NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF an application by Enbridge Gas New Brunswick Inc. to change its Contract Large General Service LFO distribution rate

Held at the New Brunswick Energy and Utilities Board premises, Saint John, N.B., on February 13th 2008.

Henneberry Reporting Service

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

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

Secretary Ms. Lorraine Légère
Assistant Secretary - Ms. Juliette Savoie

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CHAIRMAN: Good morning, everyone. We seem to have a little bit of noise overhead. So we are going to see if we can get them to discontinue that. But I think in the meantime we will proceed unless it becomes a little bit too difficult for recording purposes and whatnot.
I will take the appearances at this time starting with the Applicant.
MR. HOYT: Len Hoyt and David MacDougall for Enbridge Gas New Brunswick.
CHAIRMAN: Thank you, Mr. Hoyt. Atlantic Wallboard LP. J.D. Irving Limited?
MR. STEWART: Chris Stewart and Sarah Price, Mr. Chairman.

CHAIRMAN: Thank you, Mr. Stewart. CME? Flakeboard Company Limited?

MR. LAWSON: Gary Lawson, Mr. Chairman.

CHAIRMAN: New Brunswick Energy and Utilities Board?

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

CHAIRMAN: Thank you, Ms. Desmond. And the informal intervenors, I will see who is here this morning. Canadian Restaurant and Food Services Association? Competitive Energy Services? Department of Energy? Ganong Bros. Limited? Public Intervenor?

MR. THERIAULT: Mr. Chair, Daniel Theriault.

CHAIRMAN: Mr. Theriault. And Sucor Limited?

Yesterday when we adjourned I guess we were awaiting the outcome of the two undertakings from the Applicant. I understand that those undertakings have been completed and have been circulated to the parties?

MR. HOYT: Yes, Mr. Chair. I sent them by e-mail last night. I had provided the Board Secretary with two copies this morning. If there is anyone in the room that hasn't got a copy, I have hard copies here if they would like one.

CHAIRMAN: Thank you. Anybody here that needs a copy?

And I think we will mark the responses to those undertakings as exhibits unless there is any objection from anybody.

Then the response to undertaking number 1 will become exhibit A-10. And the response to undertaking number 2 will become exhibit A-11.

Mr. Lawson, are you prepared to continue with your cross examination?

MR. LAWSON: Yes, Mr. Chairman. Thank you.

MESSRS. CHARLESON, LEBLANC, BUTLER:

CROSS EXAMINATION BY MR. LAWSON (continued):

MR. LAWSON: I have just advise the Board with respect to undertaking number 2 I think it more appropriate to just deal with in argument. So I'm not going to pursue any further line of questioning with respect to it.

CHAIRMAN: Thank you.

MR. LAWSON: But I do have I guess a number of questions arising with respect to undertaking number 1.

Q.505 - First if I could get -- and I think from discussions earlier I do have this. But perhaps for the record could you explain what the budget column represents in this under the 2008 column please?

MR. CHARLESON: Yes. The budget column represents the budget that we had struck, our internal budget in late September, early October.

So similar to the column 2001 through 2007 where they are reflecting say the corporate forecast for those years. The 2008 budget column was our corporate forecast prepared at that time.

And as we indicated in the notes below, the rates that were in there were set based on our assumptions based on commodity pricing on October 4th.

Q.506 - So just so I understand it, prior to making this application as part of your regular process, business process, you prepared a budget for 2008, correct?

MR. CHARLESON: That's correct.

Q.507 - And at that time you presumably anticipated there would be a rate increase?

MR. CHARLESON: We had presumed there would be a rate increase for some of the classes, yes, for this class definitely.

Q.508 - Okay. And for that purpose, for your internal budget, you used the formula, if you will, that you have used for this, only the data was used as of October 4th, is that right?

MR. CHARLESON: That's correct.

Q.509 - And would the volumes under the budget item -- budget column for 2008 be the same as the other two columns under 2008?

MR. CHARLESON: Yes. The volumes would be consistent for all three of those columns.

Q.510 - And I haven't checked -- but I don't know if I could check -- would the volumes be consistent with the projected volume for 2008 in Roman Numeral V of follow-up interrogatory number 1 of Flakeboard's?

MR. CHARLESON: Yes, they would.

Q.511 - Okay. So just so I can get a sense then, the "no increases" column, could you explain what that represents?

MR. CHARLESON: That column represents the rates that would be used if we hadn't applied for any increases either in this application or in the application for the other general service rates.

So what it will reflect, in the case of say the SGS RE rate, it is showing the rate that was in place January 1 following the rate reinstatements that we had done in the fall.

For the SGS RO down through the CGS -- through the rest of the column would be the maximum rates that have been approved by the Board.

Q.512 - So the "no increases" column again uses the same volume as corresponds with Roman Number V for 2008?

MR. CHARLESON: Correct.

Q.513 - So just using the LFO tier 1 example, in 2007 you had forecast a revenue of $3.1 million roughly?

MR. CHARLESON: Correct.

Q.514 - And if no increases came in place as a result, principally I presume of increased volume, or exclusively perhaps I guess, your revenue would increase to $4.1 million?

MR. CHARLESON: That's correct.

Q.515 - And cumulatively your revenue would change from $21 million to $28.6 million?

MR. CHARLESON: That's correct.

Q.516 - Okay. And the "applied for increases" column represents again the same volume but using the rates that have been request of this Board both in this application and the other application, is that right?

MR. CHARLESON: That's correct.

Q.517 - Now I didn't cross-check. But I'm gathering that the SGS RE class, there is no rate application for that particular class?

MR. CHARLESON: That's correct.

Q.518 - And why is that?

MR. CHARLESON: At this time the rates that we are able to charge, again using the market-based methodology for that class, are below the maximum rate approved by the Board for that class.

So until such time as say electricity rates increase to a level that we would be at or above the maximum rate or gas prices decrease to take us to that maximum rate, there is no need to file an application.

Q.519 - And am I correct the "applied for increases" column represents an entire year's revenue as requested as opposed to implementing partway through a year?

