency -- the improvement of efficiency of their business.

MR. CHARLESON: Right. Indirectly it can provide a cost savings for other customers that need to see pure aesthetics.

Q.216 - And the next one?

MR. CHARLESON: Insurance premiums. That obviously has a cost related component to it but it is not something we have factored into the target savings.

Q.217 - Okay.

MR. CHARLESON: Purchasing fuel in advance, again that has a direct cost implication associated in terms of carrying cost of holding the inventory, but again not something that is factored into our target savings. Gas distribution pipeline, protect from weather related disruptions, less likelihood of an interruption in supply, obviously for some businesses that could have cost implications associated to it and the security and reliability of supply could have a cost implication to the business. But again not part of our target savings.

Natural gas being the cleanest burning fossil fuel for the environmental benefits of natural gas. While today that may not have direct cost benefits to the extent that any type of carbon emission programs in place or there is penalties or credits available for carbon reduction it could translate into cost savings, but again not something we factored into our cost savings equation.

In terms of the cleaner burning fuel, improving the efficiency of what you get out of the appliances, that can again deliver some cost saving to the extent we factor efficiencies in to the derivation of rates, that does draw to an extent into the target savings piece, but not entirely. It depends on how frequently they clean their other appliances and what the other fuel is doing.

In terms of reliable energy source and, you know, connection to transmission lines, security of supply, similar to the security of supply matter that I mentioned a moment ago. In terms of it doesn't leave ashes and odours like other heating fuels, I wouldn't see that as being a cost one other than to the extent that if you had odours affecting customers coming into your business. I guess by extension you can come up with an argument that it may have cost implications, but I won't try to do that.

And then the final one, natural gas water heaters, heating water faster, less chance of running out of hot water, again I wouldn't see a direct cost savings arising from that unless a customer decided that because there were concerns of running out of hot water they had an over-sized tank. Again you could stretch it to say there may be some cost savings that would come out of it but again these aren't things that get factored into our development of target savings.

Q.218 - Now in a typical proposal to a potential customer do you set out in the proposal the delivery charge?

MR. BUTLER: When we do a comparison of their costs to their existing fuels, the current form that I know we are using does lay out the -- it's a forecast of both the distribution costs, and the forecast of what the customer's current fuel type is.

Q.219 - And you say the current form, how long has that form been in use?

MR. BUTLER: Since late last fall. I can't remember exactly when.

MR. CHARLESON: But the typical proposal to the customer will look to address in order to identify the savings that could be achieved, whether it be looking backwards at what savings they might have been able to achieve based on historical costs, or you can take what their actual costs of the alternate fuel and compare that with the actual cost using natural gas at that time would have been, to now where we start looking a bit more at the forward forecast in terms of the cost.

Q.220 - So in your proposal to the customer the delivery charge and the EUG -- the commodity and the delivery charge aren't bundled together?

MR. BUTLER: No. They would be shown separate.

MR. CHARLESON: But again so that we can -- we still look at what the total cost of using natural gas would be for them.

Q.221 - Now in marketing proposals price I would suggest is the main factor that your marketing people emphasize when trying to capture a new customer?

MR. CHARLESON: Savings.

Q.222 - Savings I guess. So you would agree that savings and price is the main factor when trying to capture a customer.

MR. CHARLESON: I would agree that that is the predominant driver for the vast majority of customers, yes.

Q.223 - In response to the question with respect to the proposal, would it be possible to have an undertaking to see a typical proposal that outlines the delivery charge and the commodity charge?

MR. CHARLESON: Obviously with any customer we can get the information redacted. Yes. We can do that.

CHAIRMAN: That will be undertaking number 1.

Q.224 - Mr. Charleson, the one I have been looking forward to for months, the deferral account. I would like to move into that.

Now as I understand the arguments as been put forward by EGNB, they claim that the balance in this account, being the deferral account, will increase substantially if so-called market-based rate proposals are not approved by the Board.

MR. THERIAULT: Mr. Chairman, in the package that I handed out this morning, I think the last page, which is a portion from an AWL interrogatory number 2 in the 2007 LFO hearings, that is what I will be referring to now.

Q.225 - And do you have a copy of that?

MR. CHARLESON: Yes, we do.

CHAIRMAN: All right. Perhaps we should mark that. Any objection from anybody? That will become PI number 5, I believe. So that will become PI-5.

Q.226 - Now could you explain the table and what it purports to illustrate?

MR. CHARLESON: Yes. This table, in responding to the interrogatory from AWL, they had requested that we provide information regarding the actual additions to the deferral account and forecast editions going forward.

And in terms of the actual additions to the deferral account, the numbers that you see there are consistent with the numbers that were provided in response to Public Intervenor interrogatory number 20.

The exception being in 2007 there is a slight variation just because we were still in the process of kind of finalizing our year-end numbers at the time the IR response.

Q.227 - So if I read this table correctly it shows that the additions to the deferral account will cease in 2010?

MR. CHARLESON: Based on the forecast or our budget forecast that we were preparing in the fall, additions to the deferral account would cease in 2010, assuming that the rates that we assumed in our budgeting process were achieved and also that the through-put and customer attachment forecast that we had assumed in our budget were achieved.

Q.228 - And does it show that in 2010 revenues will exceed costs and that EGNB will begin reducing the balance of the deferral account?

MR. CHARLESON: That is what the current forecast would indicate, yes.

Q.229 - Now does the timing of this turnaround in the deferral account take into consideration the increased revenues from the rate increases requested in the LFO hearing?

MR. CHARLESON: It takes into -- it takes into consideration a portion of the increase that was requested in the LFO proceeding.

At the time we were preparing our budget the market conditions at that time dictated or supported a rate that was greater than the existing cap approved for the LFO rate but less than what was requested in our November application.

Q.230 - You say it takes into a portion. And I may be wrong here. And I sat through parts of the LFO hearing. And I was under the understanding that it didn't take into the proposed rate increases that were --

MR. CHARLESON: It doesn't take into consideration the full rate increase that is there but a portion of that. We had assumed in developing our forecast that some increase to the LFO rate was warranted and we would be able to achieve that.

Q.231 - So what portion? Do you know?

A. We were -- at that time I think, and subject to my recollection, we were looking at a rate of around 3.60, 3.70 for the LFO rate as opposed to the $4.54 that was ultimately applied for because of continuing changes in market conditions.

Q.232 - So you are saying this table takes into consideration 3.60 to 3.70 for the LFO?

MR. CHARLESON: Yes.

Q.233 - Does the timing of this deferral account, of the turnaround of the deferral account take into consideration the increased revenues from the rates requested in this current application?

MR. CHARLESON: We were trying to -- it has been awhile since we developed a budget. And a lot has happened since that time.

I do believe there was at least some rate increase that was factored into our budget for some of the rate classes but not necessarily all of the rate classes. So there would be say a portion.

Q.234 - If you don't know the portion could you undertake to provide that to me?

MR. CHARLESON: Definitely. And again what we can provide is the rates that we had assumed in the budget versus the rate that we have applied.

Q.235 - So it wouldn't be -- I'm assuming when you say it is a portion, similar to the LFO it wouldn't be the full amount?

MR. CHARLESON: It wouldn't be the full amount, correct.

CHAIRMAN: Just to clarify -- that is undertaking number 2. But just perhaps clarify for me precisely what it is that is going to be provided.

MR. THERIAULT: It is going to be the portion of the -- as I understood what the witness said, he said that a portion of their budget is reflective in this table. And I want to know what portion.

So in other words similar to the LFO, he said it was 3.60, 3.70 when they applied for 4.50.

CHAIRMAN: So for each rate essentially what portion would have been included in the budget. I just want to make sure that counsel understands the magnitude of the undertaking, so that there is no misunderstanding, that is all.

MR. HOYT: The way I would describe it is it is an undertaking to provide the rates assumed in the budget versus the rates that were applied for.

CHAIRMAN: Mr. Theriault, is that what you are looking for?

MR. THERIAULT: Yes. That will do.

CHAIRMAN: Fine. That will be undertaking number 2. Thank you.

Q.236 - Now if the requested increase is in both applications, being the LFO application and this application were approved by the Board, when would the deferral account balance start to be reduced?

MR. CHARLESON: Again a lot of it will still be contingent in terms of the timing of when the applications are approved and also the extent to which our attachment and through-put forecast match what we have there.

And also would be contingent on the commodity markets staying at a point at the approved caps. Because again what we are applying for here is the maximum rate that we can approve, that we can apply, you know.

If all of those things came into place, we are probably looking at 2009 you would start to see -- you would start to see a reduction to the deferral.

MR. LEBLANC: Actually I believe we would add something in 2009. And that would be the last year that we would add. No, sorry. He is correct. 2009 we would start reducing the deferral.

MR. CHARLESON: We would start to reduce it in 2009.

Q.237 - Now can you confirm that it is EGNB's position that when the deferral account starts decreasing this will constitute the end of the development period?

MR. CHARLESON: No.

Q.238 - Can you cite anywhere in original orders from the Board, either this Board or PUB or in testimony from EGNB representatives that this would not be the case?

MR. CHARLESON: There is -- well, as I have indicated earlier today, there is a process that has been established by the Board, recognizing that was in a different proceeding, to look at the criteria for identifying the end of the development period.

But also if we go back to one of the pieces of evidence that you referenced earlier today, and perhaps going back to the 2000 rate case application, which is filed in response to Public Intervenor interrogatory number 7, and it is on page 6 of that evidence, you know, there are some characteristics of the development period that are identified there. You know, some of it has to do with market share.

Q.239 - We talked about that earlier?

MR. CHARLESON: We talked about those earlier. So you know, our position would be, you know, when you look at those, those are some of the criteria that have to be considered.

And as I described earlier today, when we talked about the full cost of service exceeding sustainable revenues, I see that as being when you can provide -- when your cost-based rates for all classes can remain competitive and allow you to continue to attract and retain customers.

And that may not be at the same time that you have rates that -- market-based rates that will recover all of your costs. So there is criteria beyond. It is not just strictly when do you start to have revenues that exceed costs.

Q.240 - Can you cite any -- are you familiar with any Board orders that would support that position?

MR. CHARLESON: Not offhand, no.

Q.241 - Now has there ever been a hearing with regard to the prudence of EGNB's costs?

MR. CHARLESON: Not that I'm aware of.

Q.242 - Okay. Is it true that $9.6 million in sales and marketing costs appearing in EGNB's 2006 financial statements have not been subject to a hearing for their prudence?

MR. CHARLESON: They haven't been subject to a hearing for their prudence. But again our financial statements are audited and reviewed by the EUB on an annual basis and are approved by the Board on an annual basis. But in terms of a hearing, no.

