

New Brunswick Energy and Utilities Board
IN THE MATTER OF a Review of Enbridge Gas New Brunswick's
Financial Results for the fiscal period ending December 31,
2007

held at the New Brunswick Energy and Utilities Board premises
on December 17th 2008

Henneberry Reporting Service

INDEX

- John Butler - Mr. Theriault - Cross - page 5
- Mr. Hoyt - Cross - page 28
- Ms. Desmond - Cross - page 32
- Andrew Logan, Jeff Aucoin - Mr. Theriault - Cross - page 33
- Mr. Hoyt - Cross - page 94
- Vice-Chairman - page 98
- Dave Charleson, Jamie LeBlanc - Mr. Hoyt
- opening statements - page 103
- Mr. Theriault - Cross - page 106
- 1 - Enbridge Gas New Brunswick's Financial Statements provided
under cover letter from Jamie LeBlanc dated July 9th 2008
- page 8
- 2 - Financial Report of Teed Saunders Doyle & Co. dated June
26th 2008 - page 8
- 3 - Purchase and Sale of Natural Gas Report of J.C. Butler
Management Ltd. dated May, 2008 provided under cover
letter from J.C. Butler dated May 29th 2008 - page 8
- 4 - Enbridge Gas New Brunswick Summary of its Commodity Sales
Activity for the fiscal year ended December 31st 2007
provided under cover letter from Dave Charleson dated
August 19th 2008 - page 8

1 New Brunswick Energy and Utilities Board

2 IN THE MATTER OF a Review of Enbridge Gas New Brunswick's

3 Financial Results for the fiscal period ending December 31,
4 2007

5
6 held at the New Brunswick Energy and Utilities Board premises
7 on December 17th 2008

8
9 BEFORE: Raymond Gorman, Q.C. - Chairman
10 Cyril Johnston - Vice-Chairman
11 Constance Morrison - Member
12 Yvon Normandeau - Member

13
14 New Brunswick Energy and Utilities Board -
15 Board Counsel - Ms. Ellen Desmond
16 Board Staff - Doug Goss
17 - John Lawton
18 - David Young
19 Board Secretary - Ms. Lorraine Légère

20
21

22 CHAIRMAN: Well, good morning, everyone. Sorry for the late
23 start. I understand we had a couple of technical
24 difficulties which have now been worked out.

25 This is a hearing of the New Brunswick Energy and
26 Utilities Board to review the annual financial results of
27 Enbridge Gas New Brunswick for the 2007 year.

28 The Panel for this hearing is comprised of Yvon
29 Normandeau, Connie Morrison, Cyril Johnston, the Vice-
30 Chair, and myself, Ray Gorman as Chair.

31 I will now take the appearances starting with the Public
32 Intervenor.

33 MR. THERIAULT: Good morning, Mr. Chairman. Daniel
34 Theriault, and I am here this morning with Robert

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

O'Rourke.

CHAIRMAN: Thank you. Enbridge Gas New Brunswick?

MR. HOYT: Len Hoyt for Enbridge Gas New Brunswick. And I am joined by Dave Charleson and Jamie LeBlanc and Lori Stickles from EGNB.

CHAIRMAN: Thank you. Do we have any other interested parties present here today, other than the Board, which we will take that appearance in a moment? Okay. New Brunswick Energy and Utilities Board?

MS. DESMOND: Ellen Desmond, Mr. Chair. And from Board Staff, Douglas Goss, John Lawton and David Young.

CHAIRMAN: Thank you, Ms. Desmond. Just as a bit of a background, each year Enbridge Gas New Brunswick is required to file its financial results and its sales of natural gas, which are then reviewed by the EUB for approval. To assist it in its review, the Board commissioned two reports. First, the independent report of John Butler, who reviews the purchase and sale of natural gas by EGNB in the province of New Brunswick. And the independent report of an accountant, Andrew Logan of Teed Saunders Doyle, who ensures that EGNB is in compliance with the Gas Distribution Act and existing Board Orders. After filing their financial and gas sale results for

1

2 2007, Enbridge was directed to advise its customers and other
3 interested parties of the Board's annual review. A Board
4 Order and Notice was signed on July 24th 2008. As a
5 result the Board received a submission from Dan Theriault,
6 the Public Intervenor, wherein he raises a number of
7 issues for consideration.

8 As a result of that this hearing was convened and the
9 Board issued a letter on October 24th 2008 advising that
10 only the following items would be examined during this
11 hearing. The reasonableness of actual capital
12 expenditures in 2007, the reasonableness of the amounts
13 paid for services provided by affiliated companies in
14 2007, the reasonableness of the amount paid for marketing
15 in 2007, the purchase and sale of gas by EGNB in 2007 and
16 the impact on EGNB's customers of cash distribution to its
17 investors.

18 In the Board's original letter that was not limited to
19 2007. I believe there was a letter of clarification sent
20 by Enbridge on that issue and the Board clarified that
21 that also would apply to the year 2007.

22 MS. DESMOND: Mr. Chair, sorry, I hate to interrupt you,
23 would it be appropriate to have Mr. Butler on the line to
24 listen to your introductory remarks?

25 CHAIRMAN: Too late. We are just -- we are done.

1

2 MS. DESMOND: Okay.

3 CHAIRMAN: There are three panels of witnesses being put

4 forward for examination today. First is John Butler. And

5 then Andrew Logan I think is going to be joined by Jeff

6 Aucoin and then EGNB will have a panel.

7 So for the purposes of this review, Mr. Butler will be

8 available by conference call. But Mr. Logan and Mr.

9 Aucoin will appear in person. I think that yes, we

10 better get Mr. Butler on the line. I am not going to read

11 that again by the way.

12 MR. BUTLER: Jeff Butler.

13 MR. YOUNG: Good morning, John. It is Dave Young. You are

14 now into the hearing. John, we have started the hearing.

15 MR. BUTLER: Yes.

16 MR. YOUNG: And so everybody is here. And we are -- we have

17 begun already.

18 MR. BUTLER: Yes.

19 CHAIRMAN: Good morning, Mr. Butler. It is Ray Gorman. We

20 have commenced the hearing.

21 MR. BUTLER: I can hardly hear you, Ray, I am sorry.

22 CHAIRMAN: Yes. Can you hear me now?

23 MR. BUTLER: A little better, yes.

24 CHAIRMAN: Well, we don't have a very good speaker phone.

25 So I guess when I am speaking, I will try to yell. And if

1

2 you can't hear me, I guess let me know.

3 MR. BUTLER: Fine. Thank you.

4 CHAIRMAN: All right. You are the first witness to be

5 examined today. So I am going to ask Ellen Desmond to

6 affirm you. The phone is being moved, John, so hopefully

7 we don't lose you or lose the connection.

8 MR. BUTLER: We will keep our fingers crossed.

9 (John Butler - affirmed)

10 CHAIRMAN: Mr. Theriault, then are you ready to start your

11 examination of Mr. Butler?

12 MR. THERIAULT: Yes, I am. Mr. Chairman.

13 CROSS EXAMINATION BY MR. THERIAULT:

14 Q.1 - Good morning, Mr. Butler. Can you hear me?

15 A. Yes, but it is very faint.

16 Q.2 - Any better now?

17 A. That's a little better, yes.

18 Q.3 - And if at any time you can't hear me, if my voice trails

19 off, please let me know. Mr. Butler, could you first of

20 all, please, describe your professional background for us?

21 A. My professional background is a registered professional

22 engineer in mechanical. My experience has been involved

23 in the gas industry virtually all of my life with respect

24 to first of all conversions and as natural gas became

25 available in North America in the design and

1

2 construction end of that, later moving to the Ontario Energy
3 Board, as initially as staff, then moving to Board member
4 and ultimately to the Vice-Chairman of the OEB. Since
5 then I have been a consultant, first of all, with A. E.
6 Sharpe, involved in providing advice to all levels of the
7 industrial and commercial and the MUSH sector in terms of
8 buy natural gas and transporting it to the point of use.
9 And more recently, my own business doing much of the same
10 thing.

11 Q.4 - Thank you. Now would you consider that you have a
12 particular expertise in the analysis of anti-competitive
13 behaviour?

14 A. Yes.

15 Q.5 - And in what context in your professional career have you
16 analyzed anti-competitive behaviour by firms operating in
17 competitive or regulated markets?

18 A. In terms of analyzing the -- an anti-competitive
19 behaviour, I guess that would have been during my term
20 with the OEB. But not actually carrying it out, the
21 analysis as much as adjudicating on hearings in which that
22 was -- it was being considered.

23 Q.6 - Okay. And have you ever heard of the concepts of
24 horizontal market power and vertical foreclosure?

25 A. No.

1

2 Q.7 - Have you ever testified in a judicial regulatory or
3 arbitration proceeding with respect to anti-competitive
4 behaviour or the potential abuse of market power?

5 A. No.

6 Q.8 - Has Enbridge Gas or any of its affiliates ever been a
7 client of J.C. Butler Management Ltd., A. E. Sharpe &
8 Associates or Pro-active Energy Management Inc.?

9 A. Enbridge Gas has not. Some of the clients that I have had
10 have been customers of Enbridge.

11 MR. THERIAULT: Now, Mr. Chairman, I realize what your
12 opening comments with respect, but by way of background I
13 tend to delve briefly with prior reports of Mr. Butler.
14 Not to get into the substance of them, but just by way of
15 benchmarking, so I would ask the Board to bear with me.
16 And if you feel I am getting astray, please let me know?

17 CHAIRMAN: Oh, we will. Perhaps -- and one of the things
18 maybe at the opening that I perhaps should have done is I
19 understand that there are about four documents that may
20 pertain to this matter. So probably should mark them as
21 exhibits just so that we will all I guess be reading from
22 the same page.

23 I understand the documents that would be examined -- and
24 John, can you hear me?

25 WITNESS: Yes, I can just hear you.

1

2 CHAIRMAN: Okay. First, exhibit 1 would be the Enbridge Gas

3 New Brunswick's Financial Statements, which were provided

4 under cover letter from Jamie LeBlanc dated July 9th 2008.

5 And exhibit 2 would be the financial report of Teed

6 Saunders Doyle & Co. dated June 26th 2008.

7 Exhibit 3 would be the Purchase and Sale of Natural Gas

8 Report by J.C. Butler Management Ltd. dated May 2008

9 provided under cover letter from J.C. Butler dated May

10 29th 2008.

11 And exhibit 4 is the Enbridge Gas New Brunswick Summary of

12 its Commodity Sales Activity for the fiscal year ended

13 December 31st 2007 provided under cover letter from Dave

14 Charleson dated August 19th 2008.

15 Does anybody believe there are any other documents that we

16 should be marking at this time for purposes of the

17 questioning or cross-examination that is going to occur

18 today?

19 MR. THERIAULT: Not that I can think of, no.

20 MR. HOYT: No.

21 CHAIRMAN: Thank you.

22 Q.9 - Mr. Butler, in 2003, the PUB held a generic hearing into

23 market issues and conduct related to the sale of gas and

24 customer services in the natural gas industry in New

25 Brunswick. A number of questions were raised and various

1

2 parties to the proceedings provided comment on them. And I am

3 particularly interested in these questions because I

4 believe they go to the heart of the competitive issue that

5 is raised in your 2007 report on the purchase and sale of

6 gas. And I just wish to ask you some general background

7 questions if you don't mind.

8 First of all, were you a consultant to the Board in this

9 generic hearing in 2003?

10 A. I would have to go back in my notes to be honest. I

11 probably was, but I cannot remember it in detail.

12 Q.10 - Well maybe I will move on. And maybe this will jog

13 your memory a little. I am just going to give a quote

14 which is on page 6 of the 2003 decision. "The Board

15 directs EGNB to establish a firewall between those

16 employees who perform functions related to EGNB's

17 distribution business and those employees who were

18 involved in the sale of gas. Customer information related

19 to the sale of gas that is received from gas marketers by

20 EGNB employees working on distribution must not be shared

21 with EGNB employees involved in the sale of gas."

22 And I guess I am asking why was there a need for a

23 firewall?

24 A. I -- since I didn't write that, I have -- I can't really

25 comment. I would imagine that the reason would be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

to prevent an undue advantage to EGNB over other marketers.

Q.11 - And what knowledge, if any, do you have of what EGNB did to implement the Board's Order for a firewall?

A. The knowledge that I have it is from my review of their practices within the company. The personnel that are involved and the statements that I receive from them.

Q.12 - And what tests did you use to determine the effectiveness of the firewall?

A. I did not determine that -- to take any action to determine the effectiveness of the firewall. My reports I commented on the actions of the company, the individuals involved, but did not go beyond that to require any affidavits or anything of that nature as to the details of the firewall.

Q.13 - So including your 2007 report, it was not meant to evaluate the effectiveness of the firewall?

A. That is correct.

Q.14 - Now again on page 9 of the original decision, I am just going to give you a quote, Mr. Butler. There is reference to concerns the gas marketers had about certain information that EGNB could glean from its automated billing and collection service. And I am just going to quote you and see if this refreshes your memory. "The

1

2 marketer stated that in recent letters and invoices sent by
3 EGNB, customer information provided in order to obtain
4 distribution service was being used by EGNB to promote its
5 gas sales. Irving stated that the distribution utility
6 was abusing its dominant position by misleading
7 customers."

8 Can you recall, sir, if this claim by the gas marketers
9 was verified at the original hearing?

10 A. I cannot.

11 Q.15 - And in your report, particularly the 2007 report, have
12 you ever investigated this issue?

13 A. I have not.

14 Q.16 - And as a consultant to the Board, would you not feel
15 obligated to provide advice on how to deal with this
16 matter?

17 A. If it were considered to be part of the review that I was
18 conducting, if I had been asked to do it, I certainly
19 would have done -- done so.

20 Q.17 - Thank you.

21 A. My initial report that detailed the operation of the
22 company and the fact that the EUG accounts were embedded
23 within the EGNB indicated that there was some concern
24 there, but it was never pursued to any great extent.

25 Q.18 - Now I would like to discuss your current report, I

1

2 guess it is the May 2008 report?

3 A. Yes.

4 Q.19 - And did you personally prepare the report -- this
5 report?

6 A. I did.

7 Q.20 - And have you in fact been the author of all the reports
8 on the purchase and sale of gas by EGNB since June of
9 2004?

10 A. I have.

11 Q.21 - And would you agree that a sharing non-discriminatory
12 access to EGNB's transportation facilities and promoting
13 competition and the supply of natural gas commodity are
14 fundamental objectives of the Gas Distribution Act of
15 1999?

16 A. Yes.

17 Q.22 - And would you also agree that the manner in which EGNB
18 conducts its distribution business, and the interaction
19 between EUG and EGNB distribution must be closely
20 monitored to assure that these objectives of the Act are
21 being fulfilled?

22 A. I would say that it would be desirable. I am not sure of
23 the extent to which I would say it would be mandatory.

24 Q.23 - Is it correct to state that your review for 2007 and
25 the associated report address these issues with some

1

- 13 -

2 caveats?

3 A. To an extent, yes.

4 Q.24 - Now, Mr. Butler, are you familiar with the competitive
5 safeguards that the federal energy regulatory commission
6 in the U.S. uses to prevent anti-competitive behaviour by
7 entities in the gas transportation business?

8 A. I am not intimately familiar with them, but I am aware
9 that they are --

10 Q.25 - And are you familiar with FERC Order 717?

11 A. No.

12 Q.26 - Do you have familiarity with how regulators in other
13 jurisdictions employ competitive safeguards to prevent
14 anti-competitive behaviour by entities in the gas
15 transport business?

16 A. To some extent. I wouldn't say that I am intimately
17 familiar with all of the safeguards in place.

18 Q.27 - Could you describe to us the ones that you are familiar
19 with?

20 A. I am reasonably familiar with the ones in Ontario.

21 Q.28 - And what are they?

22 A. It is embedded in the OEB regulations -- not the
23 regulations, the decisions that the OEB had issued. I
24 would have to go back and refresh by memory as to exactly
25 what they are.

1

2 Q.29 - Thank you. Now returning back to New Brunswick, I note
3 that Section 69(i) of the Gas Distribution Act includes
4 the following language and I will quote, "a gas
5 distributor shall not represent that any advantage accrues
6 to customers or others in the use of the services of a gas
7 distributor because that customer or other deals with a
8 gas marketer associated with the gas distributor."

9 Now what steps did you take to review the representations
10 made by EGNB to customers with respect to the use of EUG
11 gas commodity as compared to taking commodity service from
12 another gas marketer?

13 A. I read some of -- the publications, but I -- this was not
14 -- I did not consider that to be a major part of my
15 mandate.

16 Q.30 - When you say publications what are you referring to?

17 A. They are -- the brochures on their website. I didn't ask
18 for copies of all such brochures and all such information
19 if that is what you are referring to.

20 Q.31 - Now are you aware that EGNB now provides equipment
21 installation of natural gas, based heat and hot water
22 systems in addition to its regulated natural gas
23 distribution delivery service and regulated EUG gas
24 commodity service?

25 A. I was aware that they were expanding in that

1

2 direction, yes.

3 Q.32 - And do you know to what extent EGNB bundles these three
4 services when presenting the services to customers?

5 A. No, I am not.

6 Q.33 - And have you accompanied EGNB during the development
7 and presentation of any of its customer proposals?

8 A. No, I have not.

9 Q.34 - And have you reviewed any of EGNB's customer proposals?

10 A. No.

11 Q.35 - Have you analyzed the potential for cross subsidy of
12 EGNB's unregulated equipment installation business by its
13 regulated distribution business?

14 A. No.

15 Q.36 - Is it correct that an important objective of your
16 review was to confirm compliance of the EGNB with the Gas
17 Distribution Act of 1999?

18 A. Yes.

19 Q.37 - And you included references to certain parts of the Gas
20 Distribution Act in your report? Specific' --

21 A. That's correct.

22 Q.38 - I am sorry.

23 A. Sorry, go ahead. I am sorry.

24 Q.39 - No, that's okay. Specifically, I just wanted to say
25 you mentioned the requirement to file a gas purchasing

1

2 plan and the requirement to file an annual financial report
3 and the requirements to publish rates, am I correct in
4 that?