MR. CHARLESON: No. This reflects the rates being implemented on the dates requested in the application. So for the general services classes it reflects the rates being effective April 1st.

And for the LFO tier 1 class it reflects an increase effective February 1st which is what was requested. However, we recognize that we are past that date now.

Q.520 - So just before I get to some of the numbers here, the budget item, you as normal course prepare a budget.

And would it be fair to say that after you decided, sometime in late October or very early November to make an application, this application for the rate increase for the LFO class, would you have revised that budget?

MR. CHARLESON: No. We would have -- that would be our budget that is struck for the year and that gets approved by our board of directors.

However, any time that we develop a budget, one of the risks that is always identified in our budget is market volatility and commodity pricing risk.

So we always clearly identify that revenues could be impacted positively or negatively by changes in market conditions.

Q.521 - Do you have -- the financial statements for 2006 that we reviewed yesterday, they identified a column called "Total expenses for 2006", is that right?

Do you know what that budgeted number is for 2008 in your budget?

MR. LEBLANC: I don't know offhand, no.

Q.522 - I will get into that perhaps in a few minutes then.

Do you have that available here this morning?

MR. LEBLANC: I can call and get it. I don't have it here.

Q.523 - So if I might just take a look at the calculations here, the figures that we have in this undertaking number 1 response.

The revenue increase, looking at your forecasts, for all of the applications for rate increases that you are contemplating, appears to intend to generate, or anticipated for this year to generate about $8.9 million in total additional revenue, is that right?

MR. CHARLESON: Yes, roughly.

Q.524 - And when I look at the tier 1 rate, it would be correct to say that it is about $3.4 million that that one particular class is going to increase?

MR. CHARLESON: That's correct.

Q.525 - There are 20 customers in the LFO class?

MR. CHARLESON: That's correct.

Q.526 - And you expect to have in 2008 11,281 customers? And I get that number off Roman Numeral --

MR. CHARLESON: That's correct.

Q.527 - -- number IV for 2008?

So 20 customers, you are looking to increase by additional revenue of $3.4 million. And the other 11,260 customers roughly will contribute the remaining part?

MR. CHARLESON: Again, based on the market conditions that is what the rates deliver.

Q.528 - And I just did some quick calculations. Now again math isn't my strong suit. But I believe that 20/11,300 represents about either .2 percent or .02 percent. I always get confused with the decimal point.

MR. CHARLESON: I think the challenge you face though is you can't look at in terms of number of customers. It is through-put, consumption. But yes --

Q.529 - I will get to that.

MR. CHARLESON: -- 20 out of -- that is a very small percentage.

Q.530 - It is significantly less than 1 percent, correct?

MR. CHARLESON: Yes.

Q.531 - The revenue increase that you are seeking though is, if my math is correct, 38 percent of the revenue increase requested will come from the .2 or .02 percent of the customers, correct?

MR. CHARLESON: With some trepidation I will accept your math, subject to check.

Q.532 - Yes. And that would be -- roughly the numbers are correct?

MR. CHARLESON: Yes.

Q.533 - New through-put is a significant issue?

MR. CHARLESON: Obviously volumes consumed are a large part in terms of the revenue that is generated by a customer. So as a certain class of customer is significantly higher volumes, then obviously they are going to play a larger role in terms of the revenues for the business.

Q.534 - So are you suggesting that costs -- because the cost is higher for larger volumes that it has to be reflective of that?

MR. CHARLESON: Again our rate-setting methodology at this time is market-based rates. It is not -- there is no cost relationship there, so --

Q.535 - So volume really doesn't matter?

MR. CHARLESON: Volume does matter. Because the revenues that occur are driven by the volumes that are consumed and the rates that are applied to those volumes.

Q.536 - Even if we just grant you that, could you take me through the calculations of what the tier 1 volume is as a percentage of total through-put volume you expect for the year?

MR. CHARLESON: Again if we look at table 5 in that response where it is showing the 1522, that is about 24 percent of the total volume.

Q.537 - Right. So it is 24 percent of the total volume versus the 38 percent of the total revenue increase which you are seeking, correct?

MR. CHARLESON: Correct.

Q.538 - So if you use -- if the number of customers is less than 1 percent, you use the volume, the through-put 24 percent. But in both cases the revenue increase request is 38 percent of the total revenue increase, correct?

MR. CHARLESON: Yes. Based on the rates that were in place for 2007 and what the market conditions will allow for in 2008, that is correct.

Q.539 - Now I would just like to go through the bottom line figure for each of the years, again in undertaking number 1, document A-11.

And I would just like to compare, if we could, in each of those years to numbers again in undertaking number 1 follow-up of Flakeboard's, page 3 of 4, Roman Numeral III.

And I have -- and perhaps you can check as I go along -- but I have written down here -- the answers on undertaking number 1 are forecasted numbers, correct?

Each year you did a forecast for the succeeding year. And these numbers represent the forecast done in for example 2000 for 2001, is that right?

MR. CHARLESON: That's correct.

Q.540 - And Roman Numeral III in IR number 1 follow-up represents the actual, correct, the actual revenue?

MR. CHARLESON: That's correct.

Q.541 - So if I could just take you through. When I do the comparisons, in 2001 there was -- the total revenue was approximately $2 million forecast?

MR. CHARLESON: That's correct.

Q.542 - And in fact it is $183,000?

MR. CHARLESON: Yes.

Q.543 - And in 2002 it is 2.1 million forecast and came in at $1.2 million roughly?

MR. CHARLESON: Yes.

Q.544 - And then in 2003 you had forecast $7.9 million?

MR. CHARLESON: Yes.

Q.545 - And in fact it came in at 2,400,000?

MR. CHARLESON: Yes.

Q.546 - Significantly less, correct?

MR. CHARLESON: Yes.

Q.547 - And then in 2004 you had forecast 7.4 million and you came in at 3.7 million. Closer, but still only halfway there, correct?

MR. CHARLESON: Yes.

Q.548 - 2005 you got a little closer, correct? 10,000,000 you had forecast. And you got a little over $7 million?