Q.243 - Okay. And is it true that the $6.5 million in sales and marketing costs appearing in EGNB's 2005 financial statements have not been subject to a hearing for their prudence?

MR. CHARLESON: No.

Q.244 - And is it true that the $101 million in property, plant and equipment costs appearing in EGNB's 2006 financial statements have not been subject to a hearing for their prudence?

MR. CHARLESON: That is correct.

Q.245 - And is it true that the 143,000,000 in regulatory deferral costs appearing in EGNB's 2006 financial statements have not been subject to a hearing for their prudence?

MR. CHARLESON: That is correct.

Q.246 - Now I would like to talk a little bit about returns on your deferral account.

What rate is currently applied to the equity component of the deferral account?

MR. LEBLANC: 13 percent.

Q.247 - And what rate is currently applied to the debt component of the deferral account?

MR. LEBLANC: Basically all assets in a rate base are financed using the 50/50 debt equity ratio. And the debt component, to my recollection, is around 6.4 percent. I'm not -- it is in that vicinity.

Q.248 - What is the company's actual capital structure for the deferral account?

MR. LEBLANC: The same as the entire company, 50 percent debt, 50 percent equity.

Q.249 - Has the company performed any studies with regard to the required return on equity for funds that are in the deferral account?

MR. CHARLESON: No.

Q.250 - Now is it EGNB's position that under the lighthanded regulation envisioned by EGNB, these deferral balances would be authorized by the Board for recovery without any need for further review of the prudence of the costs that went into them?

MR. CHARLESON: No.

Q.251 - Would EGNB agree that the deferral balances carry less risk than EGNB's going-forward costs?

MR. CHARLESON: Can you state the question again?

Q.252 - Yes. Would EGNB agree that the deferral balances carry less risk than EGNB's going-forward costs?

MR. CHARLESON: No, I wouldn't agree. And the reason being that we can only start to recover on that deferral balance when we have grown the business to a level where we have, you know, the ability to recover more than our costs through the rates that we are charging.

Until we hit that point in time there is still significant risk associated with the recovery. And there will be ongoing risk associated with the recovery for the period -- for the whole deferral recovery period.

Q.253 - What is the allowed return on equity for EGNB's affiliate, Enbridge Gas Distribution?

MR. CHARLESON: I don't know. It changes on a year-by-year basis. Because it is a formula-based approach. But I believe it is around 8.6, 8.7 percent, in that vicinity.

Q.254 - Why does EGNB think it is reasonable for it to earn 13 percent on the balance in the deferral account?

MR. CHARLESON: Again --

Q.255 - On the equity portion in the deferral account?

MR. CHARLESON: In the original application the 13 percent return on equity was identified as being, and approved by the Board as being appropriate for the risks associated with this business.

And we believe that continues to be an appropriate return as the development period continues and, you know, the deferral account has grown to a much larger number than was originally anticipated.

Q.256 - Now why does EGNB think it is reasonable for it to earn interest on the interest accruing in the deferral account?

MR. CHARLESON: Interest is a cost that we incur.

Q.257 - Does EGNB agree that the use of 13 percent and inclusion of interest on interest will make the deferral account very large?

MR. CHARLESON: The deferral account is growing probably because of the difference between, you know, revenues and costs at this point in time.

All elements of cost play a role in terms of having that deferral account increase. And the 13 percent return is what is being deemed to be a fair and just return on the investment made by our unit holders. And it is reasonable that it is applied there.

Yes, it will -- it does impact the growth in the deferral account, just the same as any cost that we incur.

MR. THERIAULT: Just one moment, Mr. Chair please.

CHAIRMAN: Certainly.

Q.258 - Now I want to examine what happens when EGNB is given the right to interest on interest or a return on return. So let's assume that you invest $2 in the deferral account. $1 of that would be deemed to come from equity and $1 from debt, would that be correct?

MR. LEBLANC: Correct.

Q.259 - So let's look at the equity dollar first. After the first year it would be worth $1 times 1.13 which would equal $1.13, would that be correct?

MR. LEBLANC: That is correct.

Q.260 - Okay. After the second year it would be worth $1.13 times 1.13 which would equal 1.28 dollars, is that correct?

MR. LEBLANC: That is correct.

Q.261 - Okay. And after the third year it would be worth $1.28 times 1.13 which would equal $1.44, is that correct?

MR. LEBLANC: Correct.

Q.262 - So after the fourth year it would be worth $1.44 times 1.13 which equals $1.63, is that correct?

MR. LEBLANC: Correct.

Q.263 - And after the fifth year it would be worth $1.63 times 1.13 which would equal $1.84, is that correct?

MR. LEBLANC: Correct.

Q.264 - Now I think you see what I'm getting at here. I won't keep on going. But would you agree that single dollar invested in 2000 would require recovery from consumers of $3.39 in 2010, subject to my math?

MR. LEBLANC: Assuming your math continue as it was, yes.

Q.265 - Okay. Would you agree that $1 of equity put into the deferral account in 2000 would, by 2020, require recovery of over $11 from customers due to the compounding of the 13 percent return?

MR. LEBLANC: Assuming your math is correct.

MR. THERIAULT: Mr. Chairman, I would like at this time, based on the discussion I just had, provide the Board and provide my friend with copies of a graph that I would like to have marked for identification, not as an exhibit, for cross examination.

CHAIRMAN: So the graph $1 of equity in deferred balance over time using current 13 percent return as compared to using yield on a 10-year government bond will be marked 1 for identification.

Q.266 - Do you have a copy of the document?

MR. LEBLANC: Yes, we do.

Q.267 - Now I would like you to take a look at the document. It shows the value for $1 of equity in the deferred account over time using your allowed rate of return on deemed equity as compared to the 10-year Government of Canada bonds.

And do you agree that it shows the impact of such a high rate of return on equity compounded up to 20 years?

MR. LEBLANC: Yes. I did a quick sort of checkout of the math. And it appears to be correct.

MR. CHARLESON: Of course what this doesn't factor in is the difference in the risk profiles between the two investments.

Q.268 - Are you aware that the State of Maine allows -- or denies the application of compounding on return on equity when an LDC is in the development period?

MR. CHARLESON: No, I'm not aware.

Q.269 - Now I was interested in some of the IR's that EGNB asked of my expert Mr. Strunk of the National Economic Research Associates, otherwise known as NERA. I would like to try and get a better understanding of EGNB or where they care coming form.
And first of all I would ask have you heard of NERA?
MR. CHARLESON: Yes, I have.
Q.270 - And what is your understanding of its scope and capabilities in the area of utility regulation?
MR. CHARLESON: I have heard of them. But I don't have much of an understanding that way.
Q.271 - Okay. Did you read Mr. Strunk's resume?
MR. CHARLESON: I did take a look at it. But I didn't memorize --
Q.272 - Now let's turn to EGNB's first IR to the Public Intervenor. In part A you ask has -- and do you have that in front of you?
MR. CHARLESON: Yes, I do.
MR. THERIAULT: I will wait for the Board to --
Q.273 - Now in part A you ask has Mr. Strunk ever prepared a cost of service study. In his evidence did Mr. Strunk say he would undertake to do a cost of service study on EGNB?
MR. CHARLESON: No, he did not.
Q.274 - In point of fact who ultimately is responsible for

developing a cost of service study for EGNB?

MR. CHARLESON: EGNB will be responsible.

Q.275 - And has EGNB done a cost of service study?

MR. CHARLESON: No, we have not, outside of my comments earlier from the original one back in 2004 costs. But I don't really count that.

Q.276 - How is a lack of a cost of service study consistent with EGNB's obligations under the general franchise agreement, particularly the reference in the essential elements which states that the annual revenue requirement of the gas distributor will be based on a full cost of service model?

MR. CHARLESON: Again we operate based on the decision from the Board coming out of the 2000 case. The essential elements that you are talking to again was a proposal from Enbridge at the time, and items that it identified as being the essential elements within our proposal.

It does not necessarily mean that those were requirements arising from that proposal. The operating requirements for EGNB arose more from the 2000 rate proceeding.

Q.277 - Now let's turn to EGNB's IR number 3 to the Public Intervenor. In part B of this IR you ask "Please provide a copy of all studies and analyses conducted by Mr. Strunk with respect to the New Brunswick market, which describes the impact of temporary inducements noted in A."

MR. CHARLESON: Mmmm.

Q.278 - Again I ask you who is responsible for proposing the market-based rate structure currently in existence for gas distribution in New Brunswick?

MR. CHARLESON: Enbridge is.

Q.279 - And who is responsible for requesting any changes to the said market-based rates?

MR. CHARLESON: Enbridge would be responsible for that.

Q.280 - And who is responsible for researching the effect of alternatives such as temporary inducements on customer classes for gas distribution in New Brunswick?

MR. CHARLESON: Enbridge would be. However Mr. Strunk made some comments in his evidence related to making recommendations in terms of what a better structure would be.

So we were interested in terms of the foundation for Mr. Strunk's comments. And we wondered whether he may have conducted some studies to substantiate his statement.

Q.281 - But you have conducted no studies?

MR. CHARLESON: No, we have not.

Q.282 - Now let's turn to EGNB's IR number 6 to the Public Intervenor.

In Question A on this IR you ask "Does Mr. Strunk believe it is appropriate for a utility to provide a reduced rate to incent a customer to switch and then remove the savings once a capital investment has been made? If so at what time is it appropriate to raise the rate?"

Again who has the responsibility of proposing recent changes to the rates charged to the LFO class?

MR. CHARLESON: EGNB has that responsibility.

Q.283 - And do those changes if approved result in higher rates to the LFO class?

MR. CHARLESON: Yes, they do.

Q.284 - And while the earlier rate was in effect did it result in attracting customers to this class?

MR. CHARLESON: Yes. Under any of the rates that we have had in place we have attracted customers to that class.

Q.285 - How many customers were attracted in the previous year?

MR. CHARLESON: If I recall correctly there was one or two. Again it is a relatively small class.

Q.286 - But does the new rate have the effect of removing some of the savings to the LFO customers once LFO customers have made a capital investment?

MR. CHARLESON: It will continue to deliver the target savings levels that we are committed to in comparison to the fuel source. So it is consistent with the market-based rates.

Q.287 - But it will remove overall savings?

MR. CHARLESON: It will -- no, I disagree.

Q.288 - So again you are saying that the new rate will have the effect of removing some of the savings to the LFO customers once LFO customers have made a capital investment?

MR. CHARLESON: No. Because if they had continued to use the alternate oil, their cost would have been higher at anything, even under the higher rate.

They are going to achieve greater actual dollar savings than if they had not converted to natural gas.

Q.289 - Now let's turn to EGNB'S IR number 10 to the Public Intervenor.