5 A. Yes, you are.

6 Q.40 - Now is there any reason why you didn't mention in your
7 report the following requirement from the Gas Distribution
8 Act? And this is found at 69.1(j), "provide no
9 preferential sales leads to any gas marketer and refrain
10 from giving up any appearance that the gas distributor
11 speaks on behalf of any associated gas marketer." Is
12 there any reason why you didn't mention in your report
13 that requirement?

14 A. I did not consider that to be part of my -- the mandate
15 that I had to -- with respect to this review.

16 Q.41 - Now would it be your opinion that EGNB is in compliance
17 with requirements of Section 69.1(j) that I just read to
18 you?

19 A. From the review that I have done and the discussions that
20 I have had, I was of the opinion that they had -- let me
21 put it this way, some form of firewall in place and that
22 the information was not being transmitted between those
23 involved with the purchase and sale and those in the field
24 marketing for Enbridge. That was the information that I
25 had received, but as I have said before I did not

1

2 take specific steps to go into the field to check every
3 proposal, every sales call that was made or to follow up
4 on that. I was told -- I was given a description of how
5 they operated and considered that there was some form of
6 firewall in place.

7 Q.42 - Who provided you with the description that you just
8 referred to?

9 A. Mr. Paul Hamilton.

10 Q.43 - And aside from that you don't know -- aside from the
11 description then you have no other information?

12 A. Aside from that description and the general discussions
13 with other people in EGNB, that's correct.

14 Q.44 - Now is there any reason why you didn't mention the
15 following requirement from the Gas Distribution Act, again
16 it is Section 69.1(k), "allow no joint solicitation calls
17 on customers by personnel of the gas distributor and any
18 gas marketer unless a customer specifically requests a
19 joint meeting in advance in writing." So is there any
20 reason why you didn't mention that in your report?

21 A. Again, because I didn't consider that to be part of my
22 mandate. But I did ask questions as to whether those
23 involved in the purchase and sale of gas did accompany any
24 of the other personnel on sales calls and I was advised
25 they do not.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Q.45 - But it is not in your report?

A. No, it isn't. No, it isn't. The reason being that I didn't consider that it was a specific part of my mandate.

Q.46 - Is it your opinion that EGNB is in compliance with this requirement of Section 69.1(k) of the Gas Distribution Act?

A. Based on the information that I have been given, I would say yes, they are. But I have not as I said received any affidavits or other assurances from all that sections of the company that the sales personnel from EUG did not accompany any of those others. I am told they didn't, but I didn't -- I haven't taken steps to check that out or as you suggested accompany anyone on sales calls.

Q.47 - Is there any reason why you didn't mention the following requirement from the Gas Distribution Act, and it is Section 69.1(m), "not knowingly disclose to any gas marketer any confidential information obtained in connection with providing services to any other gas marketer or customer, a potential gas marketer or customer, or any agent of such customer or potential gas marketer unless authorized or required to disclose the information." Is there any reason why that you didn't mention this section in your report?

1

2 A. The only reason being that I didn't consider that a
3 significant part of the mandate or part of the mandate.

4 Q.48 - And again, Mr. Butler, I am going to ask you is it your
5 opinion that EGNB is in compliance with the requirements
6 of Section 69.1(m), which I can read again if you would
7 like me to --

8 A. Yes, please do.

9 Q.49 - -- of the Gas Distribution Act?

10 A. Okay.

11 Q.50 - I will read it again starting right now. It says, "not
12 knowingly disclose to any gas marketer any confidential
13 information obtained in connection with providing services
14 to any other gas marketer or customer, a potential gas
15 marketer or customer, or any agent of such a customer or
16 potential gas marketer unless authorized or required to
17 disclose the information." And so my question is, is it
18 your opinion that EGNB is in compliance with this
19 requirement under the Act?

20 A. I cannot comment on that.

21 Q.51 - And finally is there any reason why you didn't mention
22 the following requirement from the Gas Distribution Act,
23 and it is 69.1(n), and I will read it, it states as
24 follows, "ensure that employees of the gas distributor
25 having direct responsibility for the day-to-day operations

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of its operations, including employees involved in (1) receiving requests for distribution service or customer services from customers, (2) scheduling gas deliveries on the gas distributor's system, (3) making gas scheduling or allocation decisions, or (4) purchasing capacity on a transmission line or a pipeline by the United States Federal Energy Regulatory Commission are not shared with any gas marketer who is an associate or affiliate, but are physically separated from it and function independently of it."

Now, Mr. Butler, is it your opinion that EGNB is in compliance with this Section 69.1(n) of the Act?

A. Since I have not carried out any investigation of that, I can't comment on that. That would require a considerable amount of work to determine that that does not or could not take place.

Q.52 - And is there any reason why you didn't mention it in your report, and can I assume that you felt it wasn't part of your mandate?

A. That's correct.

Q.53 - Now in the section of your report entitled, "EUG Prices and Competitions", particularly at page 13 -- do you have your report in front of you?

A. Yes, I do.

1

2 Q.54 - Okay. And I believe it is page 13?

3 A. Yes.

4 Q.55 - You state that because EUG sales continue to grow, that

5 EUG prices were sufficiently competitive and that the

6 interest of customers were protected. Did I adequately

7 quote that or accurately quote that?

8 A. Yes, you did.

9 Q.56 - Now I note that in your report to the Board covering

10 2006, you did not provide an opinion on whether the prices

11 charged by EUG were sufficiently competitive. Further,

12 in your report for 2005, you also elected to exclude an

13 opinion on whether the EUG prices were sufficiently

14 competitive and in this report stated explicitly that you

15 did not offer an opinion on the competitiveness of EUG

16 rates. Moreover in the reports for 2004 and 2003, you did

17 not address the issue of whether EUG rates were

18 sufficiently competitive.

19 Now what was the basis for excluding an opinion on whether

20 the EUG rates were sufficiently competitive in reports for

21 2003 through to 2006? And why is it not that you believe

22 you can offer an opinion that the rates are sufficiently

23 competitive?

24 A. I would have to go back and look at those -- the reports

25 and my notes for those prior years as to why that

1

2 was not included. I certainly included it in its last year
3 because the growth of sales -- I considered that it was --
4 the growth of sales was such that it did demonstrate that
5 there was competitive. I thought that it would not
6 continue to grow at this rate if it was not competitive.
7 But I would have to go back and look at my notes I must
8 confess for 2006 and prior years to understand why -- to
9 recall why I didn't do that.

10 I have --

11 Q.57 - Were you -- I am sorry, were you going to say something
12 else?

13 A. No. I was trying to recall what had happened in those
14 prior years, and why I didn't -- was not as explicit in
15 those years. I am looking at the 2006 and I made the
16 comment that I have concluded that EUG prices were
17 reasonable, that the interest of the customers were
18 protected. So I did give some comment in that, even
19 though I didn't -- wasn't perhaps as quite as explicit in
20 -- as in 2007. For the 2005 year I also concluded that
21 the purchasing -- that the prices charged by EUG were
22 reasonable and that the interest of those customers were
23 protected.

24 So I gave some conclusion there, but perhaps not as
25 explicit in this last report.

1

2 Q.58 - Okay. Now is the growth of EUG sales the only metric
3 you relied upon to judge whether the EUG rates are
4 reasonable and sufficiently competitive to protect the
5 interest of customers?

6 A. It is the only guide that I used, yes.

7 Q.59 - And is it your opinion that it is appropriate to rely
8 on a single metric to determine whether rates are
9 reasonable and sufficiently competitive to protect the
10 interests of the customers?

11 A. It was -- it is the -- ideally it would be preferable to
12 see all of the rates that are being used to sell gas. But
13 that information was not available to me. This was the
14 only information that was available.

15 Q.60 - Is it your opinion that regulatory practice in Canada
16 sets standards and precedents for what is considered a
17 reasonable rate to be offered by a regulated utility?

18 A. I am sorry, would you say it again?

19 Q.61 - Sure. Is it your opinion that regulatory practice in
20 Canada sets standards and precedents for what is
21 considered a reasonable rate to be offered by a regulated
22 utility?

23 A. It's each regulatory agency establishes its own measures
24 with that. But it is not necessarily a precedent that
25 applies to other jurisdictions.

1

2 Q.62 - What about the just and reasonable standard would that
3 be applicable throughout?

4 A. Sorry?

5 Q.63 - That would be applicable throughout, would it not?

6 A. Oh, absolutely. That is applicable throughout, but that
7 is very subjective. Very dependent upon the circumstances
8 at any given time.

9 Q.64 - So is it your opinion that a rate that is reflective of
10 cost would be a reasonable rate?

11 A. Yes.

12 Q.65 - And is it your opinion that a rate that is
13 significantly above cost would not be a reasonable rate?

14 A. Again, it depends on the circumstances. As far as I am
15 aware, most jurisdictions -- jurisdiction in Canada where
16 the utility sells gas to its customers at anything other
17 than cost.

18 Q.66 - So would a rate that is significantly below cost be a
19 reasonable rate?

20 A. Depended upon circumstances.

21 Q.67 - Now, Mr. Butler, you mentioned the offering of several
22 alternative EUG rate plans, including the offering of a
23 rate plan that provides a one year fixed price. And this
24 is at page 10 of your report?

25 A. Yes.

1

2 Q.68 - Now with regard to this fixed price alternative EUG
3 rate plan, I have some questions for you. First of all,
4 have you analyzed the competitive impacts of offering that
5 fixed price rate plan?

6 A. No.

7 Q.69 - Now is it true that EUG could recover any difference
8 between the actual rate quoted and the true cost of
9 supplying a fixed price product to customers in the
10 subsequent years purchased gas variance account?

11 A. If it did, it would not be in compliance with the
12 regulations.

13 Q.70 - But the question is could it?

14 A. As it stands at the present moment, it could. But if it
15 did, it would not be in compliance. I certainly would
16 identify that, and then the action to be taken would be
17 determined by the Board.

18 Q.71 - I guess how would you go about verifying compliance?

19 A. By my review of all of the costs and revenues that are
20 applicable to that specific offering. I have access to
21 all of the files related to those offerings and they are
22 certainly on the radar screen for the review next year.
23 And as I identified in my report, there is one that runs -
24 - that it wasn't completed and it has to be reviewed in
25 detail this coming year, as the others will be reviewed.

1

2 Q.72 - Now I would like to talk to you about the conclusions
3 to your report. On page 13 of your report, you conclude
4 that EGNB-EUG was in compliance with the consolidated
5 regulations throughout 2007, is that correct?

6 A. That is correct.

7 Q.73 - And in addition to being in compliance with the
8 consolidated regulations, would you also conclude that
9 EGNB-EUB was in compliance with any and all Board orders
10 related to this consolidated regulations?

11 A. I did not look at each and every Board Order to ensure
12 that that was the case. If you have a specific instance
13 or any -- you can identify any that --

14 Q.74 - No, I will accept your answer.

15 A. Okay.

16 Q.75 - So given the need to establish a firewall, how do you
17 reconcile the use of the same accounts and the same staff
18 for both EGNB and EUG with your conclusion -- well with
19 your conclusion as stated in your report that they are in
20 compliance with the consolidated regulations?

21 A. The fact that I was not able to clearly identify any
22 instances where the firewall was not in place, was not
23 effective, was not there, I could make that statement.
24 The discussions as I have referred to earlier with respect
25 to the firewall suggests that there is such a

1

2 firewall in place, but it is impossible when people are

3 working in the same office to determine that the firewall

4 isn't being breached. But there are many, many instances

5 where that has been accepted, and as such, I was not in a

6 position to go further than I did I didn't believe.

7 Q.76 - Now, Mr. Butler, your report says that you examined the

8 issue of cross subsidy?

9 A. Yes.

10 Q.77 - And how -- could you give us a general definition of

11 cross subsidy?

12 A. Cross subsidy would be the -- either the regulated entity

13 or the EUG benefiting at the expense of the other.

14 Q.78 - Was your analysis of cross subsidy based on incremental

15 costs or fully allocated costs?

16 A. Would you define what you mean by that? Incremental costs

17 versus the other, what --

18 Q.79 - Well if I asked you to -- do you understand what

19 incremental costs mean?

20 A. There are many definitions of incremental cost, but I

21 assume that they are added costs that are additional to

22 something else.

23 Q.80 - That's correct. And do you understand what the term

24 fully allocated costs mean?

25 A. Yes, it is cost that are fully allocated to a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

particular account.

Q.81 - So was your analysis of cross subsidy based on incremental costs or fully allocated costs?

A. Fully allocated costs.

MR. THERIAULT: Thank you very much, Mr. Butler. That's all the questions I have and I thank you. It's a little difficult. I feel like Buck Rogers talking into the microphone, but thank you.

WITNESS: It is a unique experience for me, too.

CHAIRMAN: Mr. Hoyt, do you have any questions?

MR. HOYT: Yes, I have a few.

CROSS EXAMINATION BY MR. HOYT:

Q.82 - Mr. Butler, could you describe the process that you go through that resulted in your report to the EUB dated May 2008?

A. The process I go through?

Q.83 - Yes.

A. Yes. I received from Enbridge, I receive a couple of binders, large binders of all of the information that they consider is necessary for the review, which I then have an opportunity to go over and do an initial overview of them before going down to Fredericton to carry out the detailed review. I normally prepare a letter or questions which I need further information and forward that to them ahead of

1

2 time and I get the information, the additional information on
3 arrival in Fredericton. And the balance of the week is
4 spent reviewing in detail the information provided, which
5 is all of the costs -- covers all of the costs that have
6 been allocated to the EUG, all of the accounts of the EUG.

7 I review each one of them. I look at the account track
8 for the supply of gas and for the use of gas, how they
9 handle gas supply. I look at all of the invoicing that is
10 involved in balancing the gas supply. And I go through a
11 fairly detailed review of the account relations of the
12 PGVA each month and the rate calculation. I also test
13 individual invoices to make sure that the correct price --
14 the correct EUG rate is being used each month. And I
15 guess that's it in a nutshell. And make sure that the
16 PGVA is carried forward into that calculation of that
17 rate.

18 Q.84 - And you mentioned that you begin by reviewing a binder
19 of material. What type of material is provided to you?

20 A. It's the materials -- all of the financial material,
21 including their calculations, their forecast calculations
22 that they make each month, and the final calculations for
23 the rate -- for the EUG rate that is published on the web.

24 Q.85 - And would you review supply contracts?

25 A. I do.

1

2 Q.86 - How long would you spend doing this background work and
3 then your time at EGNB?

4 A. The review, the background review is probably a day, a day
5 and a half, something of that nature, since I now know
6 what I am looking for. And the work down in Fredericton
7 lasts for about a week. And then there is some additional
8 time for final checking, final adjustments to my report
9 and then completing the report and submitting it.

10 Q.87 - And what interaction would you have with EGNB staff
11 during that time?

12 A. I have interaction with Paul Hamilton mainly and with
13 others on staff as required. I have had no difficulty in
14 meeting with people and getting the information I have
15 asked for.

16 Q.88 - And what type of issues would be dealt with, how would
17 they be addressed?

18 A. Issues such as the salary allocation, any concerns I have
19 with respect to some of the contracts, the gas supply
20 contracts. The settlement arrangement that's currently in
21 place, and I refer to in my report with the -- that are
22 carried out each month to determine which marketer took
23 which gas at each of the delivery points. They are the
24 kind of issues that are raised.

25 Q.89 - And what would you do to assess the separation between

1

2 regulated EGNB and EUG?

3 A. The only thing that I have done, as I have described, is
4 to talk to Paul Hamilton and the various other personnel
5 that I deal with, as to their involvement and how the
6 books of EUG are kept compared to the EGNB accounts. I
7 also talk to the financial auditors to determine -- to
8 ensure that we are both on the same wave length,
9 especially in terms of the cross subsidization.

10 Q.90 - And what would you describe as your mandate from the
11 Board in preparing this report?

12 A. My mandate is, as described in the report, is to determine
13 the compliance that -- EGNB is in compliance with the
14 legislation and the specific portions of the regulation
15 that are mentioned in my report. As I say on page 6, to
16 review and assess the EUG-EGNB accounts and activities
17 associated with the purchase and sale of gas during the
18 preceding fiscal year and to determine if EGNB had
19 complied with the consolidated regulations.

20 Q.91 - Right. And so you didn't see your mandate as to work
21 through Section 69 of the Gas Distribution Act and assess
22 whether or not it was being complied with?

23 A. I did not see that as my mandate. And had others seen it
24 as my mandate, I would have expected them to revise this
25 as I -- in the intervening years.

1

2 MR. HOYT: Thank you, Mr. Butler.

3 CHAIRMAN: Thank you, Mr. Hoyt. Ms. Desmond, do you have
4 any questions.

5 MS. DESMOND: Yes, Mr. Chair.

6 CROSS EXAMINATION BY MS. DESMOND:

7 Q.92 - Mr. Butler, can you confirm to us your knowledge if
8 EGNB is a gas marketer?

9 A. EGNB is a gas marketer, but it is carrying the marketing
10 functions under the name EUG, Energy Utilities Gas --
11 sorry, Enbridge.

12 Q.93 - Does EGNB have a gas marketer's licence to your
13 knowledge? There is an application process, as you are
14 aware, for a party to become a gas marketer. Had EGNB
15 gone through the application process?

16 A. I understand they did.

17 MS. DESMOND: All right. Thank you very much.

18 CHAIRMAN: Anything further, Ms. Desmond?

19 MS. DESMOND: That's okay. Thank you.

20 CHAIRMAN: Mr. Theriault, anything come out of those
21 questions, anything further you want to ask?

22 MR. THERIAULT: No, thank you.

23 CHAIRMAN: Anything from the Panel? Mr. Butler, I guess
24 that concludes your part of the proceedings. So we can
25 hang up on you now unless you would like to listen in.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS: No, I think I will hopefully get a copy of the transcript and read it later.