MR. CHARLESON: Yes. As we gained more experience and as some of the market rules changed, it improved our ability to achieve our forecast. But obviously we were still coming up shorter than what we had hoped for.

Q.549 - Now you should be commended, in 2006, some would say as a result of a generous rate increase, your projections came true. In fact your dreams came true. You exceeded projections. You got $12,362,000?

MR. CHARLESON: Again as we gained more experience in the business our ability to forecast has improved.

Q.550 - So then I guess you must have lost some experience between 2006 and 2007?

MR. CHARLESON: No. Again there were some rate impacts. Because we did apply rate riders in 2007 that led to lower revenue.

Because market conditions had shifted in the early part of 2007. And that impacted some of our revenue. And then again some of our customer growth was slower than anticipated.

Q.551 - So in that year you had projected $21 million in revenue. And in fact it came in at close to $18 1/2 million?

MR. CHARLESON: Correct.

Q.552 - Now these figures that we are looking at in undertaking number 1, would they be the same numbers that were submitted to your board that approved your budget we talked about, that is called "budget" column here?

MR. CHARLESON: In terms of the forecast numbers?

Q.553 - Yes.

MR. CHARLESON: Yes, it would have been.

Q.554 - So you advised your board in September, October or sometime at least anyway, when you prepared this budget column, that you anticipated total revenues of roughly $32.5 million?

MR. CHARLESON: That is right, highlighting the risks associated with commodity pricing.

Q.555 - And when was that presentation to the board roughly?

MR. CHARLESON: Roughly that would be in the late part of

November.

Q.556 - Late part of November?

MR. CHARLESON: Correct.

Q.557 - And this application was made November 5th?

MR. CHARLESON: Correct.

Q.558 - So you presented your anticipated revenue stream to your board as $32.5 million?

MR. CHARLESON: We presented it at that time. Because again we prepare a budget. And it is a total corporate budget. It has a large number of elements to it. And you develop that budget. And you struck on a certain date.

In providing that budget to your board, you provide all the explanations associated with what is underpinning that budget. At the same time, in that board meeting, we also identify for our board current circumstances in situations that we see.

So at that time we also updated them, that we did have an application before the board for an increase to this rate and that, you know, that had potential for additional revenues.

But again highlighting that that was based on current market conditions for commodity pricing, and that that continues to be a risk that this business faces, that if those market conditions change the revenues could be affected positively or negatively.

Q.559 - The board approved a budget, at least this revenue component of the budget?

MR. CHARLESON: They approved all elements of the budget.

Q.560 - And in that approved budget they were -- you were anticipating and they approved approximately a $4 million rate increase for 2008, increase in revenue, sorry?

MR. CHARLESON: They approved a budget that included assumptions of $4 million in additional revenue, correct.

Q.561 - And that was prepared in late September. Or presumably it must have been sometime in October?

MR. CHARLESON: The first week of October it was finalized.

Q.562 - You used October 4th date --

MR. CHARLESON: That's right.

Q.563 - -- for pricing?

MR. CHARLESON: We had been developing a lot of the budget components through September. But it was -- we were finalizing it the first week of October. And that is why we were able to use the October 4th pricing.

Q.564 - So you used October 4th pricing. And you came up with a $4 million increase. And then an application made on November 5th.

I don't know when the numbers were calculated. An application made a month later or less. You got another

4' -- almost $5 million in revenue, correct?

MR. CHARLESON: No. The application that was made on November 5th, based on November 1 data, didn't give the full $5 million. It would have given the additional $1.2 million in the LFO class.

Because we hadn't filed an application for the other rates. That wasn't filed until mid to late December, and which you use market conditions closer to that point in time.

Q.565 - So you anticipated $6.3 million in budget. Then a month later you, just by virtue of the application, timing of the application, another 1 point -- almost $3 million in revenue, correct, additional revenue that you hadn't budgeted for in the LFO class?

MR. CHARLESON: That's correct.

Q.566 - Now I would like to go back to this question I asked earlier with respect to sort of your total expenses component for the year of 2008.

I'm just -- the numbers that I have just extracted from the -- I didn't, somebody helped me do -- extracted from the various financial statements you have, identified the 2003 total expenses as roughly $12.7 million, 2004 as $17.5 million, 2005 as $19.5 million. 2006, as we pointed out yesterday, dropped a bit to $18.5 million roughly.

Do those numbers appear correct to you?

MR. CHARLESON: Just give us a moment.

MR. LEBLANC: Can you repeat, sorry?

Q.567 - Sure. 12.7 -- this is from 2003 forward -- 17.5, 19.5 and 18.5.

MR. LEBLANC: Certainly the last -- I recall the last two from the -- that is correct.

Yes. They are all correct.

Q.568 - And the 2005, 2006, 2000' -- I'm sorry, '4, '5 and '6 were all sort of in roughly the same neighborhood, a million dollars give or take, 18', 19', $17 million, right?

Would it be fair to say you would assume that the expenses in 2008 would probably be in that same neighborhood?

MR. LEBLANC: In the same -- well, define neighborhood. But yes, it would be in the same --

Q.569 - 18', $19 million?

MR. LEBLANC: Perhaps 20', 21', that would be -- I'm not sure. I can get that exact number for you if you would like.

Q.570 - What would be -- what sort of items would you expect would escalate between 2006, 2008, on any order of magnitude, other than each of the extra pencils because they cost more?

MR. LEBLANC: I guess I hesitate to answer that without doing a bit of looking.

Q.571 - Well, what are the big parts of your operating costs, larger chunks of your operating costs?

MR. LEBLANC: O&M, which I would anticipate would stay relatively stable. I see increases in amortization of plant. I see increases in interest costs and increases in amortization and development costs.

But as to the magnitude, I can't tell you without talking to some of my people in the office.

Q.572 - Okay. Increase in amortization of plant --

MR. LEBLANC: Yes.

Q.573 - -- what would cause that to increase?

MR. LEBLANC: Increased investment in pipe in the ground.