Part B of this IR you ask "Please provide all studies and analyses of the New Brunswick which Mr. Strunk has undertaken which indicate that the use of rate riders has negatively impacted customer addition or retention to the EGNB system."

Again who was responsible for proposing the market-based rate structure currently in existence for gas distribution in New Brunswick?

MR. CHARLESON: EGNB.

Q.290 - And who was responsible for proposing the various customer classes for gas distribution currently in existence in New Brunswick?

MR. CHARLESON: EGNB.

Q.291 - And it is EGNB who is responsible for implementing rate riders to various customer classes?

MR. CHARLESON: That is correct.

Q.292 - And is EGNB prepared to state that they implement these rate riders without some assessment of their impact on customer additions or retentions?

MR. CHARLESON: No. We do indicate in the application of rate riders -- well, the derivation of rates is the principal driver behind it.

We will -- there are other factors that we will consider including potential impact that we see on customer attraction and retention.

Q.293 - But you have no such studies on this issue?

MR. CHARLESON: No, we don't. We have historical -- we have experience and we have staff that are in the field talking with customers and looking at the economics and getting that feedback. So we have -- we have our feet on the ground or out in the field providing input into our management team.

Q.294 - Now let's turn to EGNB's IR-15 to the Public Intervenor.

Part A of this IR you ask "Has Mr. Strunk conducted any analysis to determine how many new customers would be required in each of the rate classes to result in reducing the amount of deferred costs."

With reference to the statement that provoked this IR please identify where Mr. Strunk suggested a specific number of customers in a customer class that would result in a reduction in the amount of the deferred costs.

MR. CHARLESON: Yes. That's the question. Sorry.

Q.295 - No. I'm saying please identify in Mr. Strunk's report for me where he suggested a specific number of customers in a customer class that would result in a reduction in the amount of the deferred costs?

MR. CHARLESON: He did not. And that is why we were interested in terms of looking to see what analysis Mr. Strunk had conducted to substantiate the statements that he had made that you could -- by not increasing rates you may attract more customers and not have a negative impact on the deferral account.

So we are interested in what analysis would support that statement.

Q.296 - Who is responsible for the accounting for the deferral accounts of EGNB?

MR. CHARLESON: EGNB is.

Q.297 - Okay. And who is responsible for monitoring and reporting the changes to the balances in the deferral account?

MR. CHARLESON: EGNB.

Q.298 - And who is responsible for proposing the rates and the rate changes for each customer class?

MR. CHARLESON: EGNB.

Q.299 - And who is responsible for determining the impact of rates and rate changes on the recruitment and retention of customers in the customer class?

MR. CHARLESON: EGNB.

Q.300 - Does EGNB have any such analysis available?

MR. CHARLESON: Given the comments that were made by Mr. Strunk in his evidence, we did take a look -- based on information that is in the evidence, we took a look at what type of customer additions would be required to achieve the outcome that Mr. Strunk was suggesting.

And it is something actually that I think we had prepared as a potential aid to cross to put to Mr. Strunk.

Q.301 - So that is the only analysis that you have available to assist you in that regard?

MR. HOYT: And on that point, as Mr. Charleson indicated, we had intended to use it as an aid to cross. But if it would be of assistance to the Public Intervenor we could provide that document now and ask that it be marked as an exhibit and have Mr. Charleson taken through it.

I believe the Public Intervenor has it. So provide it to the Board and ask that it be marked as an exhibit.

CHAIRMAN: Mr. Theriault, do you agree to that being marked as an exhibit?

MR. THERIAULT: Yes.

CHAIRMAN: Ms. Desmond, you have no comments on that?

MR. THERIAULT: The more the better, Mr. Chair.

CHAIRMAN: I believe that will be A-13 exhibit, "Customer Additions Required to Achieve Rate Increase Revenues."

MR. CHARLESON: So I can take everybody through.

MR. THERIAULT: So this is the analysis you were referring to?

MR. CHARLESON: This is the analysis that I was referring to.

MR. TONER: Without the increase -- or with?

MR. CHARLESON: I will step you through what we are showing here. The first column shows the forecast throughput in terrajoules for 2008. And that is numbers that can be found in our response to Board interrogatory number 5.

So by looking at that and applying the current rates or maximum rates that are approved for each of these rate classes, they would generate the revenues that are shown in column number 3. So that is the total revenue that we would see from those rate classes.

We then in column 4 list what the proposed rates are in this application and then show what the forecast annual revenue would be at the proposed rates. So again taking column 1 and multiplying it by the rates in column 4.

Column 6 then shows the incremental revenue that would be received on an annual basis from the application of these rate increases in comparison to the existing rates. So showing just over a million dollars in SGSRO class, about $640,000 in SGSC class, $3.2 million in the GS class and then $4.9 million in the CGS class.

We then look at the incremental GJ's that were required at the current rate. So if the rate increase was not approved or the existing rates were left in place, how many more -- how much more throughput or how many more GJ's would we have to put through our system to achieve that revenue? So basically we take column 6 and divide that by the rates in column 2.

We then look at a typical customer annual consumption. And those are the numbers that come right off our derivation of rates. And that gives us the number of incremental customers that we would need, and again fully effective on an annual basis, to achieve the revenues that these -- that the proposed rate increases will arrive at.

So we would need to add nearly 1,200 additional SGSRO customers. And that is on top of any forecast customer additions that we already have for 2008, 429 SGSC customers, 379 GS customers and 190 CGS customers.

Now we didn't go to -- you know, you could get all different permutations in terms of customers. We just looked for on a class-by-class basis what you would see there.

For information purposes what we have also shown is what our actual customer accounts were at the end of 2007 and also what our 2008 budget had for forecast customer additions.

So what this shows is there is a quite significant number of customers that would have to be added to achieve the outcome that Mr. Strunk has suggested.

So that is what -- so that is the analysis that we had conducted. And again that was based on the comments of Mr. Strunk.

MR. THERIAULT: Mr. Chairman, given that this has come through at this point in time, I'm pretty close to being done. But I would like to ask for a short break to be able to take a look at this further.

CHAIRMAN: Sure. We will take 15 minutes.

MR. THERIAULT: Thank you.

(Recess - 2:00 p.m. - 2:15 p.m.)

CHAIRMAN: Mr. Theriault?

MR. THERIAULT: Thank you, Mr. Chairman.

Q.302 - Just a couple of quick questions on that last exhibit. The numbers listed in columns 10 and 11, are they in the evidence anywhere?

MR. CHARLESON: They are not in this evidence. The actual customers, that was in the LFO application in response to Flakeboard interrogatory number 1. But in terms of the 2008 forecast conditions, no, they are not in evidence anywhere.

MR. THERIAULT: That is all I have. Thank you very much. Thank you, panel.

CHAIRMAN: Thank you, Mr. Theriault.

Ms. Desmond, do you have some questions for this panel? Anytime you are ready.

MS. DESMOND: Thank you.

<u>CROSS EXAMINATION BY MS. DESMOND</u>:

Q.303 - Panel, we are going to be asking a few questions with respect to the derivation table which I believe is at page 4 of exhibit A-2.

And in particular we are going to be looking at the retail oil price. That is that line number 1.

And we understand that when you calculate the retail oil price you have used the West Texas Intermediate crude oil as an indicator for the home heating oil, is that correct?

MR. CHARLESON: That is correct.

Q.304 - And you have not used number 2 that has been sold at New York Harbour. That is not your term of reference, is that correct?

MR. CHARLESON: That is correct. We have used WTI as the basis.

Q.305 - And would you agree that number 2 at New York Harbour is information that is publicly available?

MR. CHARLESON: It is information that is publicly available. However there is some limitations in terms of the forward time horizon that that is traded.

And so for a lot of our internal planning and forecasting we need to be looking at longer time horizons. And that is why we have historically relied on the WTI.

And we just kind of carried that forward into our derivation of rates, just so we are consistently using the same basis.

Q.306 - Is New York Harbour, the number 2 information, is that something you might track each day?

MR. CHARLESON: It is information that we do capture each day, yes.

Q.307 - If you were to use the number 2 fuel oil at New York Harbour, how would that information be used when you calculate the retail oil price in line 1? How would you go about calculating that?

MR. CHARLESON: Again I think probably the best way to look at this is to turn to the response to EUB interrogatory number 13 and look at page 3 of that response.

CHAIRMAN: That was page 3?

MR. CHARLESON: That was page 3, yes.

So in this table this shows the steps that are involved in arriving at the retail oil price. So if we were to use the number 2 New York instead of WTI as the basis, in essence you would end up substituting line 4 with the forward 12-month New York Harbour price into that line.

Q.308 - While we are talking about that particular charta, can you explain how the average market spread is calculated, what that represents?

MR. CHARLESON: I think to assist with that, the response to -- I believe it is in response to Public Intervenor interrogatory number 12. And it is on page 2 of that response.

So in arriving at that market spread -- and again, I think as I indicated in my opening statement this morning, the whole derivation of the retail oil price is something that was determined a number of years ago and that we continue to rely on.

So when that spread was first established, you know, we looked at the historical data, wholesale data for residual and distillate fuel, and taking -- and oil pricing in the Boston market area, comparing that to New Brunswick and what we were seeing -- what was being seen in the New Brunswick market that time, taking into consideration exchange rates, inflation factors to come up with -- and in essence helped us to arrive at the market spread that was being seen at that point in time.

Q.309 - So is it fair that when you got your comparative price or your number 2 oil price then you add a competitive margin, is that correct, and your New Brunswick premium?

MR. CHARLESON: Yes.

Q.310 - Are those the parameters that you add to the number 2 oil price?

MR. CHARLESON: Yes.

Q.311 - And you indicated that those margins had been historically relied upon?

MR. CHARLESON: That is correct.

Q.312 - Have they been validated in any way since the original application to the Board?

MR. CHARLESON: No, not since that time. Again the validation that we do, and I think as we describe in this response to the Public Intervenor interrogatory number 12, is really the resulting retail oil price that we get, where we look to try to validate that against whatever market data is available.

And as we have indicated, price transparency is a concern. However NRCan does publish information on furnace oil prices within the New Brunswick market. And so we have used that as a basis of comparison to validate the outcomes that we see from our retail pricing.

And as the chart that is shown on the top of page 2 there in Public Intervenor interrogatory number 12, the retail prices that we have been arriving at have actually -- over the past six months have consistently been below what NRCan is showing as retail oil prices in the market.

So given that it leaves us believing that our retail price -- the retail price that we are arriving at is actually a conservative estimate of the price. So what that may mean is if, you know, if New York Harbour and it changed to a different price, has the market spread also changed?