CHAIRMAN: I guess our technician will disconnect you.

WITNESS: Thank you.

CHAIRMAN: Thank you for your time and your evidence today.

WITNESS: Thank you.

CHAIRMAN: I think we need another chair. Mr. Logan and Mr. Aucoin I think are the next witnesses. Lots of multi-tasking going on here today. Ms. Desmond, perhaps you swear or affirm these two witnesses.

(Andrew Logan, Jeff Aucoin - sworn)

CHAIRMAN: Mr. Theriault, any time you are ready.

MR. THERIAULT: Thank you, Mr. Chairman.

CROSS EXAMINATION BY MR. THERIAULT:

Q.1 - Mr. Logan and Mr. Aucoin, if you could each take a second or two and describe your background for us?

MR. LOGAN: Sure. My name is Andrew Logan. I am a partner with the chartered accounting firm of Teed Saunders Doyle here in Saint John. I received my chartered accountancy designation in 1989, practiced with a public accounting firm for 10 years, spent a couple of years in industry. And then in 1997 or '98, I joined Teed Saunders and joined their partnership in 2002. Since 2005, I have been financial consultant to the Utility Board in various

1

2 capacities assisting them in their duties. That's about it I
3 guess.

4 MR. AUCOIN: My name is Jeff Aucoin. I am senior manager
5 with Teed Saunders Doyle. I got my CA in 1996, spent a
6 number of years in industry as a corporate controller and
7 financial analyst. And current capacity at Teed Saunders
8 Doyle is in audit and assurance.

9 Q.2 - Thank you. I am sorry if I am yelling. I think I just
10 used to -- Mr. Logan, you have a long history of working
11 in accounting matters. How much of that work is focused
12 on regulated utility?

13 MR. LOGAN: Since 2005, I would say the majority of my work
14 with regulated utilities.

15 Q.3 - Now did you direct this project, this report that we are
16 here to discuss, did you direct this project on behalf of
17 Teed Saunders Doyle?

18 MR. LOGAN: That's correct.

19 Q.4 - And Mr. Aucoin, what was your involvement in this
20 project?

21 MR. AUCOIN: My involvement for the last three years has
22 been conducting field work. The first year was assisting
23 the previous Board consultant, Mr. Jim Easson. And our
24 firm has done the engagement I guess for the last two
25 years.

1

2 Q.5 - Now do either or both of you consider yourselves experts
3 or have a particular expertise on accounting and reporting
4 with respect to distribution companies within the natural
5 gas industry?

6 MR. LOGAN: My only experience has been with this
7 engagement, as directed by the Utility Board with EGNB. I
8 have no other experience other than in this particular
9 assignment.

10 MR. AUCOIN: And I would say my experience has been I guess
11 the first year training under Jim Easson.

12 Q.6 - And Mr. Easson was the previous Board --

13 MR. AUCOIN: Previous Board consultant, that's correct.

14 Q.7 - So it is fair to say that neither of you have conducted
15 a review engagement of a natural gas distributor other
16 than EGNB?

17 MR. LOGAN: That's correct.

18 MR. AUCOIN: That's correct.

19 MR. LOGAN: I would point out, however, for the last 23
20 years I have conducted I would say several thousand review
21 engagements on financial statements.

22 Q.8 - Yes.

23 MR. LOGAN: Which would be quite similar to what we have
24 done here on this particular assignment.

25 Q.9 - And when did you first do, Mr. Logan, a review

1

2 engagement on EGNB?

3 MR. LOGAN: I believe 2000' -- as Mr. Aucoin mentioned, we
4 piggybacked with Mr. Easson in the first year of cross
5 over when he was leaving the Board as the financial
6 consultant and when we were coming in. I believe that was
7 2005.

8 MR. AUCOIN: That's correct.

9 MR. LOGAN: And we would have done the assignment in '06 and
10 '07 on our own.

11 Q.10 - And what are the terms of reference for your review
12 engagement?

13 MR. LOGAN: We were basically asked by the Board to conduct
14 a review engagement, which is a defined process according
15 to the chartered accountancy rules, on the regulatory
16 prepared financial statements that EGNB prepares each
17 fiscal year.

18 Q.11 - Were you given these terms of reference in writing?

19 MR. LOGAN: I believe we do have an engagement letter on our
20 file from a few years ago, yes, when we were initially
21 assigned to the job.

22 Q.12 - And I am assuming it is not in your report?

23 MR. LOGAN: No. No, we would only update that if the terms
24 of reference changed significantly from one year to the
25 next.

1

2 Q.13 - And did you have copies of Mr. Easson's report when you
3 first began your review engagement?

4 MR. LOGAN: Yes, we did.

5 Q.14 - And any point up to present have either of you or any
6 member of your firm provided services to EGNB or any
7 affiliate of EGNB?

8 MR. LOGAN: Not that I am aware of.

9 MR. AUCOIN: No.

10 Q.15 - Now, gentlemen, I am interested in your transmittal
11 letter that accompanies your review engagement report. In
12 this letter, you make reference to the Gas Distributor's
13 Act 1999 and subsequent New Brunswick Energy and Utilities
14 Board Orders. First of all, your reference to the Gas
15 Distributor's Act, I am assuming is actually a reference
16 to the Gas Distribution Act?

17 MR. LOGAN: Correct.

18 Q.16 - And does your reference to EUB Orders, also refer to
19 Orders of the predecessor Board, the Public Utilities
20 Board?

21 MR. LOGAN: Correct.

22 Q.17 - And do you know if there is anywhere in the Gas
23 Distribution Act that refers to a review engagement
24 report?

25 MR. LOGAN: I am not aware of that currently, no.

1

- 38 -

2 Q.18 - And do you know if the Gas Distribution Act refers to
3 an audit of EGNB?

4 MR. LOGAN: I am not -- an audit of?

5 Q.19 - EGNB?

6 MR. LOGAN: Of what? Of their financial statements?

7 Q.20 - Yes, of their financial statements?

8 MR. LOGAN: They have two sets of statements. They have a
9 GAAP, or generally accepted accounting principal prepared
10 financial statement for the EGNB partnership. And they
11 also have a regulatory prepared financial statement.

12 Which one are you referring to?

13 Q.21 - The non-regulatory one?

14 MR. LOGAN: The GAAP prepared statement?

15 Q.22 - Yes. GAAP.

16 MR. LOGAN: Repeat your question, please?

17 Q.23 - And the question was do you know if the Gas

18 Distribution Act refers to an audit of EGNB?

19 MR. LOGAN: I am not aware if the Act refers to an audit. I
20 do, however, know that they do have an audit conducted.

21 Q.24 - And are you familiar with Regulation 99-62 under the
22 Gas Distribution Act?

23 MR. LOGAN: I am not currently familiar with that, no.

24 Q.25 - So you are not aware that this regulation is the gas
25 distribution uniform accounting regulation?

1

2 MR. LOGAN: I am not aware of that currently, no.

3 Q.26 - Can you -- and I am hoping you can help me here because

4 I had a hard time finding it and I don't know the answer.

5 But can you indicate which Board Order or Orders required

6 the development of a review engagement report? I think it

7 was the Order of June 2000, but do you have any --

8 MR. LOGAN: Not without researching the question. I do not

9 have that information in front of me, no.

10 Q.27 - And you say it's been since 2005 that you prepared

11 review engagement reports on EGNB's financial review?

12 MR. LOGAN: Under Teed Saunders Doyle it would have been '06

13 and '07. '05 was the year we -- Mr. Easson would have

14 authored the report. We assisted in the conducting of the

15 work.

16 Q.28 - Now is there any material difference between the report

17 you prepared for the year, end of December 31st 2006 and

18 the year ended December 31st 2007? For instance, your

19 findings are largely the same.

20 MR. LOGAN: Are you referring to the actual review

21 engagement report or the letter that would further --

22 provide further explanatory notes?

23 Q.29 - I will call it the transmittal letter is what I called

24 -- for instance in this one, there is the letter of June

25 26th 2008?

1

2 L MR. LOGAN: I would say there is not significant
3 differences, no.

4 Q.30 - Now according to the Canadian Institute of Chartered
5 Accountants, a review consists primarily of inquiry,
6 analytical procedures and discussions, is that correct?

7 MR. LOGAN: Yes. Well among other -- primarily there would
8 be some further -- I think if you are referring Section
9 8100, paragraph 19, I think it is fairly more involved
10 than that, but --

11 Q.31 - But primarily --

12 MR. LOGAN: -- but primarily that would be the gist of what
13 we do, yes.

14 Q.32 - So the Canadian Institute of Chartered Accountants goes
15 on to say that a review can be useful for companies not
16 legally required to file audited financial statements, but
17 when management or third parties want some assurance that
18 financial statements are plausible, would that be fair?

19 MR. LOGAN: Fair, yes.

20 Q.33 - And how does a review differ from an audit?

21 MR. LOGAN: It's in the level of assurance expressed by the
22 external accountant primarily. First of all, review
23 engagement does not give the same assurance level as an
24 audit in terms of ranking of assurance. For example, to
25 quantify the assurance given by an audit for -- most of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the testing that we would do or statistical sampling we do during an audit engagement would be to a confidence factor of 95 percent. So to quantify the number, 95 percent accuracy is sort of the audit evidence.

Review engagements are a different beast in terms of what we do. I think they fall somewhere inbetween the audited opinion or audited assurance that we would be getting and absolutely nothing. As you have mentioned in your commentary, it is about plausibility, about reasonableness. Those are the types of things that we are looking at.

Q.34 - So it is fair to say that a review is not as extensive as an audit and therefore provides less assurance and credibility to the financial statements?

MR. LOGAN: That would be correct.

Q.35 - And in conducting your review, what type of inquiries did you make and to whom at EGNB were these inquiries directed?

MR. LOGAN: Well that would be a long list, but in summary primarily the inquiries would be to Mr. LeBlanc, Ms. Stickles, whoever else we would need to talk to in the financial area to clarify or answer our questions or observations we might have. So there would be numerous people involved in that. But primarily in the financial

1

2 area.

3 Q.36 - And what type of inquiries? Is there specific types
4 that you can tell us about?

5 MR. LOGAN: Well, sure. Most of our review engagement
6 procedures are about explaining variances and differences
7 from year over year comparative analysis, corroborating
8 various bits of information that we would collect during
9 our procedures to make sure it sort of fits together into
10 a plausible puzzle. So most of our inquiries would be
11 requiring explanation of what accounts would be, the
12 nature of transactions and the reason for variances.

13 Q.37 - And in conducting your review, what analytical
14 procedures were you using?

15 MR. LOGAN: Primarily it would be comparative analysis to
16 historical information, corroboration of accounts that are
17 naturally linked together. For example, accumulated
18 amortization versus amortization expense. Things of that
19 nature, we would be looking at. General knowledge of the
20 business, making sure things that we are told make sense
21 in the broader picture. Things of that nature.

22 Q.38 - And in your -- in conducting your review, and you may
23 have touched on it briefly to my previous question about
24 inquiries, but what discussions were held and with whom?

25 MR. LOGAN: I would say that the bulk of our discussions

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would be held with Ms. Stickles and Mr. LeBlanc primarily. As I said earlier though, there would be others that were involved through the piece, but I would say the bulk of the questions were answered by those two individuals.

Q.39 - The Canadian Institute of Chartered Accountants states that plausibility is a guide for the CA preparing a review engagement report. I think we have established that already?

MR. LOGAN: Correct.

Q.40 - And they also state that the CA accepts financial information from the client and applies generally accepted standards for review engagements to determine the plausibility of the financial information?

MR. LOGAN: Mmmm.

Q.41 - I am sorry, but is that -- you have to say yes for the record?

MR. LOGAN: Yes. Yes.

Q.42 - In performing the 2007 review what financial information did you accept and from whom?

MR. LOGAN: The basis of our review engagement starts with a binder of financial information prepared by EGNB through Mr. LeBlanc's office. There would be numerous schedules in there supporting the doc' -- supporting the transactions and the balances included in the regulatory

1

2

prepared financial statements. We also review the audited

3

financial statements prepared by the external accountants

4

for the partnership. In terms of other financial

5

information, that's probably the bulk of it.

6

Yes. Mr. Aucoin mentioned you may have this question in a

7

bit, but primarily our beginning point is with the audited

8

financial statements that are prepared by

9

PriceWaterhouseCoopers. Those financial statements are

10

then modified or adjusted for regulatory purposes to

11

create the regulatory financial statements. So part of

12

our procedures would be to go through those regulatory

13

adjustments, ensure consistency with prior years, ensure

14

proper calculations, ensure compliance with Board Orders

15

and agree all of that information into the new financial

16

statements that are prepared for regulatory purposes.

17

Q.43 - And what generally accepted standards for review

18

engagements did you apply in conducting the 2007 review?

19

MR. LOGAN: What standards?

20

Q.44 - Yes.

21

MR. LOGAN: Are you referring to --

22

Q.45 - Well if you recall my original question was that CICA

23

states that the CA accepts financial information from the

24

client and applies generally accepted standards for review

25

engagements. So now I am asking what --

1

2 MR. LOGAN: Sure. Well I think you mentioned them earlier
3 in your commentary. But things like analytical review,
4 comparative analysis, discussion, inquiry, corroboration
5 with other aspects of the business area that we are
6 familiar with. Those are the types of the general
7 procedures that we would be performing.

8 Q.46 - Now again the Canadian Institute of Chartered
9 Accountants further states that the plausibility of the
10 financial information is dependent upon the CA's knowledge
11 of the client's operations and the industry, is that
12 correct?

13 MR. LOGAN: Yes.

14 Q.47 - And besides the financial statement, what other
15 knowledge of EGNB's operations do you have?

16 MR. LOGAN: We would know primarily, as part of our work and
17 as part of our documentation, we would be preparing a
18 knowledge of business section for our working paper files
19 where we would be looking at things like corporate
20 structure, reporting lines, nature of business, markets
21 served, nature of products, financing, just general
22 business aspects of it. And although the documentations
23 would not be as extensive as required for an audit, it
24 would be to some degree in that fashion. We also read
25 annual reports where we would be reading the audited

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

financial statements prepared by the external auditors, things of that nature.

Q.48 - And what knowledge do you have of the gas distribution industry in Canada and in the U.S.?

MR. LOGAN: Other than two or three courses that I have taken on the topic, that would be primarily it.

Q.49 - Now I think you stated EGNB undergoes an audit by PriceWaterhouseCoopers, did you say?

MR. LOGAN: Correct.

Q.50 - And you have seen the audited financial statements of EGNB?

MR. LOGAN: We have read them, yes.

Q.51 - And you have had the opportunity to compare the audited financial statements with the regulatory financial statements?

MR. LOGAN: We have.

Q.52 - And if so what differences what differences would you highlight for the 2007 fiscal year?

MR. LOGAN: Well we do have a schedule that -- in our file that would show the various adjustments. I think there were 16 or 17 adjustments made between two sets of financial statements. But primarily what we would be looking at is moving revenues and expenses that either permitted or not permitted under the Board Orders to

1

2 regulatory deferral accounts or regulatory adjustment accounts
3 within the equity structure of EGNB.

4 I think I might just further add, I was looking at that
5 this morning, that the net difference between the
6 financial statements, the audited financial statements and
7 the regulatory financial statements is a relatively
8 insignificant number.

9 Q.53 - Now focusing on your review for 2007, I just want to
10 make sure I have everything. So can you confirm that the
11 review consists of the 12 pages of commentary, plus an
12 Appendix A, which consists of 14 pages?

13 MR. LOGAN: I believe that is correct. There should also
14 be, and I am not sure if in your package -- there should
15 also be a stand alone page that is entitled, Review
16 Engagement Report.

17 Q.54 - Yes.

18 MR. LOGAN: Perfect. Yes. Then you have it all.

19 Q.55 - Thank you. I would be kind of worried if I didn't at
20 this point. With respect to Appendix A to your report,
21 can you confirm that this is a copy of the financial
22 results submitted by EGNB on March 4th 2008?

23 MR. LOGAN: I believe so, yes.

24 Q.56 - Now I have some questions with respect to the
25 commentary which is part of your review engagement report.

1

2 And I would like to start with the summary of the results on
3 page 2. The third paragraph where you state that EGNB
4 filed their financial information in the format ordered by
5 the Board for 2007 consistent with 2006, is that correct?

6 MR. LOGAN: Yes.

7 Q.57 - And what Board order are you referring to?

8 MR. LOGAN: I think that would refer to -- and maybe the
9 wording is a little -- I think that would refer to the
10 Board Orders over a period of time and not a specific
11 Board Order in particular.

12 Q.58 - To your knowledge has the Board ever defined the format
13 for EGNB's financial information?

14 MR. LOGAN: I am not sure if it has been defined from the
15 onset. I believe -- sorry, I wasn't sort of involved in
16 the initial set up of this back in 1999 or 2000, but I
17 think over the years they have been refined and changed in
18 compliance with Board Orders as directed from time to time
19 and as issues have arose.

20 Q.59 - Now on page 2 with reference to rate base income
21 allocation --

22 MR. LOGAN: Yes.

23 Q.60 - -- could you tell me what is meant by regulatory
24 income?

25 MR. LOGAN: Regulatory income would be the net income of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

operations after effect of regulatory adjustments. And as I mentioned earlier that may or may not differ from GAAP income, which is generally accepted accounting principal income.

Q.61 - And why is it this regulatory income -- why is it added to the rate base?

MR. AUCOIN: Are you referring to the addition to the deferral account at year end?

Q.62 - In your statement I think -- let me see if I can find it here. Might assume that in prior years EGNB allocated regular income to the rate base using a monthly weighted average percentage of unregulated earnings applied to the annual regulated results?

MR. LOGAN: I am sure as you are aware, the rate base includes a portion -- or not a portion of, but the deferral account. And I am sure we are going to talk about that in bit, but the deferral account would be calculated using the actual regulatory income and the permitted rate of return. And the combination of those two numbers gets added to the rate base every month to determine the -- determine rate of return if it's permitted on the rate base.