Q.574 - The more pipe you lay the more you have amortized over the 41 year life? Is that what it is? What is the life of the pipe that you --

MR. LEBLANC: The actual main is 41 years. 2.43 percent.

Q.575 - And what about the laterals?

MR. LEBLANC: That would be considered main in my --

Q.576 - Okay. What about the other stuff using a technical term?

MR. LEBLANC: Three is a series of other rates. Actually they may be in the statements that we can -- just let me see if I can --

Q.577 - That is all right. If you don't have it right off that is fine.

MR. LEBLANC: Anyway, they would be less -- or more quickly.

Q.578 - The interest cost presumably because you are borrowing more money for investments -- or for incentives and other purposes.

You need more cash, you need to pay more interest for the cash, is that right?

MR. LEBLANC: Correct. Investment in capital and in development of the industry requires capital. And our current debt to equity is 50/50. And therefore half is financed through debt.

Q.579 - And for example the roughly $20 million of incentives that you are going to put in in 2008 needs cash, correct? 10,000,000 is what you have to borrow in order to be able to give the money as incentives?

MR. LEBLANC: We will need money to complete the plans for 2008. Some money will come from operations. And others, yes, will come from further debt or equity funding.

Q.580 - So you only have so much in the pool. And you need to borrow money because you are giving -- for example $20 million in incentives, that has to come in cash to somebody, right?

MR. LEBLANC: Yes. This is one of the expenses.

Q.581 - And the interest -- I think you said -- interest in the amount of development costs. Is there interest on that?

MR. LEBLANC: No. It is amortization.

Q.582 - Oh, it is just the amortization on development costs. That is the amortization of principally the incentives?

MR. LEBLANC: I wouldn't say principally. But incentives are certainly included in the number.

Q.583 - So as you give more money to the customers, that number goes up every year. Any year you give more money to the customer as incentive, that number goes up?

MR. LEBLANC: Anytime we invest in the development of the industry, yes.

Q.584 - And the way you invest in the development of industry is by giving money to customers called incentives?

MR. LEBLANC: We do use incentives in order to incent customers, which also bring revenue which is important to the long-term development of the company.

Q.585 - Do you give money to customers for any other reason?

MR. LEBLANC: No.

Q.586 - For the next line of questioning, Mr. Chairman, I would like to see if we could get -- can we quickly get the number for your budgeted 2008 operating costs?

MR. LEBLANC: Yes.

MR. LAWSON: Could we take just a two-minute break or three-minute break --

CHAIRMAN: How long would it take --

MR. LAWSON: -- or whatever it takes?

MR. LEBLANC: Well, if I can get the person on the phone, two minutes would be sufficient, but five maybe.

CHAIRMAN: We have never had two-minute breaks. We will take a short recess and allow you to get that information.

(Recess - 10:00 am. - 10:30 am.)

CHAIRMAN: Okay. Were you able to get the necessary information during the break?

MR. LEBLANC: Yes.

CHAIRMAN: So Mr. Lawson, are you ready to proceed?

MR. LAWSON: Thank you, Mr. Chairman. Yes.

Q.587 - So could you tell me what you did learn with respect to the budgeted operating costs for 2008?

MR. LEBLANC: Just a couple of caveats around the number. First of all, we don't actually prepare our regulatory budget. And there are some differences between our regular budget and our regulatory budget.

However this number will directionally very close to what you are looking for. The number that we came up with is 22.7 million. Like I say, that could be plus or minus half a million maybe, but --

Q.588 - Now let me sort of work backwards if I could. Looking at the AWL interrogatory number 2 follow-up --

MR. LEBLANC: Yes.

Q.589 - -- it is the one that identifies the additions, reductions to deferral account on a yearly basis starting in 2000, the amount forecast -- and that is in A' --

CHAIRMAN: A-6 is it?

MR. LAWSON: A-6 follow-up, yes. Thank you, Mr. Chairman.

CHAIRMAN: That is AWL number 2?

MR. LAWSON: 2.

CHAIRMAN: And what page, Mr. Lawson?

MR. LAWSON: Sorry. Page 2 of 3.

Q.590 - At the bottom of the page it identifies the yearly additions or reductions to the deferral account.

I see in 2008 you forecast $7 million, roughly $7 million?

MR. LEBLANC: Correct.

Q.591 - And does that -- I thought I heard yesterday that that didn't reflect any of the requested increase, is that right?

MR. LEBLANC: That number is derived from the budget.

Q.592 - Okay. That was the question. So it is derived from the budget?

MR. LEBLANC: Yes.

Q.593 - So if we look at the budget item in undertaking number 1, you had a revenue stream of $32 million forecast?

MR. LEBLANC: Yes.

Q.594 - And then if all the increases you have sought are granted, then you would have another $5 million in additional revenue, correct?

MR. LEBLANC: Yes, based on the through-put that was in the budget, yes.

Q.595 - Right. So your budgeted number would be $5 million higher.

So that would move your 2008 forecast with -- as anticipated, if the increases went in as you had hoped, down to about $2 million, is that right?

MR. LEBLANC: The deferral, is that what you are asking?

Q.596 - I'm sorry. The deferral account addition for 2008?

MR. LEBLANC: Yes.

Q.597 - And that would, I would submit, barring some very significant unforeseen circumstances, mean that 2009 you would be in the money or start having the advantage of making reductions for deferral accounts, correct?

MR. LEBLANC: Assuming market conditions turn out exactly as the budget -- or as the rates as applied, and we could charge full rates for that entire time, absolutely.

Q.598 - And with that in mind, I presume you are already making an application, preparing an application for the end of the development period?

MR. CHARLESON: No, we are not.

Q.599 - You are not?

MR. CHARLESON: No. And again I think -- again the development period is approved currently through the end of 2010.

I think if you look at the response to Flakeboard interrogatory number 10, we talk about some of the factors that would signal the end of the development period. And it is beyond -- it is not strictly the deferral account -- or addition to the deferral account.

Q.600 - So you anticipate the possibility, do you, that you might actually be reducing the deferral account but not view that you should end the development period?