But rather than looking at any of the variables in isolation, we have been monitoring the resulting price, checked that against whatever market data we can that is available. And based on those reviews we remain confident that the retail price that we arrive at is reasonable and appropriate.

Q.313 - You have suggested that perhaps they are conservative. But is it fair to say that other indicators could be used?

MR. CHARLESON: It is fair to say that other indicators could be used. But then you would have to look at all the different variables that go into the calculate and update all of those.

And given that we have been comfortable and confident with the results that come out, we haven't gone back to undertake another study to try to update all those variables, and to essentially what we expect to arrive at a similar type of retail price, just maybe with a shift in terms of which variables are playing what factor.

Q.314 - Just by way of interest are you aware that this Board actually publishes weekly maximum heating oil prices for the province of New Brunswick?

MR. CHARLESON: Yes. I am aware of that.

Q.315 - And in your view would that be a reasonable indicator of what the spread might be between the New York Harbour price and what would be a retail price here in the province?

MR. CHARLESON: I believe it would be an indicator. Obviously it is a maximum. And there will be some variation from that depending on other conditions. But yes, it would be an indicator for that point in time.

And again when we are establishing these prices, we are having to establish our retail oil price on a forward 12-month curve basis.

And I'm not sure that the pricing that we are seeing there -- and again the NRCan is the same type of outcome where it is doing that. So we could use that as an indicator in terms of if we were to calculate our retail price on the same basis, would it match up?

But for the purpose of setting our rates, it is a forward 12-month that we have to look at. And I don't believe it indicates that.

Q.316 - If you were to use the number 2 oil price from New York Harbour could you confirm what that number might be for the Board in line 1 of this derivation table?

Is that something you can do at this stage? Or if you could provide an undertaking to the Board to provide us with that number.

MR. CHARLESON: If you can just bear with me one minute. If we were to use -- if we were to only change the New York Harbour price and not touch the market spread in any way, what we would end up seeing for SGSRO would be .7675. And again this is using the same point in time, December 12 data. For SGSC it would be .6913. For GS it would be .6717. And for CGS it would be .6438. And again that is not taking into consideration any shortcomings that there may be in the market spread.

Q.317 - Are you able to provide the raw data that support those calculations?

MR. CHARLESON: Yes, we could.

Q.318 - And can I have your undertaking to provide that to the Board?

MR. CHARLESON: Yes, I guess. Would the Board be comfortable in receiving that in electronic format? Because again the paper associated with it may be --

Q.319 - Yes. That would be fine, yes.

CHAIRMAN: So the undertaking number 3. And when you talk about electronic format, can I assume that this will be done today? Is that what we are --

MR. CHARLESON: Yes.

CHAIRMAN: Later on today after the hearing?

MR. CHARLESON: Yes. It would be later today.
CHAIRMAN: And obviously it will be provided to other parties as well?
MR. CHARLESON: Yes.
Q.320 - And perhaps could you provide the source of that information as well, for the raw data?
MR. CHARLESON: Yes.
Q.321 - And is it fair to suggest that with those lower numbers now in line 1, the delivery charge that would result in line 20 would also be --
MR. CHARLESON: That is correct. A reduction in the retail oil price would lead to a reduction in the target rate.
Q.322 - Also with respect to the retail oil price, I understand that you use a 20-day strip of data, market data?
MR. CHARLESON: 21-day.
Q.323 - 21-day, sorry, strip of market data.
Can you just basically walk through how that data is calculated or how it is used?
I guess when you have got that, how do you come to the 21 days? What does that represent?
MR. CHARLESON: The 21 days represents roughly one month of trading activity for the commodity in question. So what we will look at is, you know, what has the activity been

over the last 21 days, take those 21 data points and do a simple average on them.

Q.324 - And why do you use 21 days? How was that decision made?

MR. CHARLESON: Again I believe in a response to one of the Board's interrogatories. Again I think it is going back to Board interrogatory number 13, on page 24 of that response. There is a number of factors that are laid out there.

And the key behind the 21 days is having a time period that is long enough to remove any short-term price event or a minor market event that may have just a temporary impact on pricing, while still drawing in the impacts of a major market event that may have more of a longer term impact on prices.

You know, when we look at the minor events, that may impact prices over a seven-day period. It may take seven days for that to work its way out of the market whereas a major event is going to be sustained for a bit longer period of time.

So by using something longer, the 21 days, it helps to kind of ensure the major events are factored in but you are not getting noise from say a speculative story that may hit the papers.

But also the 21 days is used rather than something longer than that. Because we want to also be responsive to changes that are happening in the market. To use something longer than the 21 days would make it difficult for us to be able to respond to changes in market conditions. And it would mute price signals dramatically that are happening the marketplace.

When we look at the fuels that we are competing against, and in this case oil, the price of oil is set on a weekly basis. And so we need to be able to be tracking our -- you know, we have to be monitoring our prices and be able to adjust our prices on the basis that will match the market events that are going on within that shorter time period of time, within a shorter time frame.

So it is kind of balancing that, not being too short that you get disruption because of minor market events, but also not being so long that it mutes any price signals, making it difficult for us to be responsive to changes in market conditions.

Q.325 - Is it your view that using two or maybe three months of data would not allow you to be responsive?

MR. CHARLESON: Yes. It would start to have much more of a muting effect on the price signals.

Q.326 - Would it be fair to suggest that by using 21 days of data that the window of opportunity that you select can change dramatically the results?

MR. CHARLESON: Perhaps you can clarify. What do you mean by window of opportunity?

Q.327 - The 21 days that you actually use for the purpose of an application for example, the result might change dramatically depending on which 21-day trading points you choose for the purpose of the application?

MR. CHARLESON: Yes. There can be an impact based on the 21 days you pick. You know, there is volatility in the market. You know, whatever time period you select there is always going to be something that is going to impact that price, you know, the day after you prepare your application.

The longer the time period you use the more the price is going to be -- that movement will be muted. But they will still -- you know, there is no duration that you can say well, if I use this duration it means that the price that I apply for now is going to be still reflective of what is in the market, you know, a month later or even a week later. And again for us it is ensuring that we can be responsive to the fuels. And we use the 21-day average when it comes to applying our rate riders. So again we want to be consistent in terms of the method that we use for applying for the maximum rates as we do for applying rate riders. And those rate riders need to be able to be responsive to changes that vary with the fuels that we are competing against.

Q.328 - Now you -- in one of the last undertakings you have agreed that you could provide us the number 2 oil data?

MR. CHARLESON: Correct.

Q.329 - Could you provide that data for the last three months?

MR. CHARLESON: Yes, we could.

Q.330 - And could you also provide the equivalent EUB gas price? Sorry EGNB Gas Price?

MR. CHARLESON: The EUG price?

Q.331 - Yes.

MR. CHARLESON: We could provide that on a weekly basis. It is a value that we calculate each week what our projected forward EUG price would be. So that is information we have available.

To go into finer detail than that would result in having to do a large number of calculations. So if the weekly calculation is satisfactory we can provide that.

CHAIRMAN: Ms. Desmond, I think you have just asked for two new undertakings. And just to make sure that we are tracking them properly, I think the first would be undertaking number 4.

I understand that was really you were just asking for more information with respect to the third undertaking --

MS. DESMOND: That is correct.

CHAIRMAN: -- in terms of -- perhaps we -- I'm going to ask you just for the record maybe to spell out what it is.

And then the last one you have asked for, that will be undertaking number 5.

But just make sure everybody understands precisely what is being promised.

MS. DESMOND: Okay.

Q.332 - So the first undertaking that we have asked for would be to provide the number 2 oil data for the last three months including market data?

MR. CHARLESON: And to be of assistance in that as well, what we will also provide is the names of how we would go about converting that market index to the retail price. Because again it is in different measures and currency than what gets in the retail price.

Q.333 - And then the other undertaking was to provide the equivalent EUG price. And I understand that they came to that on a weekly basis?

MR. CHARLESON: And that is going back three months.

CHAIRMAN: And that is satisfactory, the weekly basis. So that will be undertaking -- I think the fourth undertaking quite frankly is really just in addition to number 3. Does that sound correct? It really just expands upon what was asked.

MR. HOYT: Well, I thought though on number 3 they wanted us to take the New York price and convert it to the retail oil price, to show what the result --

MR. CHARLESON: And I think what they were looking for is the raw -- what I had understood it to be was the raw data that would be used to support the calculation of the New York Harbour price on December 12th.

And I guess the clarification that I was going to ask, when we talked about three months worth of data, is that three months prior to our application or three months prior to today?

Q.334 - We had -- I guess our preference would be three months prior to the date of the application?

MR. CHARLESON: We are able to do that.

CHAIRMAN: So that information is really just clarifying what you asked for in undertaking number 3?

MS. DESMOND: Yes.

CHAIRMAN: And the final -- the last undertaking could become undertaking number 4. I think that makes more sense.

Q.335 - Our next question relates to PI IR-12 at page 6. And that is in A-3.

So just at page 6 of 6, if we look down near the bottom of that page there is a column titled "Retail Oil Prices in New Brunswick"?

MR. CHARLESON: Yes.

Q.336 - And over on the far right-hand side the last number there is 0.8324, is that correct?

MR. CHARLESON: That is correct.

Q.337 - And I understand that number to be the predictive average for retail residential heating oil?

MR. CHARLESON: The simple average, yes.

Q.338 - And why is that number different then from the number you have used in your derivation table at page 4 of the evidence?

MR. CHARLESON: Again it is my understanding, subject to checking, that this is a simple average of the 12 monthly values. And what we do in terms of the derivation and distribution rates is we apply a weighted average to there.

Because obviously oil consumption will vary throughout the year, you know. There is greater consumption in the winter months because of the heating load. So a greater weight is placed on those months. Similar to what we do on the natural gas side.

And I believe in one of the responses to the Board's IR's where we identified the calculation of EUG, we showed the weightings that are applied within the months.

Q.339 - So in your view the number then used in your derivation table is a little bit more accurate number?

MR. CHARLESON: That is correct. It is more reflective.

Q.340 - Still on the derivation table, line 9, there is a reference to the typical annual natural gas consumption?

MR. CHARLESON: Yes.

Q.341 - And for the first class, the SGSRO class, there is a reference to 114 gigajoules.

Can you explain to the Board how that number was arrived at?

MR. CHARLESON: This is a number that was developed back when the rates were initially being established, where it was determined that based on the heating equipment and the types of degree days and loads that were expected within New Brunswick that 114 GJ's per year would be expected from a typical heating and water heating customer.

Q.342 - Do you have an estimate of the expected typical annual use per customer for 2008?

MR. CHARLESON: We are in the process of trying to gather that information right now. But our expectation is it will be relatively close to that number.

Q.343 - When would you have that information available?