Q.63 - And I would love to talk about in length about the deferral account, but I got a feeling the Chairman and Mr.

1

2 Hoyt would probably stop me.

3 MR. LOGAN: You can save those questions for Mr. LeBlanc.

4 Q.64 - Now the regulatory income is that -- is it subject to a
5 rate of return?

6 MR. LOGAN: The rate of return is generally -- in terms of
7 the mechanics of how this calculation is flows is added
8 after the income is determined. But those two numbers,
9 the income and the permitted rate of return would be the
10 addition, the net addition to the deferral account on an
11 annual basis.

12 Q.65 - So it would be subject to a rate of return?

13 MR. LOGAN: Yes.

14 Q.66 - And what would be the rate of return that it is subject
15 to?

16 MR. LOGAN: Well it is a blended rate of return. It is
17 blended based on equity and cost of debt. And for 2007,
18 it is 9 point something percent. I think it is in the
19 financial statement somewhere. 9.7 percent. Which would
20 be found Appendix A, page 12 of 14.

21 CHAIRMAN: Mr. Theriault, I think this might be a good time
22 for a morning break.

23 MR. THERIAULT: Sure.

24 CHAIRMAN: So we will take a break for about 15 minutes.

25 (Recess - 10:58 a.m. to 11:15 a.m.)

1

2 CHAIRMAN: Welcome. Anytime you are ready, Mr. Theriault.

3 MR. THERIAULT: Thank you, Mr. Chairman.

4 Q.67 - Now Panel, I would like now to turn to -- again staying

5 at page 2 of your report dealing with interest expense.

6 Is it correct to interpret your statement under this

7 section that the interest expense on long-term debt is not

8 the actual interest on long-term debt?

9 MR. LOGAN: That is correct. And when you say actual, I

10 assume you mean it to be audited interest expense under

11 generally accepted accounting principles?

12 Q.68 - That is correct.

13 MR. LOGAN: Yes.

14 Q.69 - Is it correct that your statement says that the

15 interest expense on long-term debt is determined by

16 applying the regulatory approved interest rate to rate

17 base assets?

18 MR. LOGAN: Yes.

19 Q.70 - Do you know why actual interest expense on long-term

20 debt would not be used?

21 MR. LOGAN: Other than if it was ordered by the Board you

22 can use the methodology that is encompassed in the

23 regulatory financial statements.

24 I don't -- I haven't read the decision and rationale

1

2 and supporting information as to why that was ordered.

3 Q.71 - And do you know what Board Order that was?

4 MR. LOGAN: Not off the top of my head, no, I do not.

5 MR. HOYT: Mr. Chair, if I could, as you pointed out at the
6 beginning of the hearing, the Board issued a letter citing
7 the parameters for the hearing and itemizing five areas
8 that questions would be entertained on. And interest
9 isn't one of them.

10 MR. THERIAULT: If I may?

11 CHAIRMAN: Yes, Mr. Theriault.

12 MR. THERIAULT: Clearly, I mean, I understand what Mr. Hoyt
13 is talking about. And I'm doing my level best to stay
14 within the parameters of what the Board issued.
15 But clearly, I mean, a review of the financial report,
16 this is clearly a heading in Mr. Logan's document. And
17 that is the central purpose of what we are here, is to
18 review the financial reports.

19 I mean, I don't intend to belabour the issue. But I would
20 like to be able to ask questions on enumerated headings
21 that he has listed in his report.

22 CHAIRMAN: Mr. Hoyt, that seems to make some sense. Do you
23 have any comment as to why some heading in these financial
24 reports would not be subject to the questioning,
25 particularly since he is dealing with the 2007 reports?

1

2 MR. HOYT: Right. But again referring to the Board's letter
3 of October 24th that indicated that the two consultants
4 and Mr. Butler would be available in EGNB and that the
5 Board would only permit questions on the following topics,
6 reasonableness of actual capital expenditures, amounts
7 paid for services by affiliates, amounts paid for
8 marketing, purchase and sale of gas and impact on gas
9 distribution.

10 And I don't -- otherwise the argument that
11 Mr. Theriault is making would apply to everything that is in
12 this financial report.

13 And clearly I think that the directive from the Board was
14 that this today, which was scheduled to all be done in a
15 day, would focus on five specific areas.

16 MR. THERIAULT: Also, if I just may, Mr. Chairman, if you
17 read the letter sent to both Mr. Hoyt and myself, the
18 second paragraph, after it talks about the public hearing,
19 it says Mr. Logan and Mr. Butler will be available to
20 answer questions relevant to their reports.

21 I mean, I can't be any more relevant to his report than a
22 specific enumerated section.

23 MR. HOYT: If I may, I mean, it is easy to pull a provision
24 out. If you keep going though it also says
25 representatives from EGNB will be present to answer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

questions from interested party on their operations.

That logic would mean that everything is open for discussion today when clearly the next paragraph laid out the parameters for this proceeding.

MR. THERIAULT: I guess the only comment I would have on that is with respect to the witnesses of EGNB certainly would be to the parameters listed in the Board's letter. But again I will leave it to the Board. I mean, my position is pretty clear.

CHAIRMAN: Does anybody have a copy of Mr. Theriault's letter of October the 15th, because that is what it references?

MR. THERIAULT: What was the date of that letter, Mr. Chairman?

CHAIRMAN: It references your letter of October 15th.

MR. THERIAULT: That is probably in my computer.

CHAIRMAN: It is October 15th.

MR. THERIAULT: The 15th or the 14th, Mr. Chairman?

CHAIRMAN: Well, I'm just referencing the letter from the Board that went out on October 24th. This references your letter of October 15th. I don't know if maybe that was an error. Maybe it should have read some other date.

MR. HOYT: It is the 15th.

MS. DESMOND: Mr. Chair, I believe it is in the binders

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

under tab 4(e).

CHAIRMAN: 4(e). Mr. Hoyt, I'm going to go back to the letter that Mr. Theriault sent. Because I believe the letter that went out from the Board was essentially a clarification of some of the issues that were raised by him that he wished to have looked at at this time.

But the Board Order refers to an annual review of EGNB's financial results and the sale of natural gas. And this hearing is in conjunction with that review.

To preclude Mr. Theriault from asking questions in the financial reports I think would be narrowing the scope of what we are doing here. Quite frankly I think it would be narrowing it too far.

The letter from the Board is intended to the deal with the issues raised by Mr. Theriault and to a certain extent to exclude certain things that he wished to investigate at this point in time as being not within the scope of the review of the 2007 financial results.

But when you consider what we are here for today it is to review the 2007 financial results. So I think that the question is appropriate and is one that we would have quite frankly expected to have questions such as that.

Now if we go back to Mr. Theriault's letter, for example, he wanted to talk about the reasonableness for

1

2 example of the rate of return and that was not something that
3 we felt, you know, was appropriate to deal with in the
4 review of financial results. But to ask a question on why
5 something is in the report for this year to me is very
6 appropriate.

7 If you have something further, some other reason you feel
8 that it should not be allowed, now is your opportunity.

9 But it seems to me that it is precisely the type of
10 question we would have anticipated.

11 MR. HOYT: Mr. Chairman, it is quite different than our
12 understanding based on the direction that came from the
13 Board.

14 CHAIRMAN: Well, if in some way that causes some difficulty
15 for your witnesses in terms of the level of preparation
16 they might have for today's hearing, we will certainly
17 take that into consideration when we proceed forward.

18 But with respect to the questions to this witness panel at
19 this point in time, I'm going to allow the question.

20 MR. THERIAULT: Now I think I forget where I was.

21 Q.72 - I think we were discussing, Mr. Logan, the Board Order
22 and if you knew which Board Order?

23 MR. LOGAN: Yes. And the answer to that was not
24 specifically, no.

1

2 Q.73 - Do you know if this -- do you know if this regulatory
3 approved interest rate has changed since its
4 implementation?

5 MR. LOGAN: Since the implementation of the Board Order?

6 Q.74 - Yes.

7 MR. AUCOIN: How it is calculated I don't believe has
8 changed.

9 MR. LOGAN: I believe it has -- I mean, in terms of the
10 quantum of the figure I believe it has changed. In fact
11 if you look in the financial statements I believe there is
12 a schedule that shows the calculation.

13 It would be on -- it is Appendix A, page 5 of 14. You can
14 see that the rate has changed year over year from '06 to
15 '07 from 6.47 percent to 6.40 percent.

16 It does fluctuate if that was your question. The
17 methodology calculation as Mr. Aucoin has pointed out has
18 not changed.

19 Q.75 - Do you have an opinion as to the reasonableness of the
20 amount of the interest expense on long-term debt?

21 MR. LOGAN: Could you clarify what you mean by my opinion?

22 Q.76 - Your professional opinion. You are here today as an
23 expert witness to offer as to its correctness or as to its
24 reasonableness of the amount of interest expense on long-
25 term debt.

1

2 CHAIRMAN: Mr. Theriault, I wonder if now we aren't sort of
3 moving into that area of dealing with the reasonableness
4 of the rate of return. I think the witness is prepared to
5 talk about the correctness of the calculations.

6 Q.77 - Okay. In your report do you express an opinion as to
7 the reasonableness of the amount of interest expenses on
8 long-term debt?

9 MR. LOGAN: In the context to its accuracy of calculation
10 and the terms of the Board Order we would -- that would be
11 the context that we would express an opinion of
12 reasonableness.

13 Not in a broader context of whether it makes sense in the
14 open market or not. I'm not qualified to answer that
15 question.

16 Q.78 - Okay. Thank you.

17 With respect to the inclusion of interest on short-term
18 debt, when you mentioned that EGNB was able to, and I
19 quote, "Effectively demonstrate to us the total rate-based
20 assets have not been adequately financed by their capital
21 structure"?

22 MR. LOGAN: Correct.

23 Q.79 - And how were they able to demonstrate this.

24 MR. LOGAN: They provided a historic analysis of their rate
25 base. And I believe the analysis went back to the

1

2 beginning of operations, 2000 or '99. And what we looked at -
3 - it was prepared on a monthly basis.

4 But we were looking at the expenditures that were incurred
5 and the level of long-term financing that was in place as
6 those expenditures were incurred, and the necessity of
7 EGNB to have short-term borrowings on hand or to be able
8 to attract short-term borrowings to help finance those
9 activities over a period of time.

10 Q.80 - And what data if any did you see in order to support
11 this conclusion?

12 MR. LOGAN: The data consisted of numerous spreadsheets
13 demonstrating the historical transactions that occurred.
14 As I said, I believe they were prepared on a monthly basis
15 from the year 2000 forward.

16 Q.81 - And did this situation just surface in 2007? Or was it
17 present in prior periods?

18 MR. LOGAN: No. It was present in prior periods. And I
19 think in our report we make reference to Mr. Easson's
20 comments on the exact same issue back in -- I think it
21 says '02 and '03. But the reason why it sort of was
22 flagged a little more this year was because the particular
23 item had increased in quantum.

24 And as we talked about earlier in our conversation, one of
25 the things we do on a review engagement is analyze

1

2 variances. And if a variance is significant we would want to
3 follow up and understand why that occurred.

4 Q.82 - With respect to the issue of interest on short-term
5 debt, are you proposing an allowance for working capital
6 as an alternative?

7 MR. LOGAN: Yes. When we were looking at that particular
8 issue I think some of our discussion -- and this was with
9 Mr. LeBlanc and Ms. Stickles -- was there may be a more
10 accurate way to reflect that expense in the regulatory
11 financial statements.

12 And I believe in my notes in here we say that they were
13 going to undertake to maybe refine that calculation for
14 2008. And of course as part of that process we would be
15 looking at that refined calculation methodology.

16 Q.83 - Okay. Is there any reason why this proposal is not
17 included as a recommendation in your report?

18 MR. LOGAN: Normally speaking we wouldn't be making
19 recommendations as part of a review engagement. We had
20 been asked by the Board to provide a review engagement
21 report.

22 And really if there is a contentious issue or something
23 that we disagree with, it would be included in our report.

24 And it would be up to the Board to decide how that was to
25 be dealt with.

1

2 Q.84 - Okay. And if allowance for working capital is used as
3 a substitute for interest on short-term debt, will this
4 allowance be included in the rate base?

5 MR. LOGAN: Yes.

6 Q.85 - And if it were included in the rate base what rate of
7 return would be applied to it?

8 MR. LOGAN: I'm assuming it would be the Board-ordered rate
9 of return for debt.

10 Q.86 - And would this rate of return be different from the
11 interest rate on short-term debt?

12 MR. LOGAN: I have no idea. We are sort of speculating,
13 because this is something that would be occurring in
14 future.

15 Q.87 - Okay. And in your report do you express any opinion as
16 to the prudence of the interest expense?

17 MR. LOGAN: I'm not sure if we specifically indicate. I
18 don't recall if we specifically talk about that. But in
19 the general context of the financial statements we would
20 be expressing that we are satisfied to the plausibility
21 and reasonableness of those figures.

22 Q.88 - Now on page 3 with respect to revenue, you state that
23 total revenue is increased by \$8,161,000 and that this
24 result was achieved principally as a result of the
25 additional connections in '07.

1

2 Was there an increase in distribution rates approved by
3 the Board for '07?

4 MR. LOGAN: I cannot recall that information right
5 currently.

6 Q.89 - Well, I will suggest to you that there was.

7 And so would you have any idea as to what percentage of
8 \$8,161,000 increase in revenues is attributable to an
9 increase in rates and what is attributable to an increase
10 in connections?

11 MR. LOGAN: I wouldn't be able to tell you that currently,
12 no.

13 Q.90 - Do you know if this information -- or would this
14 information not be available from EGNB?

15 MR. LOGAN: I'm sure it would.

16 MR. HOYT: Mr. Chairman, this is all based on a premise that
17 isn't even accurate. There was no rate increase in '07.

18 MR. THERIAULT: I will have to go back and check my
19 question.

20 CHAIRMAN: There was a decision in '08. But in '07 I'm not
21 familiar with one either.

22 MR. THERIAULT: I will go back and check my question.

23 Q.91 - Now we will move on to operating maintenance expenses?

24 MR. LOGAN: Yes.

25 Q.92 - You defined industry development costs as costs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

primarily related to the development of the industry.

Now this definition provides no information on the makeup of these costs does it?

MR. LOGAN: Not specifically, no.

Q.93 - Could you indicate what these costs are and what sub accounts are used to record these costs?

MR. LOGAN: Industry development costs would include things like marketing expenses, incentive programs, things of that nature.

I would probably have detailed information in our working paper file in terms of reconciling the amounts found in the financial statements to the underlying general ledger accounts. But I don't have that information in front of me.

Q.94 - Now in your report do you express any opinion on the prudence of plant development costs?

MR. LOGAN: Again in the general context of our overall opinion on the financial statements, I think you could take -- conclude that we found all the financial statements to be reasonable and plausible in the circumstances.

Q.95 - And in your report do you express any opinion on the prudence of industry development costs?

MR. LOGAN: I think the same answer would apply that I just

1

2 mentioned.

3 Q.96 - And in your report do you express any opinion on the
4 prudence of administration costs?

5 MR. LOGAN: Again the same answer.

6 Q.97 - Now on page 4 with respect to deemed capital taxes, can
7 you tell me why this is referred to as capital taxes?

8 MR. LOGAN: Capital taxes are -- used to be a federally
9 legislated or provincially legislated tax on the capital
10 of a particular entity, taxable entity and not on the
11 income.

12 So tax -- deemed capital taxes would be calculated a set
13 rate. And the reason I said formerly, the federal number
14 has been set to zero, basically eradicated. So it is just
15 a provincial figure now.

16 But it is a deemed rate applied to the capital of the
17 corporation to create a tax, a taxable amount due to the
18 Minister.

19 Q.98 - Can you explain to me what is the value in calculating
20 taxes for an entity that does not pay them?

21 MR. LOGAN: Well, in the regulatory field, deemed taxes are
22 a pretty standard feature. I think what we are trying to
23 do here -- and again this is a bit of a theoretical
24 discussion -- but we are trying to akin the regulatory
25 entity to a company that would be working or operating in

1

2 a competitive marketplace under normal rules. So we are
3 trying to equate the two situations.

4 Q.99 - I see what you are saying. Now just by way of
5 clarification so that we don't have an influx of companies
6 coming into New Brunswick, I'm assuming in your report
7 there you meant that it is 20 percent and not .20 percent?

8 MR. LOGAN: No. It is .20 percent.

9 Q.100 - Is it .20? Okay.

10 MR. LOGAN: Remember it is on the capital of the
11 corporation, right. So the capital is a very large
12 number.

13 Q.101 - Okay.

14 MR. LOGAN: So if it was 20 percent we wouldn't have any
15 business in New Brunswick.

16 Q.102 - On page 5 with respect to amortization of property,
17 plant and equipment, now I'm just simply going to ask, in
18 your report do you express an opinion with respect to the
19 prudence of the amortization expenses?

20 MR. LOGAN: When you say prudence I'm assuming you mean in
21 the context of what we were engaged to do in terms of
22 expressing a review engagement opinion on the financial
23 statements?

24 Q.103 - I guess -- no. When I say prudence I'm referring to
25 whether they are prudent costs leading to just and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

reasonable rates. And that may be different from what you were engaged to do. I'm not sure.

MR. LOGAN: Well, as we mentioned earlier on, our engagement was to provide a review engagement opinion on the regulatory and financial statements.

As to the prudence of the underlying costs and whether or not they support just and reasonable rates, I think that was a little bit beyond the context of what we were employed to do.

However, you know, if I define prudence as were the numbers accurately calculated and correctly reported, I would answer yes in the context of what we said in our review engagement report.

Q.104 - And then on page 5 with respect to amortization of deferred development costs, again in your report do you express an opinion with respect to the prudence of the deferred development costs?