MR. CHARLESON: That's correct. Again looking at the response to that interrogatory -- and it may be helpful to turn that up. So that was Flakeboard interrogatory number 10. And it was part 3 of that response.

Q.601 - Now could you reconcile with me --

MR. CHARLESON: I guess I'm just letting the Board turn that up --

Q.602 - Oh, I'm sorry.

MR. CHARLESON: -- so I can finish my response.

So in that response we do indicate that, you know, one of the principal drivers to reaching the end of the development period is to grow the business and increase customer attachments. And that would obviously be the point where you are able to be profitable.

But you also have to look at other factors such as maturity of the energy services marketplace, market share, product awareness. Because it's one thing to get to the point where you are profitable.

But if you turn -- if the market hasn't matured to the appropriate extent, you may be profitable one year, but then the awareness isn't there or the customer capture doesn't stay there and you start to lose market share.

So it has to be sustainable profitability in that the market has matured. So there are some other say nondollar-related items that will also be factored into that.

And I believe in the decision, the last decision regarding the extension of the development period, it was indicated that there were a number of factors that would have to be considered.

And it is our belief at this point in time that a number of those other factors aren't in place yet and that would not drive us to be bringing forward an application for the end of the development period.

Also in the Board's January 18th decision where the Board has provided direction around the steps toward looking at cost of service, that is one of the elements that will also have to be looked at to see whether the cost of service rates that can be arrived at remain competitive.

It is one thing where the total revenues that you can achieve under market-based rates may exceed your cost, so that you are no longer contributing to the deferral account.

But when you go in and look at the cost of service you may find that the residential rate under the cost of service, cost allocation study basis would raise the rates by say 30, 40 percent.

We don't know. We haven't done that analysis. But it could make some of those rates uncompetitive, in which case you are going to lose market share and not be able to continue to grow the basis. So it is not a simple math of looking at everything in aggregate.

Sorry, that is a lengthy answer to I think what you hoped was a fairly straightforward question.

Q.603 - Well, am I correct in saying that of the factors that go in -- that you have identified as to what should end the development period, there is only really one that is readily quantifiable and has a benchmark, and that is that you are no longer adding the deferral account but instead are reducing the deferral account?

MR. CHARLESON: No. I would say the other factor that I identified is that the rates that would be arrived at in a cost of service model would be market competitive.

Q.604 - So have you done any analysis in that regard to know whether they would be market competitive?

MR. CHARLESON: No. Because that would require doing a cost study. And that hasn't been done as yet.

Q.605 - So when is it you plan to make an application to end the development period at this point?

MR. CHARLESON: At this point in time the development period is approved to continue through to the end of December 2010. And we expect that you have to make an application to address the end of the development period at some point leading up to that.

If I recall correctly from the Motions Day, I think we talked about some point in time in late 2009, something like that would need to occur. But I'm going from memory. And that is not always the most reliable source.

Q.606 - The development period as approved by this Board or the Public Utilities Board in 2005, the extension was to December 31st 2010, correct?

MR. CHARLESON: That's correct.

Q.607 - But -- and I'm going to read from it. You don't have a copy of it. And I don't have copies for everybody. But in the development period portion of the decision of that Board dated December -- sorry, January 21st 2005, the first sentence says, the Board finds it appropriate to extend the development period to December 31st 2010. Should Enbridge find that the full extension to the development period is not required, it must apply to the Board for approval of an earlier end date for the development period.

So we now know from what you said that if this rate request was granted, that you will be no longer adding money to the deferral account -- adding amounts to the deferral account next year, correct?

MR. CHARLESON: Correct.

Q.608 - Conceivably --

MR. CHARLESON: Conceivably. Again assuming market conditions continue to support the rates that have been requested.

Q.609 - Conceivably this year?

MR. CHARLESON: Conceivably. But again it is all driven by market conditions. And I don't -- again given the numbers we are seeing there, I think that would be a stretch.

Q.610 - And the only other variable, did I understand you to say, is this analysis of whether cost-based support allow you to generate enough revenue?

MR. CHARLESON: That is the only one that you will accept as being quantifiable.

Q.611 - Okay. Is that the only one that you would agree is quantifiable?

MR. CHARLESON: Yes. But there are other factors that have to be considered.

Q.612 - But you haven't done anything with respect to it to know whether or not that one makes sense?

MR. CHARLESON: No. That's correct. Because it is only until recently that the market conditions have moved to the point that it would bring that point of the revenues exceeding our cost into the time period that is before the end of the approved development period.

And it takes time and effort to do that cost study. And again it is something that we have indicated was in our plans to be starting to address within 2008. And we will continue to proceed on that path.

Q.613 - So will you agree that if that analysis results in what appears to be at least arguably supportable on the quantification of second piece rather than the deferral account, that you will be applying to the Board this year?

MR. CHARLESON: That makes the assumption that the cost study is completed this year. But if upon completing the work on the cost study, and there is a process that is going to be defined in terms of how that is approached, if we found from that that it looked like on the quantifiable basis, then we would have to look at those other factors to determine.

And if we felt it was appropriate to end the development period sooner, then yes, we would bring forward an application.

Q.614 - So your view is that the determination of whether or not you should make an application is yours and nobody else's? You should end it before December 31st 2010?

MR. CHARLESON: Again I'm going from the wording that you read from the Board's decision. It did indicate that, you know, if we determined that it is warranted.

So consistent with that decision, you know, we would again assess the situation and make that determination and bring forward an application if we believed it was appropriate.

Q.615 - And if you don't think it is appropriate how will anybody know whether or not what your analysis results in to challenge you on the question?

MR. CHARLESON: Again my understanding is from the decision, the January 18th decision on the motion, is that the process for looking at the cost study and the cost allocation is to be done with input from interested parties.

So I would assume interested parties will have the opportunity to see the results of that.

Q.616 - Thank you.

Just going back to this forecast figure in the AWL interrogatory number 2 follow-up, page 203, the forecasting to the deferral account, the 2008 figure you have identified as the budget figure.

The 2009 figure, what is used for the revenue stream for the calculation of having it down to a million dollars?