MR. CHARLESON: Again we would be able to provide it by way of undertaking this evening.

Q.344 - If you could that would be --

MR. HOYT: Just so I'm clear is it forecast for '08? Or is it actual '07?

MR. CHARLESON: Yes. It would be forecast. We would be looking at our '07 actual consumption as the basis that we typically look at.

Q.345 - For the forecast, yes. So if you could provide the actual for 2007. That would be your forecast?

MR. CHARLESON: That would be what we are seeing in terms of consumption which would form the basis for a forecast.

CHAIRMAN: And that will become undertaking number 5.

Q.346 - For our next question we have a document we would like to circulate if we could to the panel.

CHAIRMAN: So, Ms. Desmond, did you want to put that forward as an exhibit or for identification purposes or --

MS. DESMOND: Perhaps we could have it marked as an exhibit. And I appreciate it just -- I realize I perhaps should have shown it to the Applicant before now, but it is a response to a hearing that was just held a couple of months ago. So it's not -- it should hopefully be familiar to them.

MR. HOYT: My memory is bad, it's not that bad.

MR. CHARLESON: We are familiar with this.

CHAIRMAN: Mr. Theriault, any objection?

MR. THERIAULT: No.

CHAIRMAN: That will become NBEUB-1.

Q.347 - So our first question I think then is on page 2 of 4.

And we are looking at the actual throughput. So it would be under number (ii). And in the SGSRO Class for 2007 --

MR. CHARLESON: Yes.

Q.348 - -- it looks like the throughput for that particular class in 2007 was 272 TJs?

MR. CHARLESON: Correct.

Q.349 - And if go up to the -- if we actually could then -- I guess what we are trying to accomplish here is if we divide that by the number of customers that is referenced in number (i), and there are 4,454 customers, is that a fair approach to determining the average customer use?

MR. CHARLESON: No, it's not.

Q.350 - And can you explain why?

MR. CHARLESON: I will explain why.

Q.351 - OKay.

MR. CHARLESON: And again I think when we are looking at that derivation of distribution rates as well, it's not --

line 9 is not reflecting an average customer use. It's a typical annual consumption. So there is a couple of things you have to factor into there. Within the residential classes we do have a number of customers that consume gas just say for a fireplace, a barbecue, where they don't have -- they are not using gas for heating and water heating. So in terms of this, the derivation of rates, the focus in setting the target rates is on customers that are using natural gas for heating and water heating load, because that's really what we are trying to capture. And that's what the focus of the target rates is to achieve.l So in terms of the response to the undertaking, that was going to be our focus as well to ensure that we are looking at customers that have that load. We can provide both. Just the general average use and what say a typical or heating, water heating what we are seeing from our customers. So that's one step that comes into play.

The other problem you run into -- the other problem that you will run into is within a given year in 2007 at the end of the year we show there being the 4,454 customers that were attached. That includes though customers that were added during that year. So you don't necessarily have a full year's throughput for a lot of those customers. And in 2007 it's when we were completing the major conversion at the private married quarters at Gagetown. So we have a lot of residential oil customers added during the course of the year, so there is this significant growth in the number of customers, but we didn't necessarily have the winter consumption from those, so that's why you have to really look at just who were the customers that were attached in 2007 so that you can see a full year's worth of consumption from those customers, because you can't really normalize or adjust partial year consumption. So that's a long way of saying you can't really do a simple -- take this number and divide it by that.

Q.352 - And would that same explanation apply to -- I guess the question we had was on the next page, page 3 of 4, under the forecast volumes for that same class. And you had a forecast volume in 2008 of 417 TJs. And again look you know, we were trying I guess use that simple math --

MR. CHARLESON: Yes.

Q.353 - -- to appreciate the average usage, but those same reasons --

MR. CHARLESON: You would have the same, because the forecast we are assuming the addition of customers throughout the year and there is only a partial effectiveness of the volumes from the customers that are added during the course of the year. So, yes, it's a complicating factor in any year that you would look at.

Q.354 - Can you provide the raw data for the typical annual natural gas consumption I guess for that particular class? And we would ask for that same information for all other classes?

MR. CHARLESON: So what you are looking for is the annualized number by customer?

Q.355 - The annual -- typical annual consumption?

MR. CHARLESON: So for customers that would constitute typical?

Q.356 - Exactly.

MR. CHARLESON: What their annual consumption was by customer?

Q.357 - And the raw data I guess so we can --

MR. CHARLESON: Well that's what I mean by raw data.

Q.358 - -- to support these numbers essentially is what we are trying to -- the information we are looking for.

MR. CHARLESON: Sorry, which numbers are we trying to support?

Q.359 - In line 9, your reference to the typical annual --

MR. CHARLESON: Okay. For line 9, yes.

Q.360 - So are you able to provide the data that's --

MR. CHARLESON: Yes, we can. Obviously, we will have to -- because we are talking individual customer information, we would look to disguise or mask all customer identification. And perhaps that should also be considered as a confidential response for -- because when you get into some of the other classes, there may be -- I am not certain, but just any time that we are providing individual customer information, I get a little concerned in terms of confidentiality. But we can --

MR. HOYT: Why don't we fulfil the undertaking and determine whether or not we have got a concern, and if so, we would request confidentiality at that time.

CHAIRMAN: I think that might be appropriate just reference to 34, that you are filing it on the basis of Section 34. And I think that individual customer names probably could be --

MR. CHARLESON: Yes, we will mask the names.

CHAIRMAN: -- could be masked in any event,

MR. HOYT: Right.

CHAIRMAN: So that would be undertaking number 6, I believe.

MR. CHARLESON: So you are looking for that for SGSRO, SGSC, GS and CGS?

Q.361 - Yes. The next area or the question we have relate to

the contract demand and that's line 17 on the derivation table.
If we look to CGS, the CGS class, the number for the average contract demand that you have there is 45.9 gigagjoules, is that correct?
MR. CHARLESON: That's correct..
Q.362 - And can you explain what that contract demand is and how that figure is arrived at?
MR. CHARLESON: The contract demand reflects, you know, for any individual customer, the contract demand is set to establish say the maximum daily consumption that the customer may have. So that in essence is a charge related -- say to that charge would be tied to kind of say the reservation of capacity, that's the amount of capacity that we have to in essence to have available to be able to serve that customer. So that's what the contract demand is is established to deal with.
In terms of establishing it, the original -- the 45.9 is a number that's been used in the derivation of rates since -- again since the establishment of the rate class. However, also when we looked at the 2007 contract demand for the CGS class, what we found was that it was -- it was close to that number. We think it was in the mid-45's. So because of that we decided not to make an adjustment to the contract demand. To leave it with what has been used

over the past number of years.

Q.363 - Why would you not adjust it if you got a more accurate number?

MR. CHARLESON: Again it's going to move from time to time.l You know, 2007 it is showing at that level. 2008, it could be a little bit higher. It could be a little bit lower. So because it was -- we felt the 45.9 was representative of the number that we were seeing. And also the fact that the number we were seeing was slightly lower, it actually provides a more conservative delivery rate, because if we were to lower the contract demand, that would actually raise the delivery rate.

Q.364 - Can you undertake to give or provide us with the contract demands for that particular class?

MR. CHARLESON: Yes. What I would propose to do is -- and I am assuming you want the supporting data behind that?

Q.365 - Yes, please. Yes.

MR. CHARLESON: What I would propose to do is to include that in the table we provide for the CGS customer consumption information, to include a column with contract demand.

Q.366 - Okay.

MR. CHARLESON: So that way you can see the contract demand and consumption for the same customers.

CHAIRMAN: That would be part of your earlier undertaking?

MR. CHARLESON: So that would be part of six.

CHAIRMAN: Six.

Q.367 - Our next reference then is to the service charge or the monthly customer charge which is line 14 of your derivation table?

MR. CHARLESON: Yes.s.

Q.368 - Can you explain to the Board how that service charge is arrived at?

MR. CHARLESON: I think if you -- in the response to the Board's interrogatory number 4, we provided an explanation in terms of how that was arrived at. The service charge was originally established in 2000. And at that time EGNB had reviewed customer charges in other jurisdictions. Based on that review, EGNB believed that $8 per month for the Small General Service and $16 a month for the GS rate was appropriate.

Over the years, EGNB has revisited the customer charge in 2004 and then again in 2006. And again comparing to similar charges with other utilities in New Brunswick, and as a result it raised to $12 in 2004 and then $16 in 2006. The GS customer charge hasn't increased over that period of time as we still felt it was representative and comparable to other utilities.

Q.369 - So from your response, is it fair to assume that there is no reflection on -- that charge does not reflect the cost of service in any way?

MR. CHARLESON: No, it doesn't, because we haven't done any cost of service study to determine that.

Q.370 - And whether or not that charge would go up or down depending on a cost based system, you are not able to respond to that?

MR. CHARLESON: That's right. And again any change that would occur in the customer charge, would have a direct impact in terms of the delivery charge. And so, you know, the relationship between the two.

Q.371 - Right. We had a question on the incentives. And if we can refer you back then to a response FCL-1 that was circulated and page 3 of 4. And we are looking at the forecast of throughput and customer attachments. The forecasts that are provided, both I think at page 3 and page 4 -- sorry page 2 and 3, what are those forecasts used for?

MR. CHARLESON: The forecasts in terms of customers or in terms of throughput?

Q.372 - Both?

MR. CHARLESON: Both. I will start with the forecast of throughput perhaps is the -- the forecast of throughput is basically used for us to help to determine the revenues that would be generated based on the rates that we would assume to be in place throughout the course of the year. So we take, you know, the forecast throughputs, which we do on a monthly basis, multiply that by the distribution or the delivery rates that we expect to have in place and use that to get the revenues that are derived from delivery rates and then we are able to add on say contract demand charges and customer charges to come up with our total revenue forecast.

In terms of the forecast number of customers, it's really just taking what our expected closing number of customers are for the preceding year and then adding onto that what our forecast customer additions are. So what are we expecting to be able to achieve in terms of additional customers in the forecast year? And again, those customer additions are then rolled into -- you know, we assume what type of throughput we are going to be able to get from those customers, when that throughput will come on line, so it rolls in -- it ends up rolling into the total volume forecast as well. So perhaps I should have done it in the other order.

Q.373 - So the forecast then, it's fair to suggest is used for budgeting purposes?

MR. CHARLESON: Yes it is.

Q.374 - And they are reasonable expectations?

MR. CHARLESON: We believe so.

Q.375 - And I just want to compare the forecast and your actual results. And I believe the actuals are on page 2. And if we look, for example, at the SGSRO class for the number of customer attachments, for example, on page 3, the forecast number of customers was 4,045. And your actual attachments was 4,454, is that correct?

MR. CHARLESON: That's correct.