A. And the answer would be -- again in the context of what we were engaged to do, the answer would be yes.

Q.105 - Now on page 6 with respect to regulatory return on equity, again do you express an opinion with respect to the prudence of the regulated return on equity of 13 percent?

MR. HOYT: Mr. Chair, this is one specifically that was

1

2 requested in Mr. Theriault's letter and that the Board didn't
3 include in its direction.

4 MR. THERIAULT: But again he refers to it in his report.

5 I'm simply asking if he has expressed -- and that is the
6 only question I believe I have on it.

7 Is he referring to the -- is he expressing an opinion as
8 to the prudence of that particular number? Or has he
9 simply, as he answered in his previous question, simply
10 answering and verifying the numbers?

11 CHAIRMAN: I think that is a fair question.

12 MR. LOGAN: The answer would be, as I mentioned previously,
13 we make no opinion as to the prudence of 13 percent.
14 However the calculations supporting the numbers that
15 appear in the financial statements would fall under and be
16 encompassed by our review engagement report.
17 So within that context we would have an opinion on that
18 figure.

19 Q.106 - Now in your report do you express an opinion with
20 respect to the prudence of the regulated rate of return of
21 equity of \$17,707,000?

22 MR. LOGAN: We would -- we would say that the figure was
23 calculated correctly using the proper inputs and that the
24 number was correctly reported in the financial statement.
25 And again it would be covered by a review engagement

1

2 report.

3 Q.107 - Okay. Thank you. On page 6 with respect to

4 regulatory deferral, again do you express an opinion with

5 respect to the prudence of the total increase in the

6 deferral account of \$15,741,000?

7 MR. LOGAN: Again in terms of what we did and were engaged

8 to do and in terms of the expression -- of the opinion

9 expressed in our review engagement report, I would say

10 yes, we would be in concurrence with that figure.

11 Q.108 - Again on page 7 of your report dealing with property,

12 plant, equipment, development, O&M capitalized costs?

13 MR. LOGAN: Yes.

14 Q.109 - And then also I'm going to ask you the same question

15 with respect to deferred development cost. And on page 8

16 with respect to the regulatory deferral and the short-term

17 investments.

18 MR. THERIAULT: I'm going to try to streamline things,

19 Mr. Chairman.

20 Q.110 - With respect to the property, plant, equipment,

21 development, O&M capitalized costs on page 7, the same

22 question is being put to you.

23 In your report do you express an opinion as to the

24 prudence of investment and property? Would your answer be

25 the same as it was --

1

2 MR. LOGAN: Correct.

3 Q.111 - -- previously? Okay. And the same with respect to
4 deferred development costs, if the question were put to
5 you would the answer be the same?

6 MR. LOGAN: Correct.

7 Q.112 - Now on page 8 with respect to the regulatory deferral
8 do you express an opinion as to the prudence of the
9 balance as recorded at December 31st 2006? It would be
10 the same answer?

11 MR. LOGAN: Correct.

12 Q.113 - And in your report do you express an opinion as to the
13 prudence of the regulatory return on equity of 17,700,000?
14 Would it be the same answer?

15 MR. LOGAN: Correct.

16 Q.114 - And under -- and on page 8 under short term
17 investment, I see and believe you had made an assumption
18 that the deposit with M&NP Pipeline is a regulatory asset?

19 MR. LOGAN: We have made an assumption?

20 Q.115 - Well, you have referred to it as a regulatory asset?

21 MR. LOGAN: Yes.

22 Q.116 - And can you cite any regulatory reference that would
23 support this?

24 MR. LOGAN: Other than historically it has been included in
25 rate base since the operation began. That would be the

1

2 only evidence that I have seen. So in terms of its
3 appropriateness it has not been removed.

4 Q.117 - And do you know if this deposit is a one-time item?

5 MR. LOGAN: I'm not so sure about discussing the details of
6 this particular agreement. My understanding of this
7 agreement is a confidential document.

8 And although we were allowed to review it during the
9 course of our review engagement, I'm not sure about
10 expressing details of what is contained inside the
11 document.

12 Q.118 - And I will ask you -- and maybe if you can answer it,
13 if you feel comfortable answering it -- you have seen the
14 firm services agreement then?

15 MR. LOGAN: We have reviewed it, yes.

16 Q.119 - And do you know if this deposit will be returned at
17 some future date?

18 CHAIRMAN: Mr. Hoyt, if you have any issues here with
19 respect to confidentiality please --

20 MR. HOYT: No, thank you.

21 MR. LOGAN: I will -- I cannot specifically recall if there
22 was a refund provision. Although I think there is.
23 Although it is not really concrete. But I believe that
24 there is.

25 We do not have a copy of the agreement in our file.

1

- 71 -

2 We were only allowed to review it and then had to return the
3 original document. No copy.

4 Q.120 - If this deposit is included in the rate base what rate
5 of return does it earn?

6 MR. LOGAN: I believe it is the blended rate of 9.7 percent.

7 Q.121 - Now on pages 8 and 9 there is discussion of related
8 party transactions?

9 MR. LOGAN: Yes.

10 Q.122 - And in your report do you express an opinion as to the
11 prudence of the costs associated with the related party
12 transactions?

13 MR. LOGAN: Again in the general context of what we were
14 engaged to do, I would say yes. The answer is we did
15 review the reasonableness and plausibility of those
16 particular expenditures.

17 Q.123 - Okay. There is a statement in this section that
18 "Professional services provided by affiliates are often
19 for services that cannot be obtained in New Brunswick."
20 That is correct?

21 MR. LOGAN: Could you just refer me to -- you are on page 9
22 or page 8? I see. You are on page 9?

23 Q.124 - Yes.

24 MR. LOGAN: Fourth paragraph?

25 Q.125 - Yes. And who at EGNB made this claim?

1

2 MR. LOGAN: I believe that was made by either Mr. LeBlanc or
3 Ms. Stickles.

4 Q.126 - And how did you verify whether this claim was
5 reasonable?

6 MR. LOGAN: By discussion primarily with them in terms of
7 the nature of the different services that would be -- that
8 they would be requiring.

9 MR. THERIAULT: I'm going to go into a whole different
10 aspect of questioning. I don't know if the Board -- if
11 you want to break now for lunch.

12 CHAIRMAN: Well, the Board I guess took the liberty of
13 ordering lunch for everybody in order to facilitate the
14 possibility of concluding this hearing today. So I think
15 that until somebody signals to us that lunch is here, I
16 think probably we will continue.

17 This might be an opportunity to discuss the nasty storm
18 that is currently under way. And the Board is certainly
19 prepared to continue for the rest of the day to deal with
20 this matter.

21 But if there is anybody that feels that it is not prudent
22 to stick out the storm and they feel that perhaps we
23 should adjourn, you know, feel free to speak up. We
24 certainly don't want to see anybody get hurt in a traffic
25 accident.

1

2 VICE-CHAIRMAN: And by prudent, Mr. Logan, we mean it.

3 CHAIRMAN: All right. So we will just continue there until
4 we know that lunch is here.

5 MR. THERIAULT: Mr. Chairman, I want to provide the witness
6 and everyone here with copies of the first 18 pages of
7 Regulation 99-62 entitled "Gas Distribution Uniform
8 Accounting Regulation, Gas Distribution Act 1999", just
9 for ease of reference.

10 CHAIRMAN: Okay. This might be a good time -- in the
11 morning I don't know if -- I don't believe Mr. Roberts got
12 his name on the record. So the Department of Energy is
13 represented here today by Mr. Steve Roberts.
14 Mr. Roberts, I understand by the way that you are
15 appearing as an observer, that it wasn't your intention to
16 participate?

17 MR. ROBERTS: That's correct.

18 Q.127 - Now gentlemen, subject to check would you agree that
19 these pages, these 18 pages both describe the duties of
20 gas distributors and keeping accounts and also provide a
21 portion of an appendix that describes a uniform system of
22 accounts for gas distributors?

23 MR. LOGAN: I would agree with that subject to check.

24 Q.128 - Thank you. And I would ask you to refer to Section 2
25 (b) and (c) which is on pages 1 and 2 of the Regulation?

1

2 MR. LOGAN: Mmmm.

3 Q.129 - And would you agree that this section states that
4 every gas distributor shall keep its accounts in the
5 manner set out in the appendix to this Regulation entitled
6 Uniform System of Accounts for Gas Distributors and keep a
7 system of accounts as prescribed in the appendix to this
8 Regulation?

9 MR. LOGAN: Yes, I would agree that it says that.

10 Q.130 - And does EGNB keep a system of accounts as prescribed
11 in the appendix to Regulation 99-62? If you want to take
12 a few minutes to go through it just to make sure.

13 MR. LOGAN: Yes. I would -- subject to check I would -- I'm
14 just scanning through some of these account headings. I
15 would suggest that EGNB, at least to the best of my
16 recollection, would have a chart of accounts similar to
17 this.

18 You know, I would have to check to see if the exact
19 headings were the same. And the particular account codes
20 may or may not be quite the same.

21 But in terms of the detail provided within their general
22 ledger system, I recognize most of these items.

23 Q.131 - And so have you seen this system of accounts in any
24 material presented to you by EGNB?

25 MR. LOGAN: We would have a working trial balance and a

1

2 general ledger that would be -- that we would have received
3 from EGNB.

4 Q.132 - Now do you know if EGNB's regulatory statements are
5 prepared with a system of accounts as prescribed in the
6 appendix to Regulation 99-62?

7 MR. LOGAN: Again subject to check. And in terms of these
8 account codes I'm not sure. However the accounts that we
9 do -- the trial balance information that we receive from
10 EGNB and the general ledger information does feed into the
11 regulatory prepared financial statements. We would be
12 checking that as part of our procedures.

13 Q.133 - Now I would like to look at this system of accounts as
14 described in the Regulations that I just handed out.
15 On page 6 under Account Structure there is reference to
16 general accounts and detailed accounts?

17 MR. LOGAN: Yes.

18 Q.134 - Now general accounts are the primary accounts that
19 form the general ledger. And detailed accounts are the
20 subdivisions of certain general accounts, is that correct?

21 MR. LOGAN: That would be my understanding, yes.

22 Q.135 - And so for example on page 6, general accounts
23 included current assets and current liabilities. And on
24 pages 8 and 9 the detailed accounts for current assets and
25 current liabilities are described, would that be correct?

1

2 And take a few minutes to look at that.

3 MR. LOGAN: I would say that looks correct, yes.

4 Q.136 - Now can you tell us where the current asset general
5 account is explicitly identified in the regulatory
6 financial statement submitted by EGNB for 2007?

7 MR. LOGAN: Could you repeat that question?

8 Q.137 - Sure. Can you tell us where the current asset general
9 account is explicitly identified in the regulatory
10 financial statement submitted by EGNB for '07?

11 MR. LOGAN: It would be Appendix A to our report. On page 1
12 of 14 is their regulatory balance sheet for regulatory
13 purposes. And the caption, Non-regulated Assets
14 24,028,000.

15 Q.138 - So that would be what you are referring -- the current
16 assets then?

17 MR. LOGAN: That is my understanding. Again subject to
18 check in my working paper file to see if there are any
19 other accounts included in a line item. That is where the
20 current assets would be contained.

21 Q.139 - So there is no detail on these accounts in the
22 regulatory statement?

23 MR. LOGAN: Generally speaking it is my observation that
24 most financial statements contain a large degree of
25 consolidation in terms of putting accounts together.

1

2 Detail is often found in the notes which you can see in
3 this case. There are some further explanatory notes on
4 some of these balances, but not on this particular one.

5 Q.140 - Now can you tell us where the current liability
6 general account is explicitly identified in the regulatory
7 financial statements submitted by EGNB for 2007?

8 MR. LOGAN: Again on the same statement, down near the
9 bottom of the page you see a line called Non-regulated
10 Liabilities for 23 million 217'.

11 Q.141 - How would you know that these are current liabilities?

12 MR. LOGAN: How would we know or would the reader know?

13 Q.142 - How would you know?

14 MR. LOGAN: How would I know?

15 Q.143 - Yes.

16 MR. LOGAN: We would be tracing each of those balance back
17 to an accumulation of accounts in their trial balance.

18 And within those numbers and figures we would see detail
19 of the various current asset and current liability
20 accounts that we have just been speaking of.

21 Q.144 - On page 13 of Regulation 99-62 there is a list of
22 distribution plant accounts.

23 Can you indicate where these accounts are identified in
24 Appendix A to your report?

25 MR. LOGAN: I believe that, again on page 1 of 14 at the

1

2 top under Regulated Assets we see a line called Property,
3 Plant and Equipment --

4 Q.145 - Right.

5 MR. LOGAN: -- 118 million 027'.

6 Q.146 - Yes.

7 MR. LOGAN: Which is also referenced to Note 1 to the
8 financial statements.

9 Q.147 - Okay.

10 MR. LOGAN: And in Note 1 to the financial statements there
11 is further detail provided, as I mentioned a few minutes
12 ago, on what makes up this balance.

13 Q.148 - Do you know if these accounts are consistent with
14 Regulation 99-62?

15 MR. LOGAN: Without checking, my understanding or my
16 impression is yes, that they are in conform' -- they do
17 conform with the requirements of detail as expressed in
18 99-62.

19 Q.149 - On page 15 of Regulation 99-62 there is a list of
20 distribution operation expense account. And can you
21 indicate where these accounts are identified in Appendix A
22 to your report?

23 MR. LOGAN: Again in Appendix A, this time on page 2 of 14,
24 these types of expenses would be consolidated or
25 summarized.

1

2

But basically they would be found under the section

3

Expenses, Operating Expenses, subline operating and

4

maintenance expenses with a reference to Note 6, formerly

5

in 267.

6

And again in Note 6 to the financials there would be some

7

further detail provided detailing some of that

8

information.

9

Q.150 - And on page 16 of Regulation 99-62 there is a list of

10

sales and marketing operation expenses. Can you indicate

11

where these accounts are identified in Appendix A of your

12

report?

13

MR. LOGAN: It would be the same as the previous question.

14

The consolidated figure is found on page 2 of 14 on the

15

income statement with further detail provided on page 8 of

16

14 in Appendix 6 -- or sorry, Note 6.

17

Q.151 - And where specifically in Note 6?

18

MR. LOGAN: Well, again subject to check, I'm assuming --

19

there is a line about halfway down that column called

20

Sales and Marketing.

21

And again subject to check and verifying what comprises

22

the 15 million 649' and what particular accounts feed into

23

that, I would assume, sitting here, that that is where

24

they would be contained.

25

Q.152 - Now on page 16 there is a list of -- Regulation 99-62,

1

2 there is a list of customer accounting operation expenses and
3 administrative and general operation expenses.

4 Could you indicate where these accounts are identified in
5 Appendix A to your report?

6 MR. LOGAN: Again the same answer would apply. The
7 consolidated figure is found on page 2 with the detail in
8 Note 6.

9 Q.153 - Where on page 2?

10 MR. LOGAN: We are referencing line -- operating and
11 maintenance expenses line, formerly in 267 --

12 Q.154 - Right.

13 MR. LOGAN: -- that is referred to Note 6.

14 Q.155 - Right.

15 MR. LOGAN: And then in Note 6, again subject to check and
16 to verification, I'm assuming some of these costs would be
17 included in line such as customer care 908,000.

18 Administration and general again could be under any one of
19 these topics.

20 I would have to have my working paper file in front of me
21 to tell you specifically where they are located.

22 Q.156 - Now I would like to move to the discussion about the
23 financial statement analysis, particularly in the context
24 of EGNB's regulatory statements.

25 As chartered accountants I assume that you were

1

2 familiar with financial ratios?

3 MR. LOGAN: Yes.

4 Q.157 - And in the normal course of events a business should

5 be evaluated on the basis of its performance, that is

6 comparing the company's performance with historical

7 figures and with the industry in which it operates?

8 MR. LOGAN: Are you talking in terms of managing the

9 business or in terms of the external account reporting on

10 that business?

11 Q.158 - The reporting in the normal course of events and the

12 reporting on it?

13 MR. LOGAN: We would -- in the context of the procedures we

14 perform, we would look at financial ratios from time to

15 time to help us further understand variances and obtain

16 explanations for discrepancies or other issues that may

17 arise during our work.

18 Q.159 - Would you agree that there are a number of ratios that

19 are used in financial analysis?

20 MR. LOGAN: Yes.

21 Q.160 - And these can include liquidity ratios, activity

22 ratios, debt ratios, profitability ratios and solvency

23 ratios?

24 MR. LOGAN: Yes.

25 Q.161 - And you are familiar with these?

1

2 MR. LOGAN: To some degree, yes.

3 Q.162 - Now with respect to the regulatory financial

4 statements submitted by EGNB and resubmitted by you as an

5 appendix to your review, from these statements only can

6 you calculate liquidity ratios for EGNB such as networking

7 capital, current ratio or quick ratio, from these

8 statements only?

9 MR. LOGAN: No.

10 Q.163 - And from these statements only can you calculate

11 activity ratios for EGNB?

12 MR. LOGAN: Can you define activity ratio for me please?

13 Q.164 - Okay. Maybe if I finish the question. And then --

14 MR. LOGAN: Okay.

15 Q.165 - From these statements only can you calculate activity

16 ratios for EGNB such as average collection period, average

17 payment period or total asset turnover?

18 MR. LOGAN: The answer would be -- what was the last one you

19 mentioned?

20 Q.166 - Total asset turnover?

21 MR. LOGAN: Perhaps total asset turnover, but not the first

22 two.

23 CHAIRMAN: Mr. Theriault, I'm sorry. Just whenever you

24 finish this line of questioning we will break for lunch.

25 MR. THERIAULT: I have about three more questions along this

1

2 line.

3 CHAIRMAN: Sure.

4 Q.167 - From these statements only can you calculate debt
5 ratios for EGNB such as debt to total assets or times
6 interest earned?

7 MR. LOGAN: I believe you could calculate debt to total
8 assets. And I also believe -- times interest earned, I
9 believe you could calculate that one as well.