MR. LEBLANC: The 2009 number assumes the same rates continue as is in the 2008.

Q.617 - Budget?

MR. LEBLANC: Correct.

Q.618 - So if you get $5 million worth of extra revenue over budget in 2008 as forecast and then you annualize it, clearly you will be in the money significantly, I would submit, by 2009, is that -- assuming all other things remain equal and --

MR. CHARLESON: Yes.

Q.619 - -- the business doesn't take off like crazy or drop like crazy?

MR. CHARLESON: Yes.

MR. LAWSON: Those are all the questions I have. Thank you, Mr. Chairman, members of the Board. Thank you, panel.

CHAIRMAN: Thank you, Mr. Lawson.

MR. LAWSON: I'm sure that probably my learned friend Mr. Stewart would like to ask a few questions.

MR. STEWART: With respect to the documents provided as part of the undertaking, Mr. Chairman.

CHAIRMAN: Come forward.

MR. STEWART: Just a couple of brief questions.

CHAIRMAN: I'm assuming your questions are related to exhibits from this morning.

MR. STEWART: Yes, exhibit A-10.

CROSS EXAMINATION BY MR. STEWART:

Q.620 - I just wanted to clarify one point. When we are looking at these numbers, I want to make sure that we are kind of comparing proverbial apples to apples here.

I believe I heard you tell Mr. Lawson that the total under the column "applied for increases" for 2008. I assume that the rate increases you obtained weren't annualized.

In other words, you only included in the effect of the rate for the lower rate classes from April 1, 2008 to December 31, 2008?

MR. CHARLESON: That's correct. Because it is a forecast of 2008 revenue. And that forecast can only incorporate the raised one we believe that can be in place.

Q.621 - Fair enough. And equally I think you said that the forecast was on the basis that the rate sought in this application would be in effect as of the end of February, is that right?

MR. CHARLESON: Actually it was February 1st.

Q.622 - February 1st?

MR. CHARLESON: Because that was the requested date in the application.

Q.623 - Right. So then the total there -- okay, let's go back. Your "no increases" column total of 28,608, that is a 12-month period based on no increases for 2008?

MR. CHARLESON: Yes. It is 28 million 6008.

Q.624 - So what -- and I'm going to do the arithmetic. The difference between what you will in theory generate or what your forecasting will generate in 2008 with and without the increase, as you do the math, that is $8.975

million?

MR. CHARLESON: Yes, assuming approval from the Board and the market conditions throughout the remainder of 2008 support the rates as applied for.

Q.625 - Okay. So what is the difference on an annual basis? How much is that number going to increase, if we look at how much more you are going to make per year, if this rate increase goes forward?

And I did the math. But I confess I did it on the basis of my number for -- my number for the LFO rate increase has actually got to be divided in two, because I thought you were doing it for two months.

So that would be -- let me just get my calculator and I will do that.

MR. CHARLESON: Mr. Stewart, I believe it is going to be difficult to kind of just do some rough math off the numbers there, especially when you look at the general service rate classes.

Because the demand throughout the course of the year is obviously very heat-sensitive. So it is not kind of equally apportioned into all 12 months.

Q.626 - All right. But humour me. I did the math. And that comes up to an additional annualized revenue. All right. You can do the math. You can look at the effect of the revenue from April 1, 2008 to April 1, 2009 if you want.

But that comes up to another $6.248 million in revenue. Does that sound correct?

MR. CHARLESON: I couldn't say.

Q.627 - And so if we added that to the $8.975 million there is going to be a difference of over $10 million on an annual basis between what you would make without the rate increases and what you are going to make with the increases.

Is that a fair assessment?

MR. LEBLANC: What are you comparing now?

Q.628 - Well, I'm comparing the 28.608 million which is your projected revenue for 2008 without any rate increase, right.

And then I annualized the effect of the current increases in all the rate classes that you have applied for now.

And I say that that ball park is about a $10 million increase in your revenue per year annualized?

MR. CHARLESON: I think that is probably a reasonable ball park.

Q.629 - Okay. And you were projecting adding $7.117 million to your deferral account for 2008?

MR. CHARLESON: Correct.

Q.630 - So the effect then of this rate increase will mean that at a minimum the 8.9 increase you are expecting will more than cover your deferral account contribution, correct?

MR. CHARLESON: Again that 8.9 is not -- again the increase in comparison to what underpinned that 7,000,000 was the budget, which was $32.5 million. So you are looking at -- you know, it is say $5 million and not the $8 million that you suggested.

Q.631 - Okay. Well, if I compare it to your budget number that is an increase, on an annualized basis, of 7.0 -- a little slightly less than $7 million?

MR. CHARLESON: That one I'm struggling a bit. You know, I accepted say the ball park of the 10,000,000 and no increase for supply.

Q.632 - Okay. So you got 10,000,000 between 28.6 in your revenue annualized?

MR. CHARLESON: Yes.

Q.633 - So you are going to have a little more than 6,000,000 I guess between --

MR. CHARLESON: That I could accept.

Q.634 - -- your budget number --

MR. CHARLESON: Yes.

Q.635 - -- and the revenue that you will obtain if the increase goes forward?

MR. CHARLESON: Again I can accept that as a ball park.

Q.636 - Right. So as of the end of this year you should be able to have zero contributions to your deferral account if you obtain your increase?

MR. CHARLESON: Assuming that market conditions don't change. And as we have indicated earlier, that is one of the most significant risks to our revenue stream.

Q.637 - Right. And as you indicated in your opening statement, in fact market conditions at least so far are even more favorable for you, right?

MR. CHARLESON: Correct. But again we have also seen I think from some of the evidence of your expert, it has shown that the spread has been closing back in.

And you know, so if that trend were to continue then we may not be able to have the rates at the applied-for level. And a rate rider may have to be applied.

Q.638 - Right. But I think you could even -- you could get a spread of some 27 percent and still be where you are today.

You could get a reduction in the spread by 27 percent and still be where you are today, right? Still meet your target discount?

MR. CHARLESON: Sorry?