Q.376 - But if we look at the CGS class, your forecast there was 297, but the actual attachments were 228, is that correct?

MR. CHARLESON: That's correct.

Q.377 - What can the Board take from that comparison?

MR. CHARLESON: I think that what the Board can take from that is there is still significant risk associated with our forecasting. There are -- you know, there is going to be -- you know, there is still risk associated with our forecasting.

Again one of the difficulties that you face as well in looking at the different classes, especially in the commercial classes, is are the customers that you think you are going to get, are they going to land in the CGS class, the GS class, the SGSC. So you can have migration between the different rate classes as well. So while we had anticipated the -- you know -- say the 297 CGS customers and ended up with 228 at the end of the year, we ran the risk and I guess we came up short in the different commercial classes. But that's highlighting some of the risks and challenges that we face in the market place. Heading into 2007 when we were doing our forecast for 2007 there was an expectation that were were going to make some significant inroads into the commercial electric market. We anticipated there to be a strong price signal coming from NB Power in terms of electricity rates. We also anticipated with the elimination of the all electric rate that we would be able to increase our capture rate on -- in that market segment. What we found as we got into the year was the market place wasn't fully aware of the elimination of the -- or the closing of the all electric rate. Even -- you know -- there were a number of consultants and even NB Power at times it wasn't clear to them that that rate had truly been closed. So it took a few months before that cleared up. And then the price signals that were anticipated didn't materialize. You know, it was originally anticipated as being a double digit increase, it came in just under double digit. It was then reduced. So there were -- so some of the market signals that we had expected to be there didn't materialize which again impacts the forecast and our ability to attach customers.

Also, you know, some of the technical challenges associated with converting electricity, we were still working on means to overcome some of the challenges in that market place. What it highlights is that while we continue to put together forecasts that we believe are reasonable and we work towards achieving those forecasts, there are still significant risks in this business because we don't -- we are still gaining experience in different segments of the market.

Q.378 - With this CGS class though, that target wasn't reached, is that correct?

MR. CHARLESON: In 2007, correct.

Q.379 - And is that a sign then that the incentive levels perhaps are not significant enough?

MR. CHARLESON: Not necessarily.

Q.380 - The target savings?

MR. CHARLESON: No, I don't believe so. Again there is a number of other challenges -- the challenges that I articulated I think were the principal drivers behind the challenges that we faced in 2007.

Q.381 - For 2008 what success have you had in meeting your targets for 2008 as it relates to the CGS class?

MR. CHARLESON: To date in terms of our growth in our CGS class has still been limited. Across the majority of our classes it has been a challenging start to the year. Obviously when there is a lot of media attention regarding rate applications and questions around where rates are going, it does give some prospective customers cause to think a little bit more in terms of making that conversion decision.

We are not finding that it's preventing customers from converting but it is taking longer to kind of work through the sales process, that you have got -- you know -- that there are more questions that have to be answered. So there is kind of a bit of a double edged sword when you have, you know, a rate application, yes, it's going to help in terms of the overall profitability and the long-term success of the business in managing the deferral, but you do also have to manage prospective customer expectations and work them through the process and help them recognize that there are still significant savings available from converting to natural gas.

Q.382 - Recognizing those challenges that you have just identified, can I suggest that perhaps the incentive then is not enough, that maybe that incentive should not be revisited or changed?

MR. CHARLESON: No. We are still confident that the target savings level is not something that is providing barriers it has been able to attract and capture those customers.

Q.383 - I have a question on a response that was provided to a question asked by the Public Intervenor, and it was on the regulated return on equity. I think the Panel stated that Enbridge distributed its regulated rate of return in previous years, is that correct?

MR. LEBLANC: Yes. It's return on equity for the year.

Q.384 - Would it be correct to state that this amount has been -- that has been distributed -- has been recorded in the deferral account?

MR. LEBLANC: It is one of the items that makes up the total revenue requirement of the business. Similar to interest on a loan, it's return on the equity.

Q.385 - And ultimately then it may be recorded in the deferral account.

MR. LEBLANC: Any shortfall in revenue that we achieve would go to the deferral account, correct.

Q.386 - And although those distributions have been made do those distributions continue even if Enbridge is still incurring operating losses?

MR. LEBLANC: Yes.

Q.387 - And the losses as well as the distributions are funded through additional debt and equity?

MR. LEBLANC: In the past they have been, yes. 2008 actually is the first year that we expect our revenue -- our cash from operations to cover our distributions.

Q.388 - Is it fair that if the distributions were not made that the interest expense and equity requirements would be lower?

MR. LEBLANC: Yes, it would, but the investment that is attracting -- or attracting investment requires an investment with characteristics that are attractive to the market, and one of the key things that is attractive to the market that we sell these units to, Enbridge and other unit holders, is the regular cash distributions they receive.

MR. CHARLESON: So for us to continue to grow this business requires continued investment from investors. If we are not providing what is deemed to be a fair return on that investment we are not going to attract new investment which will make it very difficult for us -- virtually impossible for us to grow this business. So that's why the model that is being used is being used.

Q.389 - I guess I understood your evidence to be that one of the largest investors is the parent company, is that correct?

MR. CHARLESON: That's correct.

Q.390 - And the financial risk then would essentially fall to the parent company?

MR. CHARLESON: Yes.

Q.391 - And what would be the estimated impact on the deferral account if the distributions had not been made, do you have any idea what that might -- what the impact might be?

MR. LEBLANC: It is not a simple calculation I don't think.

MR. CHARLESON: And I guess the difficulty in that is if we hadn't made any distributions we likely wouldn't have been able to attract investments, so we wouldn't have been able to grow the business. So it becomes difficult to isolate just picking out the impact of not paying distributions, because it would have had a dramatic impact in terms of us being able to grow this business.

Q.392 - Okay. But all other issues put aside and recognizing that, you know, it's difficult to isolate that, are you able to make an estimate as to what the impact might be?

MR. CHARLESON: Are you asking us to assume that happened right from day one?

Q.393 - If you can make that calculation.

MR. CHARLESON: We can do a calculation around it. Again there is a lot of caveats that would have to be put around that in terms of the reasonableness of any -- you know -- of any assumptions of the business actually being able to operate under any assumption like that. But it is -- assume all that away we can do a calculation that would give a rough approximation.

MR. LEBLANC: Our weighted average cost of debt is approximately 9.7, 9.75 percent. So it would be about that percentage per annum times the distribution sort of from the time distribution is paid to whatever point in time you are calculating it to. So it could be done.

Q.394 - Are you able to undertake to provide that? I appreciate it's sort of a rough calculation at this stage.

MR. CHARLESON: Yes, we can.

CHAIRMAN: All right. That will become undertaking number 7, I believe.

Q.395 - If the Enbridge Group of companies stopped funding or providing financial guarantees to EGNB, how would EGNB be financed?

CHAIRMAN: Sorry. What was the question?

Q.396 - If the group of companies, Enbridge group of companies, stopped funding or providing guarantees, how would EGNB be financed, do you have any idea?

MR. CHARLESON: Well similar to what we do for the portion that Enbridge does not finance, we have to go to the -- we have to go to the market place to attract external investment. So we would have to do that for a much larger amount of equity.

Q.397 - Just with respect to borrowing, if there was to be borrowing from a commercial bank, for example, are you aware that commercial banks often put conditions on distributions and disbursements that are made such as dividends or loans to a company shareholder?

MR. LEBLANC: Yes, in some cases they do.

Q.398 - And is that particularly true if a company is experiencing operating losses?

MR. LEBLANC: Perhaps, yes.

Q.399 - With respect to the distinction between the SGSRO and the SGSRE, which is the oil and electricity class, is -- if that's a way to categorize them -- has there been any difficulty with your customers understanding the distinction in those classes?

MR. CHARLESON: Generally no. Obviously there are always some exceptions to that. We have had some customers that have questioned why they are on one class versus the other, you know, and obviously there has been some customers who question the equity in terms of the difference between those two classes.

However, our position continues to be that, you know, both classes are being treated equally because both have the ability to achieve the same level of target savings. Without that class a customer converting from electricity would not have the ability to achieve the same type of savings level that a customer from oil and under a market-based methodology we see that as being reasonable. But do all customers understand that and accept that? No. But generally it's not an issue.

Q.400 - With respect to rate riders, in your view has the application of rate riders led to volatility in your pricing?

MR. CHARLESON: Obviously the application of a rate rider will lead to more volatility than having just leaving the rate established at say the maximum rate. But what that does is it ensures also that we are providing or adjusting so that the target level of savings can be achieved. So yes, it will introduce more volatility than not having it. A rate rider always changes the rate that is going in there. So if we didn't apply any rate riders the rates would be less volatile, but it would also mean the customers may not be achieving their target savings level which, one, leaves as not living up to the value proposition that we are putting on the table, and, two, making it much more difficult for us to attract and have customers continue to use gas.

Q.401 - Can you explain for the Board how you track the data and then make the determination as to when a rate rider should be used?

MR. CHARLESON: Again I think there is an undertaking -- an IR response that may assist in this. I believe it's Public Intervenor interrogatory number 10.

And it's on page 2 of that response is what I will ultimately end up talking about.

On an ongoing basis we are capturing the market data. So whether it be crude oil prices, natural gas prices, all of the forward pricing information. And on a weekly basis we will in essence calculate a derivation of rates. We will look at the -- you know, what the retail -- what the forward retail oil price would look like, what we see the forward commodity price looking like, and after it starts feeding into this weekly analysis that is shown on page 2 of this interrogatory response.

So we will look at what the current approved rates are, what -- at the time this analysis was going on we were also monitoring how the current market data would compare to the rates that we had filed for, and then kind of what are the current rates that could be used. And in addition to that we also look at if those rates -- if that rate was applied what type of -- or based on the rates in place at the time -- what would the savings look like on a month by month basis, so that how would the annualized savings appear. So in the case of this what it shows is the current market analysis has rates that -- showed rates that were greater than what we had filed for. So the target savings were in excess of what we were -- what we have committed to.

However, as we work that analysis if we find within -- you know -- if we see in week that it drops slightly below we are not necessarily going to jump on it and put a rate rider. You are going to look for a sustained -- whether that be over a couple of weeks -- if you start to see within this that it is eroding the target savings, that's what would look -- that's what would drive us towards starting to put together a rate reinstatement so that the target savings can still be achieved within the calendar period.

Similarly if we started to see the rates move back up or a change in the rates, as right now we do have a rate reinstatement application in for the residential electric rate, it's because again we have seen market conditions change, and when you apply that you see that the target savings can still be achieved through a higher rate. So that would drive us to apply for a reinstatement.