10 Q.168 - And from these statements only can you calculate
11 profitability ratios for EGNB such as gross profit margin,
12 operating profit margin, net profit margin or return on
13 investment?

14 MR. LOGAN: Yes. In the context of the regulatory
15 statements.

16 Q.169 - From these statements only can you calculate solvency
17 ratios for EGNB such as working capital to total assets,
18 retained earnings to total assets, EBIT to total assets,
19 sales to total assets, equity to debt or --

20 MR. HOYT: Mr. Chair --

21 Q.170 - -- cash flow to debt?

22 MR. HOYT: -- I don't understand where this is going.

23 CHAIRMAN: Well, perhaps you could explain, Mr. Theriault.
24 I know that you indicated you only had two or three more
25 questions.

1

2 MR. THERIAULT: And I have this one other question on this
3 line of questioning. I mean, these are -- he has agreed
4 that they are financial terms. They are often used in
5 comparative analysis.

6 MR. HOYT: Well, what does it have to do with the 2007
7 financial statements that were filed with EGNB?

8 MR. THERIAULT: I will ask the final question then.

9 Q.171 - Is it correct, Mr. Logan, that from these statements
10 only you cannot offer an opinion as to the solvency of
11 EGNB?

12 MR. LOGAN: Using these statements in isolation?

13 Q.172 - Yes.

14 MR. LOGAN: I don't know why anybody would want to try to
15 understand that, with looking at only one piece of
16 evidence.

17 Q.173 - That is not the question.

18 MR. LOGAN: But the answer would be no, I don't think you
19 could, or would you want to, try to assess the solvency of
20 EGNB with just this piece of information.

21 MR. THERIAULT: Thank you.

22 CHAIRMAN: We will adjourn now. And we will back by 1:00
23 o'clock.

24 (Recess - 12:09 p.m. - 1:00 p.m.)

25 CHAIRMAN: Anytime you are ready to resume, Mr. Theriault.

1

2 MR. THERIAULT: Thank you, Mr. Chairman.

3 Q.174 - Now Panel, I would like to briefly discuss with you

4 some of the issues that I raised in my commentary on the

5 review of EGNB's 2007 financial results.

6 Now have you -- I provided you here a few minutes ago.

7 Have you had an opportunity to review or skim the --

8 MR. LOGAN: Took a quick read through it, yes.

9 Q.175 - If I could refer you to page 3 of the document?

10 MR. THERIAULT: Mr. Chairman, I am referring to my original

11 commentary that I submitted, which I believe began this

12 process.

13 CHAIRMAN: What is the date of that?

14 MR. HOYT: September 29th.

15 VICE-CHAIRMAN: Mr. Theriault, is this the document Review

16 of EGNB 2007 Financial Results, Comments of the Public

17 Intervenor?

18 MR. THERIAULT: Yes, it is.

19 VICE-CHAIRMAN: Thank you.

20 Q.176 - Now Mr. Logan, on page 3, line 3 and 4 there is a

21 sentence that reads "To assure that rates are just and

22 reasonable the EUB must assure that the costs going into

23 the deferral are reasonable and prudently incurred."

24 Now can you tell us that as a result of your financial

25 review whether the costs going into the deferral are

1

2 reasonable and prudently incurred?

3 MR. LOGAN: In terms of reasonable I would be able to tell
4 you that yes, they are reasonable within the context of
5 our report and from the context of what we were engaged to
6 do.

7 We had the discussion this morning regarding prudence.

8 And if you are referring to whether or not those
9 expenditures were prudently incurred for purposes of rates
10 or justifiable rates, that wasn't part of what we were
11 asked to do.

12 Q.177 - Now on page 5 under Part A, lines 1 and 2, there is a
13 sentence that reads in part "EGNB presented evidence that
14 it had paid cash distributions to its investors even
15 before it had a dollar of sales revenue."

16 Now if EGNB had been a public corporation what would the
17 practice of paying out dividends without sufficient
18 revenue to create retained earnings be called?

19 MR. LOGAN: What would the distribution be called?

20 Q.178 - Yes.

21 MR. LOGAN: It would be called a dividend.

22 Q.179 - And where would it be paid out of? I'm sorry, what?

23 MR. LOGAN: You are saying if --

24 Q.180 - If it had been a public corporation?

25 MR. LOGAN: And as a public corporation it had no retained

1

2 earnings?

3 Q.181 - Yes.

4 MR. LOGAN: It would be borrowed funds, I assume.

5 Q.182 - Now on page 5 under Part A, lines 4, 5 and 6 there is

6 a sentence that reads "This policy of paying

7 distributions" --

8 MR. HOYT: Mr. Chair, this is a submission that the Public

9 Intervenor made. This isn't -- this has no force. It is

10 not a document that is in evidence.

11 Again if he has got some specific questions about the

12 financial results --

13 MR. THERIAULT: Well, I do --

14 MR. HOYT: -- which is what this proceeding is about, then

15 he should ask them.

16 But to read these into the record as though they have some

17 weight -- I mean, this is a submission that started this

18 process. And most of this was cut back to five items that

19 the Board felt were worthy of review in this proceeding.

20 CHAIRMAN: Mr. Theriault, just to put this in context, the

21 quotes that you have been putting on the record are quotes

22 from your letter.

23 MR. THERIAULT: Oh, yes. That is correct.

24 CHAIRMAN: So they reflect your view.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. THERIAULT: Oh, certainly.

CHAIRMAN: So to that extent they are not sort of independent evidence or anything of that nature. They are part of a submission that you made in a letter to this Board I believe.

MR. THERIAULT: That is correct. And I'm asking him to comment, based on his financial review, certain questions with respect to that. That is all.

I'm not putting that forward as -- I mean, for instance I could simply -- I guess rather than quoting -- I can read a statement to him and ask him a series of questions from it. But I just thought it would be easier for everyone to follow if --

CHAIRMAN: Perhaps you will have to explain this a little better. And I'm not sure what you are trying to achieve by this series of questions.

MR. THERIAULT: Well, I'm trying to see if there is -- for instance with the last question that I asked with respect to prudence I think followed up from a series of questions, similar type questions this morning showing that the review engagement as performed by Mr. Logan, although in accordance with the CICA standards, isn't the same thing as a prudent and reasonable review as it relates to the issue, you know, that I'm going to submit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that is before the Board.

CHAIRMAN: But I think his response throughout in terms of prudence and the interpretation he is putting on it has been consistent in all of the answers that he has given.

MR. THERIAULT: And I'm trying to make sure that that is so in every area. That is with respect to those questions. Just so that I'm very clear.

I mean, this has been going on since 2000. And I will be honest, as someone coming in in the last year, year and a half, even going back and reviewing everything is very difficult to try and piece it and put it all together. And that is all I'm trying to do.

CHAIRMAN: Well, maybe -- I don't know that we heard your question before we had the objection. So let's -- what is it that you wanted to ask on this?

MR. THERIAULT: Now I guess I was going to refer him to the policy of paying distributions rather than retaining the earnings and using these funds for investments, whether that has increased the ratepayer cost by 18.3 million.

MR. HOYT: If I could, Mr. Chair, again this question is about distributions. There is nothing about distributions in the financial reports that the consultants reviewed. So why would he be -- why would that be a proper question to put to this witness?

1

2 CHAIRMAN: Why don't you ask him if he has reviewed that?

3 MR. THERIAULT: Yes.

4 Q.183 - Has there been -- is there anything in your financial
5 review as it relates to distributions?

6 MR. LOGAN: No.

7 Q.184 - Now as it relates to the marketing campaign, in your
8 financial review did you comment on the prudence and
9 reasonableness of the \$15,649,000 expended on marketing in
10 2007?

11 MR. LOGAN: Again in the context of what we were engaged to
12 do, we would have reviewed the reasonableness of the
13 expenditure in terms of the underlying transactions to
14 ensure that it was complete and accurate.

15 In terms of prudence the answer is the same as before, no.

16 Q.185 - And did you comment on the 62.5 percent increase in
17 marketing costs over those incurred in 2006?

18 MR. LOGAN: Specifically in our report I don't believe we
19 commented on the increase. But however, as part of our
20 review procedures, we would have analyzed the variance to
21 ensure that it was reasonable in the circumstances, and
22 that the underlying information that we were provided to
23 interpret or support the increase was also reasonable in
24 the circumstances.

1

2 Q.186 - Now over the period from 2001 to 2007 affiliate

3 consulting and service charges paid by EGNB have totaled

4 over \$15 million. In 2000 alone these charges I submit --

5 MR. HOYT: Excuse me, Mr. Chairman. Again this review was

6 to deal with 2007. He is talking about information that

7 goes back to 2000.

8 MR. THERIAULT: Mr. Chairman, if I may, I'm trying my best

9 here to stick to 2000. But obviously this has been going

10 on. My question is not going to be related. But it is

11 just by way of background, I mean.

12 CHAIRMAN: Well, I think as long as your question is

13 restricted to 2007. If you wanted to put some context to

14 it I think that is okay.

15 MR. THERIAULT: Thank you.

16 Q.187 - In 2007 alone these charges I suggest represent over

17 14 percent total expenses to EGNB.

18 Now my question, sir, is in your financial review did you

19 comment on the prudence and reasonableness of the

20 \$2,882,000 in affiliate consulting and service charges?

21 MR. LOGAN: Again in terms of the reasonableness, standard

22 review procedures were followed. We would have reviewed

23 the underlying information, variance analysis,

24 classification of the transactions, prepared analysis in

25 the prior years and to ensure that all of that information

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

tied into the numbers reported in the financial statements.

In terms of the prudence, we did not look at that.

Q.188 - Did you investigate the process by which the contracts with affiliated companies were awarded?

MR. LOGAN: At a very cursory level. Again a review engagement does not delve into internal control procedures or processes in terms of required procedures.

I believe we did have some discussions in terms of how some of those contracts or services were contracted for and whatnot. I believe in the report there may be a couple of sentences referring to that.

Q.189 - Now did you accept without any further investigation EGNB's contention that only affiliated companies could perform the work outlined in the contracts awarded to these affiliated companies?

MR. LOGAN: Could you repeat the question please?

Q.190 - Sure. Did you accept without further investigation, outside of what you discussed here, EGNB's contention that only affiliated companies could perform the work outlined in the contracts awarded to these affiliated companies?

MR. LOGAN: I don't think that was what they said in terms of all affiliate transactions. I think there are some particular services that they contract for with affiliates

1

2 that are only available by the affiliates and maybe not
3 available locally. But I don't think that is the case for
4 all services contracted by affiliates.

5 So the answer to the question -- I don't think I can
6 answer your question, because I don't think the question
7 makes sense.

8 Q.191 - Was every piece of work assigned to an affiliated
9 company covered by a contract?

10 MR. LOGAN: Was every piece of work --

11 Q.192 - Assigned to an affiliated company? Was there a --

12 MR. LOGAN: We couldn't -- I couldn't tell you the answer to
13 that. Because we would not be testing -- you know, what
14 you are describing would be more of an audit procedure.
15 We would look at a couple or three or a sample of
16 contracts, but not all of them.

17 Q.193 - Now I notice in Mr. Butler's report he raised the
18 issue of cross subsidy and indicated that he had
19 discussions with your Mr. Aucoin on this matter?

20 MR. AUCOIN: Yes.

21 Q.194 - As part of the retainer with respect to this project,
22 were you asked by the Board to address issues of cross
23 subsidy between regulated and unregulated businesses of
24 EGNB?

25 MR. AUCOIN: No.

1

2 Q.195 - And now in light of Mr. Butler's comments in his
3 report did you address the cross subsidy issue in the
4 context of this project?

5 MR. LOGAN: I can answer that to some degree. If you are
6 referring to a classification of costs between operating
7 units, we would -- in terms of our report -- we would be
8 looking at those annual allocations to ensure consistency.

9 And if there were changes to the allocation methodology
10 we would be inquiring as to why that was done and
11 assessing the reasons why.

12 MR. THERIAULT: That's all the questions I have, Mr. Chair.

13 CHAIRMAN: Thank you, Mr. Theriault. Mr. Hoyt, do you have
14 any questions?

15 MR. HOYT: Just a few, Mr. Chair.

16 CROSS EXAMINATION BY MR. HOYT:

17 Q.196 - At the beginning of Mr. Theriault's questions, he
18 asked about the mandate as you saw it from the Board.

19 Could you just remind of your response?

20 MR. LOGAN: Verbatim?

21 Q.197 - Paraphrasing would be fine.

22 MR. LOGAN: Thank you. The mandate as we understand it is
23 to provide a review engagement opinion. And as I have
24 mentioned earlier that is a defined term in terms of the
25 accounting world on the regulatory prepared financial

1

2 statements that are submitted by EGNB to the Board.

3 Q.198 - And do you believe that the report that you filed with
4 this Board fulfilled that mandate?

5 MR. LOGAN: Certainly I do.

6 Q.199 - How long do you spend on this review?

7 MR. LOGAN: In terms of man hours anywhere between I want
8 to say 100 and 150 man hours would be a typical year. We
9 have done -- I guess we have done two and participated
10 partially in a third. So if that's a statistical sample,
11 but we are a week on site and a bit, and then there is
12 follow-up questions analysis and then probably another
13 week to write the report, and draft it and review it and
14 go through it and publish it.

15 Q.200 - And I assume you just show up one day and start this.
16 There must be some background work that's done as well?

17 MR. LOGAN: We certainly -- we would coordinate our field
18 work with the EGNB staff that we are dealing with and they
19 are quite familiar since they have been through this
20 process for several years with the documentation that is
21 required to fill our procedures and when we arrive on site
22 there is material prepared for us and ready to go.

23 Q.201 - So what type of information would you request in
24 advance -- I mean would you write to them and ask them to
25 have this stuff ready or do they just know what to have or

1

2 how does that work?

3 MR. LOGAN: I don't believe we have submitted a written
4 requirements list in the last couple of years.

5 MR. AUCOIN: I believe last year we did send a list, a needs
6 list sort of thing.

7 Q.202 - And what would you ask for?

8 MR. AUCOIN: They basically know what we want. I mean
9 basically all the schedules that they would prepare for
10 the external auditor, rate base schedules, working trial
11 balances, regulatory adjustments. It is quite a
12 significant amount of information.

13 Q.203 - And you indicated that you do look at past decisions
14 of the Board?

15 MR. LOGAN: That's correct. We would ensure consistency
16 with in the current year that we are looking at that the
17 previous years Board Orders have been followed and are
18 consistently applied to the current year's information.

19 Q.204 - And you indicated one of your starting points is the
20 audited statements, is that -- that's correct?

21 MR. LOGAN: That's true, yes.

22 Q.205 - And would you have occasion to look at any of the
23 auditor's working papers?

24 MR. LOGAN: Yes. We would actually attend their offices and
25 review their supporting documentation for their audit

1

2 opinion. We do that every year.

3 Q.206 - And I took it from your description or the distinction

4 between a review and the audit that the audit is a more

5 involved process?

6 MR. LOGAN: Much more.

7 Q.207 - And so there is some linkage between where you start

8 and the work that's been done by their auditors?

9 MR. LOGAN: We would take certain assurance from that audit

10 in terms of the work that we do. Certain areas of the

11 work that the auditors would be performing would -- we

12 would rely on that information and rely on their work in

13 terms of fulfilling our mandate as well.

14 Q.208 - And who is their auditor?

15 MR. LOGAN: I believe it is PriceWaterhouseCoopers. At

16 least it was last year.

17 Q.209 - Mr. Theriault gave you an excerpt from the Uniform

18 Accounting Regulation, 99-62?

19 MR. LOGAN: Yes.

20 Q.210 - Could you turn to Section 3-8 of that regulation? And

21 could you just read that section into the record?

22 MR. LOGAN: This is Section 3-8?

23 Q.211 - 3-8, yes, please.

24 MR. LOGAN: The gas distributors' accounts and records shall

25 be readily accessible for examination by representatives

1

2 of the Board.

3 Q.212 - And was your experience that Enbridge Gas New

4 Brunswick's accounts were readily accessible for

5 examination by you as a representative of the Board?

6 MR. LOGAN: Yes.

7 Q.213 - And are you aware of anywhere that requires Enbridge

8 Gas New Brunswick to somehow itemize every account that is

9 set out in this regulation in a financial statement?

10 MR. LOGAN: I am not aware of any anywheres, no.

11 MR. HOYT: That's all my questions.

12 CHAIRMAN: Thank you, Mr. Hoyt. Ms Desmond, anything?

13 MS. DESMOND: No, thank you.

14 CHAIRMAN: Thank you, Panel. Sorry, the Board may have some

15 questions. Mr. Johnston?

16 BY VICE-CHAIRMAN:

17 Q.214 - Mr. Logan, just one thing I wanted to try and

18 understand more clearly. I believe you talk about the

19 review standard reviewing accounts to see if they were

20 reasonable and plausible, were those the words that you

21 used?

22 MR. LOGAN: That's correct, yes.

23 Q.215 - And if -- under what circumstances would you find

24 something to be either unreasonable or implausible? And

25 maybe I can use an example. If you were doing a review

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

assignment of a business and found that their rental of let's say a warehouse was five times your understanding of the going rate, would that be something you would view -- which would be reported in a review?

MR. LOGAN: There is -- yes, perhaps. But the context is first that you must understand what would be material in the financial statements. So there is a materiality concept that is used to assess things that are reasonable or plausible. Materiality is usually based on a percentage of revenue or net income or something like that, but it is a theoretical number that would cause a reader of a statement to make an alternative decision. So it is a quantum, all right. So everything is taken in that context. But in terms of reasonable, there are sort of two things. There are what we call scope limitations, which is not a term, but also replies to review engagements. And a scope limitation means there is just insufficient evidence to assess a particular number and transaction. For example, inventory, if there are no inventory records, we have no way to assess the figure. So that would mean we would have to qualify our opinion on that particular balance. And then there are just -- either fraud or errors or other materiality statements that may come to pass either through incorrect

1

2 transactions or fraud or theft or something of that nature,
3 also which would require a reservation in the opinion
4 paragraph.