Q.639 - Isn't that what you told us in your opening statement that, you know, you could charge even 20 percent more if you used today's numbers?

MR. CHARLESON: Yes, that's correct, in terms of it.

Q.640 - Right. So even if the market goes 27 percent worse than it is today you will still make these numbers on the rate increase?

MR. CHARLESON: On the LFO side. There is different rates and different commodity pricing underpinning the other application. And the market conditions are dramatically different on that side.

Q.641 - Well, at least on the LFO part?

MR. CHARLESON: And that is only one piece.

Q.642 - Will your expenses forecast for 2008 or 2009 change one penny whether or not you get this extra $10 million in revenue or not?

MR. CHARLESON: There will be some changes that can be impacted. Obviously if there is additional revenues that can impact the level of financing that we require to continue to grow the business.

So revenue has a direct impact in terms of other parts that roll into our expense items. So there could be some impacts. I can't itemize them or --

Q.643 - You have a little bit of cash flow. So some of your borrowing costs might be a little low?

MR. CHARLESON: Yes. Or you don't require as much to underpin the growth or the expansion that you plan within the year.

Q.644 - Right. But generally there is not going to be any substantial effect on your expenses at all is there?

MR. CHARLESON: Again I couldn't necessarily agree in terms of what is substantial or not.

Q.645 - Okay. Well, quantify it for me. You have identified something that you said might change. Is it $500,000 -- $300,000? Give me an order of magnitude.

MR. CHARLESON: We would have to undertake to do that. It is not something that I can calculate or do sitting here.

Q.646 - Well, why don't you undertake to do that?

MR. HOYT: Can I just get clarification on what the undertaking is?

Q.647 - My question was what -- you have given us numbers about what your revenue will be or will not be as a result of this increase. And I think you have agreed that on an annualized basis you are going to get another $10 million in revenue.

And I asked if you don't get this $10 million in revenue will that have any effect on the other side of the ledger, your expenses? It will have an effect on the deferral account. But will it have any effect on your direct expenses?

And in a fair order of magnitude. I'm not asking to the penny.

MR. CHARLESON: Just bear with us a second here. Because we may be able to -- degree of precision required we may be able to at least give something directional to keep us moving.

After consulting with the accountant, earlier on we indicated that we had looked at our expenses for this year and in the range of $22.7 million. Our sense of the implications of say that additional revenue, you know, could be in the range of maybe a half million dollars.

Q.648 - So instead of having expenses of 22.7 million you have expenses of 22.5?

MR. LEBLANC: Or 22.2.

MR. CHARLESON: Yes.

MR. LEBLANC: Somewhere in that range.

Q.649 - 22.2 million?

MR. CHARLESON: Yes.

MR. STEWART: Those are my questions.

CHAIRMAN: All right. So there is no undertaking then?

MR. STEWART: No.

CHAIRMAN: Thank you, Mr. Stewart. Ms. Desmond? Anytime you are ready.

MS. DESMOND: Thank you.

CROSS EXAMINATION BY MS. DESMOND:

Q.650 - The first couple of questions will relate to undertaking number 1 which is now A-10.

And I understand from your evidence earlier that there is no expected rate increase for the SGSRE class.

And perhaps you could just expand on why that is, just for the record?

MR. CHARLESON: Again at this point the maximum rate approved for the SGSRE class is I believe $7.6212 cents. And the rate that is currently in place is well below that.

With the last rate rider it is about $3.43. So there is still a significant gap between the approved rate and the effective rate at this time because of -- to maintain the competitiveness against the electricity market.

So there is -- we would have to see a dramatic change in terms of some of the pricing before the application of rate riders would get us to the point that there is a need to increase that maximum rate.

Q.651 - And the alternative commodity there of course is electricity?

MR. CHARLESON: That's correct.

Q.652 - And for all other rate classes is it fair to assume that the alternative commodity is oil?

MR. CHARLESON: Yes.

Q.653 - And as we heard through the hearing, the cost of oil of course has increased significantly. And as a result that is the basis for this rate application?

MR. CHARLESON: That's correct.

Q.654 - Okay. It has appeared to us though that there is with the HFO class. Is the alternative commodity there oil as well?

MR. BUTLER: Yes. It is heavy fuel oil.

Q.655 - And could you explain then why there has been no increase for the HFO class?

MR. BUTLER: The market price of HFO is still well below the cost of natural gas.

Q.656 - And just for the record has there ever been an increase i the HFO class?

MR. BUTLER: No, there hasn't.

Q.657 - And has there never been a variation to the relationship there that has necessitated an increase?

MR. BUTLER: I believe when the rate was set in 2000 we had -- with this rate we had a 5 percent savings over heavy fuel oil. And that has deteriorated to -- I believe currently today it would be somewhere in the minus 46 percent range.

Q.658 - If you could turn to the follow-up IR which I believe is A-6. And we are looking specifically at Flakeboard IR number 1 and page 2 of that response.

And it appears that in the LFO tier 1 class the actual volume for 2007 is 911 terrajoules, is that correct?

MR. CHARLESON: That's correct.

Q.659 - And then if you flip to page 3, table 5, the forecast for that same class is 1522 terrajoules.

Can you explain for us the difference there, where that 611 terrajoules forecast increase comes from?

MR. CHARLESON: Well, actually the 1522 in table 5 is actually for 2000' -- is the forecast for 2008. Whereas in table 2 the 911 is 2007 actuals. So what it is showing is there is an anticipated growth between 2007 and 2008.

Q.660 - And why is that?

MR. CHARLESON: That is related to a new LFO customer that came on late in 2007.

Q.661 - Now I think for the next few questions it would be helpful if we could pull out your table where the formula is, which I believe is in exhibit A-3, page 3.

And in addition to that you are going to need exhibit A-4 and primarily the responses to the questions posed by the NBEUB.

And what we would like to do is sort of work through some of the line items here that are on page 3 in the formula.

And starting first with the retail oil price which is line 1, could you indicate to the Board if there is any other fuel choice in New Brunswick that Enbridge could use as an alternative or as an optional fuel as a comparison to calculate the market-based rate?