So again we use this analysis on a weekly basis, but again you don't want to jump at each time -- like as soon as it changes on a weekly -- because there is a two week process involved in terms of getting the approval, and you don't want to be sending an application in every week for implementation a couple of weeks later. So you look for a bit more of -- some trend to it. Also what we will listen to is what is happening in the market place. You know, if our sales people are saying, listen, the rate that's there, I know this is what our analysis is showing, but we are finding there are some real impediments right now that are affecting our ability to capture customers in this class, you know, whether it be that there is currently an anomaly in terms of what is happening with the retail prices on the oil side, then we would also take that into consideration and see that perhaps a rider should be put in place to address that issue. So it's not strictly driven by kind of the derivation of rates in this. There are -- we will as well look at the market intelligence that we gather from having our people in the field.

Q.402 - But is it fair to suggest that there is quite a bit of subjectivity then that would be part of your analysis?

MR. CHARLESON: Yes. But again the ultimate goal is to ensure that we are living up to the value proposition.

Q.403 - In terms of a cost of service study, and I know that there has been a lot of suggestion or discussion around cost of service work -- from your view what would be involved in a cost of service study?

MR. CHARLESON: I would have to give a very simplistic view because I have never worked in a rate design group, I really haven't had a desire to, but it's really ensuring that you can -- you have to look at all the costs that would go into the overall revenue requirement, and then looking at how they would be attributed to the different rate classes. So what are the various cost causality factors, so that you can then allocate those costs to the different rate classes and then from there getting into looking at the rate structures that would have to be put in place to support that.

Q.404 - Do you have any estimate of how much time might be required for that type of study to take place for EGNB?

MR. CHARLESON: No, I don't. I imagine it's something that is going to take a few months for us to do, but until we really turn our attention to it and -- you know -- and get the necessary support and assistance in terms of working through one of those, it's difficult to say with any certainty.

Q.405 - Okay.

MR. CHARLESON: I know it's not a trivial exercise.

Q.406 - One other follow-up question we have came from a question from the PI, and I believe it came from the 2006 financial statements and it's under IR-22, PI IR-22. And just a question that comes from this particular document under total Affiliate Consulting --

CHAIRMAN: I am sorry, which page of the --

MS. DESMOND: I am sorry. Page 13 and 14.

Q.407 - I believe the PI asked what other fees or consulting charges might have been accrued in addition to what was asked about on the return of equity I believe. And one of the items on this chart is corporate management. And I just wonder if you might offer some explanation as to what would be included in the corporate management for Affiliate Consulting Services?

MR. LEBLANC: I don't know per se, but what the list of titles down the left-hand side is the department's -- how we break our company up as departments. So the corporate management group is sort of the senior management group and their -- what they do. So if we got some sort of consulting or advice from another Enbridge entity and it was deemed to be part of sort of that department's purview.

Then those are the types of costs that would go in there..

MR. CHARLESON: But an example of one of the types of costs that would go in there is I report into the president of our organization who is an Enbridge Gas Distribution employee. So one of the benefits that I get from reporting to him is he provides me with guidance and direction in terms of performing my responsibilities.l So obviously that requires some of his time and so there is an allocating of his time that Enbridge Gas New Brunswick pays for.

MR. LEBLANC: And that would be some of that --

MR. CHARLESON: And that would be some of that 51,000.

MR. LEBLANC: Yes.

MS. DESMOND: Those are all of our questions. Thank you.

CHAIRMAN: Thank you, Ms. Desmond. I guess we will move to I guess questions from the Panel at this point in time before we go to redirect. And I guess before I open up the Panel, I just have one question of my own dealing with the retail oil price. And Ms. Desmond took you through some questions about using 21 days of data versus a longer period of time. And I think your response was something like if it was longer, it would mute the effect of the movement.

I really just want a little more explanation and is there some reason you believe 21 days is for of the optimum level? In the other words, if that were true wouldn't it be something less than 21 and how do you get to 21 really is my question?

MR. CHARLESON: Well the 21 days is something that is used fairly regularly within the financial industry and then the commodity trading market, as well where people will look at that because it reflects -- generally reflects one month's trading activity. So that's where because it's a bit more of a standard number that is used in the industry is part of where you would come to 21, say as opposed to 15 or 24. You know, as I indicated in my earlier response, if you go down -- when you are looking at something say -- say you only took seven days, there is things that happen all the time in the markets. Especially in the summer, what you will see is all of a sudden there is a couple of thunderstorms over the Gulf f Mexico and natural gas prices start to shoot up because everybody thinks the next Katrina or Rita is coming along. But those work themselves out of the market fairly quickly. If you were using that shorter time horizon, you would have a lot more volatility in terms of what is happening there. By taking that one month of trading activity, it dampens though the impact of those, but still keeps you in sync with current market conditions. And to go much longer means that you have got less faith in terms of what is actually -- what's happening in the commodity markets.

CHAIRMAN: For example, if you were to go to say two months, instead of 21 days, say 42 days --

MR. CHARLESON: Yes.

CHAIRMAN: -- what would the impact of that be would it not have the same effect as the 21 --

MR. CHARLESON: It does, but it would start dampen -- it would start having a dampening effect. And again because of the market-based methodology that is being used, you know, we are looking at how we are matching up with the competing fuel. And if you have dramatic shifts in say the price of oil, and say it was a dramatic downward movement in oil prices, the longer the average that you are using, say it is 42 days, it's going to -- on the natural gas side, it's going to slow our ability to respond in terms of adjusting our rates to remain competitive with that downward movement. Because the 21 days also lines up well with say the cycle that we would typically look at for doing any type of rate rider application.

CHAIRMAN: No, and I understand you said that it did match up with your rate rider, but you also of course indicated that your application for change in rates only occurs on any annual basis --

MR. CHARLESON: Yes.

CHAIRMAN: -- and so I guess I do see a difference between the rate rider, which is something that you do have to respond to quickly and then choosing an appropriate time to make an annual application for change in rates.

So is there any compelling reason to use the 21 days for both purposes?

MR. CHARLESON: It's really for the -- I guess for the sake consistency is probably the biggest driver behind it. But as well, you know, we want to be cautious in terms of when we are bringing forward an annual rate application that it is reflecting the most current market conditions that are there and it doesn't have say a hangover effect from other things that have gone there. I would say there is no compelling reason that says they have to be the same, you have to use the same for both. But I think the degree of consistency between the two is helpful and keeps, you know, as we look at establishing the maximum rate that it's all -- it's got the same type of more current market responsive signal in there.

CHAIRMAN: If you went to a longer period of time, do you have any sense of what impact it would have on an application? Would it make your ultimate delivery charge -- would it make it higher or lower or do you have any sense of that? And I am not going to ask you for an undertaking?

MR. CHARLESON: Yes. It would depend on the period of time. Now if we were looking say at this rate application and assuming that we had filed it on December 19th and had used a longer period of time --

CHAIRMAN: Yes.

MR. CHARLESON: -- likely would lead to a lower delivery rate, because we were in a period of time where prices were inclining.

CHAIRMAN: On an increase.

MR. CHARLESON: You know, if you had gone say into the middle of January, it might have led to a slightly lower, because the price had came off of it. So it depends on the trend that's been happening in the market over that time.

CHAIRMAN: All right. So if the trend - if it's trending upwards then --

MR. CHARLESON: If it's trending upward, it's going to lower rate --

CHAIRMAN: -- the longer period of time would give you a lower rate?

MR. CHARLESON: That's right. If it's trending downwards, the longer period of time would give you a higher rate.

CHAIRMAN: Thank you. Mr. McLean any questions? Mr. Toner, any questions?

MR. TONER: Yes. I would like to revisit a few of Ms. Desmond's questions. And in relation to the -- you mention to help grow your business and to attract new equity. How much equity do you need to attract in 2007, for example?

MR. LEBLANC: In 2007 we raised $30 million in equity.

MR. TONER: And in 2006?

MR. LEBLANC: We actually -- the last time we attracted equity was in 2005. It was for a two-year period, '05 and '06, and it was about $70 million.

MR. TONER: And so -- and you paid out in dividends in 2007, roughly 14.8 million or distribution to your shareholders?

MR. LEBLANC: Yes.

MR. TONER: And 10 million in 2006?

MR. LEBLANC: Yes. I think that's 6 and 5, but yes --

MR. TONER: Oh, okay. 2000. I guess my point is that's 25 million in two years. So is it safe to say though had you

-- had the Board of Directors of Enbridge said in order to not need new equity let's leave it in the company, has there been any thought to help the cash flow of the business or whatnot, to not need new equity, to help grow their business by leaving the money in the company instead of paying back the shareholders?

MR. LEBLANC: I think if we did that, we would significantly affect our ability to raise that equity particularly outside of Enbridge, but also Enbridge owns this investment because of the characteristics of the investment. So it may affect our ability to raise equity.

MR. CHARLESON: So while it may have the short term effect, well okay, we didn't pay out 25 million, so that's 25 million you don't have to raise, when you start -- when you start -- when you do have to go and make that next call, are you going to be able to raise that equity? So it's -- you have to -- we have to look at it in terms of mainlining a sustainable business and providing, you know, that reasonable return so that it continues to be an attractive investment.

MR. TONER: Right. And back to the October reclassification that this Board, for the Small General Service, and you split up into three different classes, has there been a market response in your opinion from the electricity, oil --

MR. CHARLESON: Yes, we have had -- well the response has been that we have had more success in terms of converting electricity. Predominantly again an improved response in terms of say the new construction market, because now what the end use consumer that's building a house is looking at is a rate that competes with the alternative of putting baseboards in. But also in terms of converting electric furnaces, there is greater opportunity there, because again we can compete against that rate. On the electric baseboard side, it's still a challenge because of the capital cost involved, but at least gives us the opportunity to have a competitive rate if we can overpay -- if we can deal with the capital cost issue.

MR. TONER: So at the burner tip, how much did you reduce the rate by, and I could search that out, but I would like to know exactly what percentage?

MR. CHARLESON: The approved rate prior to applying the SGSRE was $7.62, The SGSRE rate -- and the approved rate is the 7.62, but with the rider that was applied -- it was about 28 -- it was a dramatic --

MR. TONER: What percentage roughly? 10? 20?

MR. CHARLESON: No. It would probably been more in the 40. 40 to 50 percent?

MR. LEBLANC: Of the burner tip price?

MR. CHARLESON: At the burner -- oh, in terms of burner tip? Sorry, I don't have that either.

MR. TONER: So at the -- for distribution then it's 40 percent?

MR. CHARLESON: It would be 40 percent the distribution rate. The reason I am hesitating --- I can't recall if a rider is in place -- reduction -- at the time the residential oil rate was $6.58 and the electric was put in place at $2.35. So represents about a third --

MR. TONER: And now we are going to -- you are proposing to increase the oil to -- by how much?