5 Q.216 - I guess what the area that I am trying to cover is Mr.

6 Theriault asked you a lot of questions about prudence.

7 And in general parlance, you know, these words are at

8 least similar, you know, whether something is reasonable,

9 whether it is prudent, not necessarily identical. And I

10 realize there are terms of art and regulatory field. But

11 I guess what I am trying to be clear on is in terms of the

12 amount paid for a particular good or service, does the

13 scope of your review look at the reasonableness of those

14 amounts paid at all or are you just looking to make sure

15 that the numbers are adding up?

16 MR. LOGAN: I think for -- I think that we would be

17 assessing the prudence of a figure in the context that you

18 are describing if there was a significance variance from

19 either what we would expect or what we seen in other

20 years.

21 So if, for example, if EGNB was purchasing a service from

22 an affiliate and all of a sudden that same service tripled

23 in value or quadrupled in value from one year to the next,

24 we would want to know why that was the case. And we would

25 want to see additional evidence and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

supporting information to support that particular increase.

And if they were unable to provide that or unable to satisfy us as to the need for an increase of that magnitude, and it if was a material balance, then we would have a reservation in our review engagement opinion expressing that.

Q.217 - So that --

MR. LOGAN: But each and every balance in itself, we would not be assessing the prudence of the value unless there was something that triggered in my mind to cause us to look at it. A review engagement is what they refer to as negative assurance. Nothing has come to our attention that would cause us to believe, versus an audit which is positive assurance.

Q.218 - But if something did come to your attention as being an unreasonable expenditure in terms of its amount based on either your own understanding of the marketplace or the previous experience with a client, it would be noted in your review?

MR. LOGAN: Yes. I mean --

Q.219 - The amount was material enough?

MR. LOGAN: -- case in point -- sure. Case in point this year was short-term interest. It went for \$140,000 to \$500,000 in one year. So it caught our attention and we

1

2 investigated it, the reasons as to why that occurred. And the
3 information that we saw made sense and so no need to
4 reserve our opinion. However, we did note in our letter
5 to the Board.

6 Q.220 - And just very briefly in terms of timing, do you begin
7 your work following the completion of the
8 PriceWaterhouseCoopers' audit?

9 MR. LOGAN: Yes, we do.

10 Q.221 - So there are audited financial figures and then you
11 begin your work once you are in possession of those?

12 MR. LOGAN: Correct. There is probably a week or two gap
13 between those -- when those statements are published and
14 when we begin our work, but it is relatively close
15 together.

16 VICE-CHAIRMAN: Thank you. Those are all the questions that
17 I have.

18 CHAIRMAN: Thank you, Mr. Johnston. Anything from the other
19 Panel Members? Well, thank you, Panel for your evidence
20 here today. I guess that leaves us with the Enbridge
21 Panel. Do you need a break or anything between --

22 MR. HOYT: Just a couple of minutes. Five minutes.

23 CHAIRMAN: Yes, five minutes then, sure.

24 (Recess - 1:26 p.m. to 1:35 p.m.)

25 CHAIRMAN: Ms. Desmond, do you want to swear the Panel.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Dave Charleson, Jamie LeBlanc - sworn)

MR. HOYT: Mr. Hoyt, do you want to introduce your Panel?

MR. HOYT: Sure. Appearing on behalf of EGNB are Dave Charleson and Jamie LeBlanc. And I believe that the witnesses have an opening statement, a brief opening statement that they would like to read into the record.

CHAIRMAN: Sure. Proceed.

MR. CHARLESON: Since it began its operations in 2001, Enbridge Gas New Brunswick or EGNB has been subject to the review of its regulatory financial statements by the Board. Since 2003, when EGNB began to supply commodity, the Board has also reviewed EGNB's gas supply operations. In each of these cases, the Board has relied on a consultant to review EGNB's operations and statements. The consultants' reports have formed the basis on which the Board has conducted proceedings and rendered the decisions for each year's financial statement. The Board's review of EGNB's financial statements has been important to the manner in which EGNB governed its operations and based on this have made investments today to \$350 million. The Board's approval of the statements has provided management with direction and confidence that the nature and manner in which costs are being incurred are considered prudent by the Board and that they

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

will be recoverable from ratepayers over time.

EGNB considers this review of the 2007 financial statements and gas supply operations to be consistent with prior reviews by the Board. These reviews have a degree of rigour that EGNB believes should give the Board confidence that the findings of the consultants are accurate and representative of EGNB's operations. And it is important that all parties have a clear understanding of what these reviews entail. As we heard from Mr. Butler this morning, there is a large amount of information that is provided to him in advance of him attending our offices and then while in our offices he has access to the staff that he needs to discuss and get information on. He has the opportunity to review all information in detail with a complete access to our records and our employees. Similarly as we heard from Teed Saunders Doyle, there is a large amount of information provided in advance of their review. In addition they are relying on prior reviews that have been conducted by the consultants. Each of these reviews have led to various directions from the Board, items that have been identified, and form a building block for the subsequent reviews to be performed. Now I would just like -- Mr. LeBlanc has a matter that he would like to just briefly comment on.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. LEBLANC: So I would like to just take a minute to clarify an item that was discussed actually at an earlier proceeding earlier this year related to the various general service rate classes. In that proceeding EGNB was asked to assess and quantify the impact of a deferral account of paying distributions to its limited partners. In response to an undertaking, EGNB provided an analysis that conducted -- that it conducted between hearing days. Since that time EGNB has given this matter more consideration. The analysis previously presented was based on the flawed assumption that whatever financing costs that were incurred by EGNB became part of its revenue requirement in support of EGNB's rate base. The fact is that regulation -- EGNB's regulation works in the reverse to this. Under regulation, EGNB first quantifies rate base and then based on its approved debt equity ratio and return on -- a rate of return on debt and equity calculates it is allowed regulatory return on rate base. If EGNB incurs finance costs beyond what is allowed through regulation, these costs are borne by EGNB 's limited partners. Therefore, payment of distributions to EGNB's limited partners does not affect the deferral account in any way. The deferral account is only affected by any difference

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

between the regulated revenue requirement and the revenue that EGNB generates

MR. CHARLESON: So with that clarification and given the consultants' reports clearly indicate that all expenditures and operations have been conducted in a manner that's consistent with all Board direction. EGNB believes that it is appropriate that the Board proceed to approve the regulatory financial statements as filed.

MR. HOYT: And with that, the witnesses are ready for questions from Mr. Theriault.

CHAIRMAN: Thank you. Mr. Theriault?

MR. THERIAULT: Thank you.

CROSS EXAMINATION BY MR. THERIAULT:

Q.1 - Mr. Charleson, can you tell us about the partnership structure for EGNB? For example, are all partners equal in terms of their investment?

MR. CHARLESON: Yes.

Q.2 - And are all partners equal in terms of their participation and strategic planning?

MR. LEBLANC: The limited partners of the business do not participate in the operation of the business. They are investors. The operation is run by its general partner, which is Enbrige Gas New Brunswick Inc., which Dave and I, and everyone else who works for EGNB are employees of.

1

2 MR. CHARLESON: However, it is also important to note that
3 within EGNB's Board of Directors, there are two
4 independent members that are not employees of Enbridge
5 Inc. that are appointed by the limited partners to
6 represent their interest in all planning and
7 decisionmaking.

8 Q.3 - How many members on your Board?

9 MR. LEBLANC: Six.

10 Q.4 - So two are representative of the local investors and
11 four from --

12 MR. CHARLESON: They are represented by our independent
13 investors.

14 Q.5 - Right. Now, Mr. Charleson, I assume you report to the
15 Board of Directors?

16 MR. CHARLESON: I report to Mr. Pleckaitis, who is the
17 president and so a member of the Board of Directors.

18 Q.6 - And Mr. LeBlanc, are you still manager of finance and
19 control for EGNB?

20 MR. LEBLANC: Yes.

21 Q.7 - And your qualifications for this position are what, your
22 background?

23 MR. LEBLANC: Mine? I have a business degree from the
24 University of New Brunswick and I have my chartered
25 accountancy designation from the Atlantic School of

1

- 108 -

2 Chartered Accountants. I have spent a number of years both in
3 the public accounting world, as well as, I have in
4 addition to working for EGNB, the experience that I have
5 gotten, which is five years here. I also spent a couple
6 of years working for a construction business in the
7 province as an assistant treas' -- or controller.

8 Q.8 - So you have been with EGNB for five years?

9 MR. LEBLANC: Yes.

10 Q.9 - Mr. LeBlanc, did you sign the transmittal letter
11 covering the filing of EGNB's regulatory financial
12 results for 2007 with the Board?

13 MR. LEBLANC: Yes, I believe I did.

14 Q.10 - And does EGNB prepare financial statements for its
15 investors?

16 MR. LEBLANC: Yes.

17 Q.11 - And are these statements more detailed than those
18 submitted as regulatory financial statements?

19 MR. LEBLANC: There are different -- there may be different
20 types of details, but the level of detail would be
21 similar.

22 Q.12 - So you say they are similar in detail to the regulatory
23 financial statements?

24 MR. LEBLANC: Yes.

25 Q.13 - So the items that we see on the regulatory financial

1
2 statements, the headings, would be the same headings that --

3 MR. LEBLANC: The arrangement maybe different as a result --

4 the Board has actually in a decision I believe the '02,

5 '03 financial decision as ordered us to set -- layout the

6 financial statements as directed by the Board. And the

7 Board said to prepare them in accordance with Canadian

8 GAAP, except for where the statements would differ due to

9 the uniform systems of accounts which you spoke to earlier

10 this morning. And so the Board directed us to work with

11 the consultant at the time, Jim Easson, to figure out how

12 to present the statements in a way that way that was

13 acceptable to the Board and subsequently the Board

14 accepted that presentation.

15 Q.14 - Have you filed copies of current and past financial

16 statements to investors with the Board?

17 MR. CHARLESON: I don't believe so.

18 Q.15 - And why not?

19 MR. CHARLESON: Again I believe our requirement is to file

20 the regulatory statements with the Board.

21 Q.16 - Would you agree that the audited financial statements

22 are more likely to contain the information required under

23 Regulation 99-62 than do the regulatory statements

24 prepared by EGNB for the Board?

1

2

MR. LEBLANC: Quite the opposite. I would say that the regulatory financial statements are prepared in accordance with the uniform system of accounts, as opposed to the statutory statements which are prepared completely in accordance with GAAP.

3

4

5

6

7

Q.17 - When EGNB looks how it invests its time and money with respect to capital expenditures, how does it go about determining priorities? For example, how would it determine how much money should be spent on attempts to increase throughput on current infrastructure versus investments in new infrastructure?

8

9

10

11

12

13

MR. CHARLESON: Again any of our capital expenditures are focused on increasing throughput through our system.

14

15

16

17

18

19

20

21

22

23

Whether that be through adding services onto an existing main that's in the ground to increase utilization of pipe that's already there, or whether it be to expand our distribution system to reach new customers that aren't currently served or near our distribution main, we view both of those as being a priority. What will drive the decisionmaking around that is interest of perspective customers in demand when we have signed demand, that's when we will expand our system to meet that.

24

Q.18 - So is any type of analysis done in determining that?

25

MR. CHARLESON: Perhaps you could elaborate?

1

- 111 -

2 Q.19 - Well you say in order to determine -- determine demand

3 I think is what you are saying will determine what your
4 priorities are?

5 MR. CHARLESON: Correct.

6 Q.20 - So do you have any sort of analysis that you use, any
7 steps to determine what that demand is?

8 MR. CHARLESON: The analysis is really by our sales staff.

9 We have a sales force that is out there meeting with
10 perspective and existing customers to look at what
11 additional demand and interest there may be on the system.

12 We then -- based on discussion they will have with
13 prospective customers, they will look at the potential
14 distribution revenue that may be generated by those
15 customers and compare that against the capital cost
16 associated with that, with attaching that customer. So
17 they will evaluate kind of the revenue over a period of
18 time against the capital cost to determine whether it is
19 going to be profitable and in the interest of all our
20 customers of expanding the system to serve those
21 customers.

22 Q.21 - So your analysis then, what you are referring to, or
23 what I am referring to, analysis relies on the judgment of
24 your sales force?

25 MR. CHARLESON: It relies on the information they get for

1

- 112 -

2 prospective customers.

3 Q.22 - Okay. And your sales force do they -- who do they work

4 for, EGNB or --

5 MR. CHARLESON: Yes.

6 Q.23 - Are there any reports that they generate?

7 MR. CHARLESON: Again what they will produce is individual

8 analysis as they are looking at various expansion

9 opportunities. There is forms that they use and fill out

10 to capture the various pieces of information that are

11 required to perform that analysis. And depending on the

12 nature of the investment involved, those reports or those

13 forms will require differing levels of approval or

14 approval by different groups within the organization.

15 Q.24 - Now do those forms get filed with the Board at all?

16 MR. CHARLESON: No, they do not. But I would say that the

17 consultants do have the opportunity to access and review

18 those forms as part of their review process.

19 Q.25 - Now once this is done does this lead to a preparation

20 of a construction budget?

21 MR. CHARLESON: What we will do on an annual basis, we will

22 estimate what we believe the degree of the expansion that

23 will occur within a given year. And at that point in

24 time, we will have a certain amount of construction that

25 is expected within the coming year. We know -- we have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

already signed up customers to move to those areas, but then there will also be an allowance for a certain degree of expansion. We will know areas of different communities that we expect to reach, expect there to be interest in. And so we will budget for a certain amount of additional main to be put in. But again because we are building on demand as it is signed up, when we are preparing our budget, it relies on some assumptions with the degree -- to the extent of work that is going to be required in the coming year.

Q.26 - I am sorry, and maybe I am just being thick headed here, but I guess my question was does lead to the presentation of a construction budget -- sorry, preparation of --

f a MR. CHARLESON: For the specific construction opportunity to serve that customer or our overall construction budget for a fiscal year?

Q.27 - Overall?

MR. CHARLESON: Now again our overall construction budget for the fiscal year is going to be based on assumptions and expectations around how much growth we believe we are going to achieve in the year. We will forecast the number of attachments that we expect to be able to sign and attach during the course of the year. And based on those

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

parameters, we will develop an overall construction budget.

Until you actually go out and sign those customers, which will occur during the course of the year, as the actuals are being incurred, you don't know where with certainty where you are going to build. And you will only spend the money as it is economic to do that or as the demand supports it.

Q.28 - And who prepares the budget?

MR. CHARLESON: The construction budget is prepared by our Distribution Operations group.

Q.29 - And they work for EGNB specifically?

MR. CHARLESON: Yes, they do.

Q.30 - And who would see the budget?

MR. CHARLESON: It would be reviewed by the entire senior management team and our Board of Directors.

Q.31 - And who has final approval or authorization of this construction budget?

MR. CHARLESON: Our Board of Directors.

Q.32 - Now total property, plant and equipment went up by over \$20 million between '06 and '07, and at least 7 million was associated with investments in distribution mains. Now before investing in those mains, did EGNB do a net present value analysis to determine how much value those investments would yield to its investors?

1

2

MR. CHARLESON: It's not really a pure net present value

3

calculation. As I indicated in developing the budget, we

4

would not have done that. But prior to spending those

5

dollars within 2007, we would have assessed the value of

6

each of the opportunities for putting pipe in the ground

7

where the analysis would have looked at the demand, the

8

revenue coming off their against the cost. So not a pure

9

net present value calculation, but of anything -- I would

10

say be more rigorous calculation with a shorter payback

11

period being expected for coming out and making that

12

investment.

13

Q.33 - Well did EGNB determine how much those investments and

14

distribution mains would be worth?

15

MR. CHARLESON: On individual basis as each project moved

16

ahead -- moved ahead, yes, we would of.

17

Q.34 - Now does EGNB face any capital constraints?

18

MR. CHARLESON: As with any business I would say, yes.

19

Q.35 - Are there any limits imposed on the amount of funds

20

committed to projects?

21

MR. CHARLESON: And again we prepare a budget and we are

22

expected to operate within that budget. Any deviations or

23

variances would require further approval.

24

MR. LEBLANC: By our Board of Directors.

25

Q.36 - By the Board of Directors?

1

- 116 -

2 MR. LEBLANC: Correct.

3 Q.37 - Now do the Board of Directors require that the projects
4 meet a certain hurdle rate or a minimum required rate of
5 return?

6 MR. CHARLESON: The Board of Directors expects -- the short
7 answer is no for in-fill projects or for minor system
8 expansion. What is expected is that we are able to --
9 again they are aware of the analysis that is conducted in
10 terms of any expansion. There are other measures that we
11 have within our -- within our overall performance
12 management system that looks at the value of the growth
13 that we have done within our system. And that's a metric
14 that our Board of Directors hold management accountable
15 for.

16 Q.38 - Now has EGNB done any analysis to determine whether the
17 actual rate of return earned may differ from the rate of
18 return allowed by the Board -- by this Board I am talking
19 about?

20 MR. CHARLESON: Perhaps you can clarify your question?

21 Q.39 - Would the rate of return that you are earning on
22 projects differ from the rate of return allowed by the
23 Energy and Utilities Board?

24 MR. CHARLESON: No, because it is an allowed rate of return.
25 That's all we can apply.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. LEBLANC: If we were somehow earn higher than that, it would simply decrease the deferral.

Q.40 - Now if the Board were to disallow -- this Board were to disallow any of EGNB's cost, it would be the case would it not that the actual rate of return earned would differ from the allowed rate of return?

MR. LEBLANC: The regulatory rate of return would remain the same. But if something was disallowed by the Board, then the investors would then incur that costs. They would bear that cost directly rather than being recovered by the ratepayer -- through the ratepayer.

Q.41 - Has EGNB performed any studies of its regulatory risk?

MR. CHARLESON: Perhaps you can clarify? And what type of studies are you suggesting?