MR. CHARLESON: To $10.08.

MR. TONER: That's another --

MR. CHARLESON: But again the residential electric rate has moved at the same time, there has been increases in that, and with the proposed reinstatement that is before the Board right now we would be looking at the residential electric rate probably being about between 40 and 45 percent of the -- on a delivery perspective of the oil rate.

MR. TONER: Now the cost to convert an oil customer to natural gas costs what on average?

MR. CHARLESON: On average again our target is that the cost of conversion would be between 4,500 and $5,000, with a $3,000 incentive provided.

MR. TONER: And for the electric?

MR. CHARLESON: Again depending on whether -- if it's -- if you are looking at residential electric furnace, it's going to be comparable to the oil. If you are looking at say new construction or electric baseboard, on a new construction it's going to cost you about an extra four to 5,000 on top of what -- baseboard heating because of the duct work that has to be done. If you are looking at a conversion of an existing electric baseboard home the conversion cost would be 11 to $15,000.

MR. TONER: And their incentive is what?

MR. CHARLESON: Still $3,000.

MR. TONER: 3,0000. So have you guys looked at -- has Enbridge looked at possibly just increasing the incentive for the electric and charge the customers the same price?

MR. CHARLESON: The problem that you run into there though is the incentive is a one time payment. So that helps defray the capital cost of conversion, whereas the distribution rate or the delivery rate is something that competes against what they are paying for the bill on an ongoing basis.

So the customer -- so if our distribution rate for the residential electric customer is causing him to incur bills that were greater than what it's costing him to use electricity, the fact that you reduce the cost of the conversion but it's costing them more to heat their house, isn't going to incent them to use natural gas. So because the incentive is a one time payment versus the rate he has sustained savings against the alternate fuel, that's really what we see as being necessary, a critical part of stimulating conversion.

MR. TONER: So in your opinion to heat an oil house -- let's say a customer using oil, and to heat with your furnace, it's going to cost more to heat with your natural gas, therefore you are --

MR. CHARLESON: No. On the oil you would have the savings. Again you achieve that 20 percent target savings.

MR. TONER: Right.

MR. CHARLESON: Right.

MR. TONER: So if you are heating the same house from electricity and you go and put a furnace in, you spend your ten --

MR. CHARLESON: Yes. Yes.

MR. TONER: So the monthly bill in your opinion is going to be higher?

MR. CHARLESON: It's higher than what you were paying for electricity. If you were to use -- if you were to use just -- say you used the residential oil rate --

MR. TONER: Right.

MR. CHARLESON: -- for an electricity customer, so you are going to charge -- say this is approved and it's $10.08, if you were to charge a residential -- if somebody has converted from electricity $10.08 for delivery of natural gas, that's going to be significantly higher than what it was costing them to heat that home with electricity. And that's why we need to have the differentiation in the rate so you can provide that savings -- that same savings against the fuel source they were using before.

MR. TONER: Thank you.

CHAIRMAN: Mr. Johnston?

VICE CHAIRMAN: Just one topic that I would like to talk about. I want to focus on the contract general service class and on the -- just a little bit about the structure of information flow and how you approach that.

First of all, just for the purpose of our discussion, if you could define that category and give some examples of the types of customers that one finds in there?

MR. BUTLER: The throughput parameters for that rate is a customer that is using over 2000 gigajoules a year but less than 14,000 gigajoules a year. So as an example this building would be very close to the upper end of that. It would be in around -- I would say close to the 14,000 gigajoule mark. So it would either be LFO or CGS, on that borderline.

VICE CHAIRMAN: And what type of business would be at the lower end of that?

MR. BUTLER: Like a large warehouse, the Atlantic Superstores, grocery stores are CGS, some hotels that are -- hotels generally have electric heating, so there are other uses. A large hotel would have a lot of domestic hot water and cooking load which falls into a CGS category.

VICE CHAIRMAN: Okay. Could you describe for me -- Mr. Butler, you may be the best person although I don't want to stop anybody else from answering. What -- describe your sales force with respect to this class, and maybe they work in multiple classes or maybe they focus on certain targets, but could you just describe for me who is trying to get new customers in this category? Is there more than one person or --

MR. BUTLER: There is really two groups within sales, one that focuses strictly on the residential market and one that focuses on commercial. So the commercial sales representatives would be dealing with customers anywhere from the SGSC rate up to the LFO rate.

VICE CHAIRMAN: All right. How many people in that sales group, most of the time anyway?

MR. CHARLESON: I think on the commercial side we currently have seven or eight.

VICE CHAIRMAN: And do they report to you, Mr. Butler, or how does that work?

MR. BUTLER: No.

MR. CHARLESON: They are reporting to the marketing and sales portion of our organization.

VICE CHAIRMAN: I thought that's what you did, Mr. Butler.

MR. BUTLER: No.

VICE CHAIRMAN: No.

MR. CHARLESON: He is market development.

VICE CHAIRMAN: Market development. Oh, there is a distinction.

MR. BUTLER: Business development.

VICE CHAIRMAN: Business development. Excuse me. Where I am coming from with this is I'm just trying to get an understanding of the information flow going to the Panel members from your sales force with respect to feedback in this class, because this is the class where you stated that you are comfortable with the change from 15 percent to the 10 percent to the target savings. And I want to be as clear as I can on why you are comfortable with that.

MR. CHARLESON: I will address that one. We have a senior management group within our organization which the three of us are all part of, but also the manager of marketing sales is part of that group as well, as well as a few other individuals on the operation side of the business, human resources. We have weekly senior management group meetings where different issues and items are discussed, information brought to the table, end-use economics analysis is discussed. And that's where a lot of information will be brought to the table by say the manager of marketing and sales in terms of what they are seeing from there. But in addition to that, you know, as we look at the sales results that are going on, you know, I have direct discussions with our sales manager as well over a period of -- over the past number of months we did have some changes in our senior management team, and for a period -- for a few months the manager of marketing and sales position was vacant. So I had the sales manager reporting directly to me as well. And so I was getting direct feedback from her in terms of what the sales force was hearing, what their perceptions in terms of our rate applications were, any concerns that it was causing for them.

I was also involved directly in sales meetings over the past few weeks. I have been in discussions with sales staff around what has been happening during the first quarter of the year, and we are trying to understand some of the challenging start that we have had, you know, and kind of what measures need to be taken to provide the assistance into that sales team. So from direct discussions with some of the commercial sales reps' -- I had one of the commercial sales reps' come into my office when we had the rate application out there to talk to me about it and get a better understanding of what is driving this application, what is behind it, and talk about concerns they had regarding some of the perceptions that it was going to create out there.

The change in savings on the CGS was never a part of that. It's more just a general, well rates are going up and the competitiveness of that in all the classes was of some concern. So there is a lot of direct communication that I get with the sales force plus we have kind of the sales force and reporting up through marketing sales within our senior management group. And for the period of time that that position was vacant the sales manager participated in our senior management group meetings as well. So for the past three months she has been at the table bringing concerns to the table in terms of what is happening out there in the field.

VICE CHAIRMAN: Ms. Desmond was questioning with respect to the projections and the forecasts attachment in this class and then the results, and the forecasts weren't achieved. Do you have a sense from your sales force that has come to senior management of what some of those impediments were if it was not a pricing issue?

MR. CHARLESON: I think the main impediments that we were hearing about coming out of last year were some of the ones I talked about. Not having that stimulus on the electric rate, on the electricity side, confusion over the all-electric rate, not having that market signal that we anticipated would happen.

The other is dealing with the overall cost of conversion is a challenge in that sector. Converting larger electric loads is a more complex and costly conversion process than, you know, what you see on the oil side. So it's looking at having the right types of incentives available to help provide the right type of payback.

VICE CHAIRMAN: Can I just stop you for a second, Mr. Charleson, because I do want to make sure I understand this. What portion of the potential customers in this group are you converting over from electricity and what portion would be using oil or propane or something else?

MR. CHARLESON: To date it has been heavily focused on oil, say up until -- into 2007, to the point where we are probably at, you know, between 60, 70 percent penetration on that segment on the oil side. So we kind of picked off the easier ones, so now it's moving into that electric market. So it's becoming more of a critical component in terms of being able to capture those types of customers to achieve the sales targets that we have put out there. So it has been small but growing.

VICE CHAIRMAN: But of the customers -- the group of customers now that are seen as potential clients of your company, are many of them people who will require electric conversions?

MR. CHARLESON: Yes.

VICE CHAIRMAN: Okay. Thank you.

CHAIRMAN: Mr. Hoyt, any re-direct?

MR. HOYT: No re-direct.

CHAIRMAN: Thank you. And is that the case for the Applicant? Does that conclude the Applicant's case, other than obviously argument?

MR. HOYT: And the few undertakings.

CHAIRMAN: And the few undertakings. Thank you. Well I think it's a little late in the day to start the Public Intervenor's case. Anybody have any sense as to how long we might be with Mr. Strunk's evidence tomorrow, and I'm asking that because I do recall when we were scheduling the hearing that Mr. Hoyt had indicated that Friday was going to be problematic for him and that Mr. MacDougall would -- you know -- would do Friday if it were necessary. But I'm wondering if we may get the evidence in in the morning and argument in the afternoon? I don't know.

MR. THERIAULT: Mr. Chairman, based on the undertakings that are coming in I would ask that we be able to -- because I'm not even sure what the evidence of Mr. Strunk -- how it will come out, and some of the undertakings that will be coming in have to be reviewed, and what time they come in tonight, and then to prepare for a hearing tomorrow to say we are going to argue by 12:00, I would ask that we at least have the argument whatever time we finish tomorrow, similar to the LFO case, and then adjourn until Friday morning for the final.

CHAIRMAN: Okay. Well I guess we can -- obviously we will have that discussion tomorrow, but it doesn't look like then that we are perhaps going to be able to complete tomorrow. That's really all I was trying to establish.

Any idea, Mr. Hoyt, perhaps you may need to consult with Mr. Charleson, but any idea as to when the responses to those undertakings might be expected?

MR. HOYT: Our intention would be to try to get them all answered tonight, but I mean I wouldn't expect it would be early tonight. But what we would try to do is have them available for everyone in the morning and if there are some still in progress I mean we would obviously provide whatever we have got, but our intention would be to try to get everything that we can.

CHAIRMAN: Anything available tonight will be transmitted electronically tonight I take it then?

MR. HOYT: We will send them to everybody.

CHAIRMAN: Thank you. Then if there is no other business today then we will -- any other issues that we need to resolve this afternoon? All right. We will adjourn until 9:30 tomorrow morning.

(Adjourned)

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

Reporter