Q.42 - Disallowance of plant investments, things like that?

Like so in other words, if there were a disallowance by the Board, you know, what risk would EGNB --

MR. CHARLESON: We haven't conducted any studies that way.

Again our -- we operate on the assumption that all investments that we are making are prudent and should reasonably be able to be recovered.

Q.43 - Has EGNB made any calculations with the respect to the probability that it will be able to recover the amount that is currently accrued in the deferral account?

1

2 MR. LEBLANC: We do make -- look at long-term forecasts of
3 our financial results. And we are confident within the
4 time period that has been allowed by the Board that the
5 deferral can be recovered from EGNB's ratepayers.

6 Q.44 - What would a disallowance of all deferral account
7 balances do to EGNB's financial condition?

8 MR. LEBLANC: In terms of financial condition, disallowing a
9 deferral would immediately reduce the equity, I guess you
10 would say that partners have in the business.

11 Q.45 - Has management examined the risk of a situation where
12 there was a large disallowance and what effect that would
13 have on the liquidity consequences for EGNB?

14 MR. CHARLESON: No, because again we assume that all costs
15 that are included within the deferral account have been
16 prudently incurred and it is reasonable to assume
17 recovery.

18 Q.46 - Now has management studied the experience of greenfield
19 gas distributors in other jurisdictions?

20 MR. CHARLESON: I wouldn't say that we have studied -- I
21 have -- that we have studied it, per se. We obviously
22 keep an eye in terms of what's happening with Heritage
23 Gas, being kind of the other greenfield opportunity that
24 is in this area, but I wouldn't classify it as being a
25 study.

1

2 Q.47 - Well specifically has management studied whether
3 greenfield utilities in other jurisdictions were able to
4 receive full cost recovery for their investments?

5 MR. CHARLESON: No.

6 Q.48 - Why not?

7 CHAIRMAN: Again we operate within a regulatory construct
8 here within New Brunswick that was established at the time
9 the franchise was granted and through the first hearings
10 with this Board and all the subsequent decisions from this
11 Board, and it is based on those decisions that govern our
12 views and opinions around the recoverability of the
13 deferral account.

14 What rulings and what parameters may have existed in other
15 jurisdictions we see as being irrelevant to our
16 circumstances here.

17 Q.49 - If the regulatory deferral for each year continues to
18 exceed EGNB's sales revenue, is there a point at which
19 EGNB will stop committing new capital to this business?

20 MR. CHARLESON: By regulatory deferral are you talking
21 additions to the regulatory deferral or the total --

22 Q.50 - The additions?

23 MR. CHARLESON: In 2007, the additions to the deferral were
24 --

25 MR. LEBLANC: Less than our revenues.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. CHARLESON: -- were less than our revenues.

Q.51 - But I am just asking it not what happened, but hypothetically I am wondering if regulatory deferral for each year would continue to exceed EGNB's sales revenue?

MR. CHARLESON: We would obviously have some very significant concerns with our business if that was occurring. But it is not -- it is not the case.

Q.52 - Now I would like to ask you some questions about the amounts paid to your affiliated companies. How does EGNB management determine whether it should procure a given product or service from an affiliate or a non-affiliate?

MR. CHARLESON: What we will do is we will look for the most efficient source of providing the services. I think one of the things that was highlighted back in the original 2000 rates proceeding, there was a lot of discussion around affiliate charges. And at that time there was a discussion around how one of the benefits of Enbridge Gas New Brunswick having a relationship with Enbridge Inc. was the level of skill and expertise that could be brought to bear on the organization, the type of support that can be provided without having to add all the resources, and those competencies in-house. So again what we look at are what would the cost be if we were to try to have to duplicate that resource in-house and what benefits do we

1

2 get from being able to leverage on the skills and experience
3 that come with 160 year organization.

4 Q.53 - Do you have any policies in place that relates to that?

5 MR. CHARLESON: I would say there is no policies in place.

6 It's more a matter of us looking at what's the most
7 economic means of operating our business.

8 Q.54 - Does EGNB's management issue requests for proposals to
9 determine if procuring from an alternative provider would
10 be less expensive than procuring from an affiliate?

11 MR. CHARLESON: No, we don't.

12 Q.55 - Can EGNB indicate whether affiliate companies use
13 incremental or fully allocated costs when pricing and
14 charging EGNB for services?

15 MR. CHARLESON: In terms of the prices that are charged for
16 services, in some cases are governed by regulations within
17 their own jurisdiction. So in the case of -- in the case
18 of Enbridge Gas Distribution in Ontario, they have an
19 affiliate relationship code that they have to operate
20 under which governs a lot of the pricing for their
21 services. Some of those services will be priced on a
22 market rates -- market comparable basis. Other ones will
23 be provided on a fully allocated cost basis.

24 I just want -- I guess I want while we are talking about
25 the affiliated costs, I wanted to just clarify one

1
2 of the statements that you had made I think in your
3 examination with Teed Saunders and Doyle. You had
4 indicated that affiliate-related expenses were 14 percent
5 of our total O&M, and we are not sure where you arrived at
6 that number. Our calculation would have it at 10 percent
7 of O&M if you look at the total affiliate charges. And if
8 you were to look only at the affiliate charges that are
9 recovered through ratepayers, it is only 7.3 percent. So
10 I guess I just wanted to clarify that piece of math.

11 Q.56 - Okay. So I guess in services provided by affiliates,
12 if I understand your answer correctly, that some fees paid
13 to affiliates contain a profit component and some don't or
14 -- in other words I think you said in Ontario they had a
15 code that they were required to charge?

16 MR. LEBLANC: The -- for them offering us a service is to
17 offer it on a basis the same or similar to what we could
18 get in the open market.

19 Q.57 - So there is a profit component to it then?

20 MR. CHARLESON: I would expect there could be some --
21 because again they have to recover their return as well on
22 their investment. But what we are looking at is again
23 what provides the lowest cost operations and most
24 economical operations for Enbridge Gas New Brunswick in
25 providing those -- procuring those services, while also

1

2 leveraging on acquiring the experience and expertise that
3 comes from a very mature utility.

4 Q.58 - Since 2001 EGNB has incurred marketing expenditures of
5 \$44.6 million. In 2007 marketing expenses were over 15
6 million. Does EGNB market the one year fixed price EUG
7 product?

8 MR. CHARLESON: We -- yes, we did market the fixed price
9 product or it was marketed by our EUG service and the cost
10 associated with doing that were assigned to the EUG costs.

11 MR. LEBLANC: And just to give you an idea of the magnitude
12 of that marketing it was sending out a letter to current
13 EUG customers asking them if they would like to
14 participate. That was the extent of the marketing.

15 Q.59 - Was there any portion of the marketing expense that you
16 have incurred related to the marketing of EGNB's equipment
17 installation services?

18 MR. CHARLESON: No.

19 Q.60 - And how do you know that that none was related?

20 MR. CHARLESON: Because I am responsible for managing the
21 business.

22 Q.61 - Now what internal processes does EGNB use to determine
23 the amount of resources needed to commit to marketing?

24 MR. CHARLESON: By resources are you talking staff or total
25 dollars?

1

2 Q.62 - Dollars?

3 MR. CHARLESON: Again what we will look at is first from a
4 staffing perspective -- well the first thing we will look
5 at is what are our attachment expectations or what do we
6 believe we can achieve in terms of attaching -- new
7 customer attachments in the coming year. Based on that we
8 will identify what we believe in terms of sales resources
9 to be able to support those activities. We also look at
10 the terms of what type of marketing programs may be
11 required, whether it be any type of advertising campaigns
12 to raise awareness of the product or to inform consumers.

13 And then we will also look at what type of incentives may
14 be required to help to manage the capital cost conversion
15 so that we can provide a good economics choice for our
16 customers.

17 So by combining all of those factors together we will
18 arrive at what we believe to be a reasonable budget for
19 marketing for the coming year.

20 Q.63 - Well just a question, let's take -- I would like to
21 take a specific example and maybe you can just lead me
22 through the process. The buses, I assume in and around
23 Fredericton that I see going all the time that have EGNB
24 and Enbridge on there --

25 MR. CHARLESON: Obviously an effective tool.

1

2 Q.64 - -- well maybe I am a transit user, but how would that
3 process start? Now someone would have the idea, do you
4 have a firm that creates these ideas for you and just run
5 me through the process?

6 MR. CHARLESON: Again from a budget perspective we would
7 have established a budget for an overall marketing
8 campaign. And in 2007 is when we launched kind of the
9 Blue Campaign that's been out there. So heading into
10 that, you know, we would have allocated a certain number
11 of funds to recognize that we need to make more
12 penetration in terms of the awareness in the marketplace.
13 We then -- what we do have an advertising agency that we
14 work with. It is Cossette the agency that we use. And we
15 will work with them in terms of trying to identify what it
16 is we are looking to achieve in terms of our presence.
17 What type of messaging we are trying to get out there and
18 what type of budget we have allocated to be able to do
19 that. Cossette will then go away. They will take a look
20 at various options, different alternatives, different ways
21 of getting the message out to the market whether -- you
22 know, what types of media you might want to use, how you
23 might want to approach that. And they will come back to
24 us with a plan and outlining here are some things that we
25 think you might want to do, here is some opportunities,

1

2 here is the cost, and here is what we think gets driven from
3 there.

4 Management will then look at that plan. We will tune it,
5 some of the things, some of the ideas that will come to us
6 with, we will say we don't believe that's what -- where we
7 want to go, so we are not going to do that. You know,
8 this one, yes, we see that as being a good idea. And from
9 that we will land at an overall marketing approach that
10 they will then move forward in terms of executing.

11 Q.65 - Now can you tell me what percent of sales does the 15
12 million in marketing expenses represent?

13 MR. CHARLESON: In 2007 it would have represented about
14 three times of what was signed in terms of distribution
15 revenue. But recognizing that distribution revenue is
16 going to be a long time -- a long term revenue stream.
17 Most of that marketing expense was a one time expenditure.

18 MR. LEBLANC: And we would probably look at it in terms of a
19 payback, and it is about a three year payback.

20 Q.66 - Does EGNB cap the amount budgeted for marketing at a
21 certain percent of sales?

22 MR. CHARLESON: No. In developing our budgets we look at
23 what we believe is going to be required to achieve the
24 type of attachments to drive the throughput forecast that

1

2 we have. But then we also -- but we look at is there -- is
3 that economic to spend that amount for the distribution
4 revenue going to achieve.

5 Q.67 - Do you cap the amount budgeted for marketing at all or
6 is it --

7 MR. LEBLANC: The way we approach it is every new customer,
8 if that individual customer is economic, then we would
9 spend the marketing amount allocated to a particular -- to
10 a particular type of customer, for that customer. So it
11 doesn't make sense if we spend all -- we got the customers
12 we expected and spent all of the budget in September to
13 stop attaching customers for the rest of the year. It is
14 really on a per customer basis. If that customer is a
15 value to us, we will continue to spend to get those
16 customers.

17 MR. CHARLESON: Similarly, if we are not finding sufficient
18 interest in customers to get the attachment targets we are
19 looking at, it may mean that we spend less than our total
20 marketing budget. The marketing budget -- the marketing
21 actuals reflect the value that we are able to achieve from
22 the signings that we can get.

23 Q.68 - Has EGNB analyzed the risk of the \$15 million in
24 marketing expenses being -- sorry, has EGNB analyzed the
25 risk of the \$15 million in marketing expenses being

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

disallowed by this Board?

MR. CHARLESON: Again because we believe these are prudently incurred, no.

Q.69 - Can either one of you provide a breakdown of what the - specifically of these marketing expenses, what is involved? I mean can you breakdown of expenses?

MR. CHARLESON: At a high level, we would be looking at about one and a half million would be related to staff salary and benefits. About 11.6 million would be incentive related spend. 2.4 would be in advertising. And then the remainder is travel, office supplies, things like that.

Q.70 - What do you mean by incentives?

MR. CHARLESON: Those are the incentives that I referred to earlier that are used to help customers achieve a reasonable payback equation on the conversion cost. For example, residential customer -- for a residential customer converting their heat and hot water, there is a \$3,000 incentive available so that it helps to manage the capital cost, which helps to stimulate conversions and increase our throughput. And again all of those incentive payments are done in a manner that is consistent with the direction you receive from the Board in terms of their policy on incentives.

1

2 Q.71 - The Board meaning this Board?

3 MR. CHARLESON: Yes, this Board.

4 MR. LEBLANC: This Board.

5 MR. CHARLESON: There was a policy that the Board issued to
6 us back in 2006 concerning customer incentives and we
7 operate in a manner consistent with that policy.

8 Q.72 - Now I would suggest that marketing expenses increased
9 by 62.5 percent from '06 ot '07. Do you have any analysis
10 to support this increase?

11 MR. CHARLESON: Again the predominant driver behind that
12 increase would be the increase in incentive payments.

13 Q.73 - So you have no analysis to --

14 MR. CHARLESON: Not at my fingertips.

15 Q.74 - Well have you done some?

16 MR. CHARLESON: We look at the year over year change in any
17 of our expenses and that's why I am aware that the
18 principal driver behind the increase would have been on
19 the incentive payments. Another driver would be on -- in
20 terms of the overall Blue Campaign and the increased
21 advertising expenditures within 2007.

22 Q.75 - Now do you share these analysis with this particular
23 Board?

24 MR. CHARLESON: It would be available to the Board's
25 consultant when they are conducting their review.

1

2 MR. LEBLANC: And they would -- as they have mentioned
3 earlier, they do investigate variances, and they would
4 have spent probably a considerable amount of time looking
5 at this given the magnitude of the variance to the prior
6 year.

7 Q.76 - Now for '07 what was the amount of the regulated return
8 on equity?

9 MR. LEBLANC: I believe it is 9.7 percent. Andrew Logan
10 mentioned it earlier.

11 Q.77 - I am looking for the dollar amount?

12 MR. LEBLANC: Regulated return on equity?

13 Q.78 - Yes.

14 MR. LEBLANC: \$17,707,000, I believe.

15 Q.79 - And for '07 what was the amount of distributions to
16 investors?

17 MR. LEBLANC: \$16,877,000.

18 Q.80 - How much of the regulated return on equity for '07 is
19 available for re-investment in EGNB?

20 MR. LEBLANC: The regulated return on equity has been paid
21 to the investors.

22 Q.81 - So that would be none?

23 MR. LEBLANC: Well the difference between those two numbers,
24 which is incidental.

25 Q.82 - Now, Mr. LeBlanc, do you know what the dividend policy

1

2 is for Enbridge Inc.?

3 MR. LEBLANC: I am not actually aware of it, no.

4 MR. THERIAULT: Mr. Chairman, I think that concludes most of

5 my questions, but if I could have a few minutes just to --

6 CHAIRMAN: Sure. Let's take a 10-minute break.

7 MR. THERIAULT: Thank you.

8 (Recess - 2:15 p.m. to 2:35 p.m.)

9 CHAIRMAN: Mr. Theriault, do you have any further questions?

10 MR. THERIAULT: No, I don't not at this time.

11 CHAIRMAN: Thank you. Ms. Desmond, any questions?

12 MS. DESMOND: No, thank you, Mr. Chair.

13 CHAIRMAN: Any redirect?

14 MR. HOYT: None for me.

15 CHAIRMAN: Any questions from the Board? Thank you. I

16 guess we don't have any further questions for this Panel

17 of witnesses.

18 Well I guess that concludes the witnesses that are to take

19 part in this review. What is the wish of the parties with

20 respect to argument?

21 MR. THERIAULT: I would ask that written submissions be

22 given. And the reason I ask that, Mr. Chairman, is this

23 was slightly different than other hearings where we had a

24 series of IRs and whatnot. Honestly a lot of what I heard

25 today was hearing for the first time and with no

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

interrogatory process inbetween.

MR. THERIAULT: Sure. Mr. Hoyt any --

MR. HOYT: No, either way. I really didn't what to expect.

And if you wanted to hear today, we would do it. If not,
written submissions are fine.

CHAIRMAN: All right. Well I think that written submissions
might be appropriate in the circumstances. So how much
time Mr. Theriault do you think it would require? I know
we are heading into the Christmas season.

MR. THERIAULT: It is not so much that, it is more the
transcript. I would like to have a copy of the transcript
before I submit it. So I think that will be ready
sometime --

CHAIRMAN: Could we say with certainty it will be ready this
week.

MR. THERIAULT: Okay.

CHAIRMAN: With that bit of knowledge --

MR. THERIAULT: Even -- I am just trying to figure --

CHAIRMAN: We are not going to set the 25th.

MR. THERIAULT: No. Any date is acceptable for me, Mr.
Chairman, as long as I have the transcript.

CHAIRMAN: Mr. Hoyt, do you have any constraints on your
time table?

MR. HOYT: Only that Christmas is coming. There are

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

demands.

CHAIRMAN: Does somebody have a calendar in front of them?

MR. HOYT: Mr. Chair, I know that Mr. Charleson is away the beginning of next week. And I just think with everything that goes on if it was that first week of January, I think it might work best certainly on our side.

MR. THERIAULT: That's fine, Mr. Chairman.

CHAIRMAN: Well how about the 9th of January if both of you filed something by the 9th of January and I wouldn't think you would need a lot of time to respond to each other's submissions. So file by the 9th and if there is any response by the 13th.

MR. THERIAULT: That's fine.

MR. HOYT: That's fine.

CHAIRMAN: Anything else that we need to consider today before we adjourn? Ms. Desmond, anything?

MS. DESMOND: Nothing, thank you.

CHAIRMAN: Mr. Hoyt?

MR. HOYT: No.

CHAIRMAN: Mr. Theriault?

MR. THERIAULT: No.

CHAIRMAN: All right. We will adjourn and look for your briefs.

MR. THERIAULT: Thank you.

CHAIRMAN: Everybody have a good Christmas.

(Adjourned)

Certified to be a true transcript
of the proceedings of this
hearing, as recorded by me,

1

to the best of my ability.

2

Reporter