MR. CHARLESON: For this class of customers, no, we don't believe there is an alternative. This is the -- this is the fuel that again many of these customers converted from and continue to have access to as a fuel alternative.

So that is why we believe it is the appropriate one. And we don't see any different fuel that we can --

Q.662 - And is it possible or do you have reason to believe that the relationship will be what it was in the late '90's, the relationship between natural gas and oil?

And how reliable will that relationship be going forward?

MR. CHARLESON: I think what we have seen over the years is there is significant volatility affecting both natural gas and oil prices. Whether the relationship that was in place or kind of the tightness of the spread that was in place at that time, whether we would return to that, I think it is difficult to predict. There is no certainty around it.

However we still believe that oil is the appropriate price signal because it is the alternate fuel. And also we still do see that there is trends within the market. Prices will move.

Oil and gas prices on a day will tend to move in a similar direction on a lot of the cases. Natural gas has a tendency to follow oil in a lot of cases in response to some of the market signals. They respond to similar market signals.

Q.663 - Now in relation to that particular line item, could you also flip then to NBEUB IR-4 which is in exhibit A-4 and the bottom of page 2 in that response.

And we understand that Enbridge uses the West Texas intermediate crude oil as a proxy to calculate the right fuel oil price --

MR. CHARLESON: That's correct.

Q.664 - -- is that correct?

And looking at the bottom of page 2 then it appears that you start with an average price of 82.0105?

MR. CHARLESON: Correct.

Q.665 - And then you divide that by 5.8?

MR. CHARLESON: Yes. That is converted from barrels to million btu's.

Q.666 - Okay. And then you use a multiplier there of 1.2450 which is the -- appears to be the refining ratio.

Can you explain where that refining ratio comes from?

MR. CHARLESON: The refining ratio is based on some studies that were done a number of years ago when the methodology was first being developed to look at kind of what we see -- and again I think the methodology is described further on the next page of this response.

But the information was collected to arrive at what was typically seen in kind of the marketplace for the refining of crude to other products. And we have kind of continued to rely on that refining ratio as being a reasonable calculation.

Q.667 - And then the result of that calculation of course is that you had the price for number 2 oil at New York Harbour, is that correct?

MR. CHARLESON: That's correct.

Q.668 - But is that information publicly available without the calculation? So could you not access that number 2 fuel price oil at New York Harbour without having to go through that problematic approach?

MR. BUTLER: It is available. I believe it is an 18-month forward price for that.

Q.669 - So if it is publicly available why not use that information as opposed to make a number of assumptions and use this calculation?

MR. BUTLER: I'm not really sure why we don't. I know that we do longer term outlooks forecasting. And the crude oil future pricing is available. I think it goes out at least five years.

So other than the fact that we have used that methodology and we have continued to use it for both short and long-term forecasting --

Q.670 - Would you undertake to provide that number I guess using the publicly available information --

MR. BUTLER: Yes. We could do that.

Q.671 - -- for that calculation?

MR. BUTLER: That would be as of the same dates then as --

Q.672 - Yes.

MR. BUTLER: -- comparable?

Q.673 - Now you have indicated to the Board that you used 21 days of market data.

And I think in your opening statement you commented that the longer the period that is used the less susceptible you are to minor market changes, is that correct?

MR. CHARLESON: That's correct. When we looked at -- when we talked about minor market changes, things that can happen say in a seven-day period. And so by using a longer period it helps to exclude some of those from being factored into our pricing.

But then also keeping it for 21 days keeps it in a position where we are able to be responsive to the changes that are happening in the market.

Q.674 - But is it fair to say that the choice of using 21 days is really a judgment call?

MR. CHARLESON: To an extent it is a judgment call. But the 21-day average is also something that is typically used in the industry for measuring volatility and looking at what is happening in the commodity markets.

So not only is it something that we view as being, you know, reasonable in terms of managing the response from this, but also providing that one-month view in terms of trading activity. It helps to -- again it is something that is seen in the marketplace.

It is something we see in a number of, you know, the reports that we get from different trading shops, and again gives us that responsiveness and really helps to align as well with when we look at the ability to do rate riders, kind of matching up with that timing as well.

Q.675 - But if took a long window of data points, clearly that would give you more reliability. It might be less flexible in terms of anything you would make changes. But wouldn't it be more reliable?

MR. CHARLESON: I wouldn't necessarily say that. Because again what is occurring by -- as you draw in more data points, you are kind of ignoring what is happening in the market today.

It is kind of -- you are discounting kind of the knowledge of the market by drawing in more historical information.

And again if there is that dampening in terms of what is happening in the market today, it does put us a significant risk of becoming uncompetitive or having rates that unnecessarily lead to additions to the deferral.

Q.676 - In terms of the application that is before the Board -- and I appreciate you took a particular window of time -- was there any magic to that 21-day window that you chose for the purpose of this application?

MR. CHARLESON: We looked at the timing, when we had all the other elements of the application together, and then looked to use basically the most recent market data that we could while getting all the paper work together.

Q.677 - Would you agree that the window that you choose impacts significantly on the end result, the rate that you will be asking the Board to approve?

MR. CHARLESON: Definitely the window that you choose will have an impact. However by a 21-day average, you know, whether you pick November 1 as the date or October 30th or November 3rd as the date leading up to that application, it is going to be muted to an extent.

But obviously what we see from -- you know, when we -- by applying, using the November 1 date data as opposed to say October 1 or December 1, in that sense it can contribute to a much more significant impact.

Q.678 - And just having done some rough calculation at a staff level, would it be accurate to suggest that if we took 21 days prior to October 1st that the distribution rate would be about a dollar lower than what this application is requesting?

MR. CHARLESON: Prior to October 1st or November 1st?

Q.679 - Just move back a month?

MR. CHARLESON: If we move back a month earlier? We would have to -- I would have to check. But I will accept that it would have been a lower rate that would have been applied for.

Just the same as if we had been a month later it would have been a higher rate that we would have applied for.

Q.680 - So the 21 days that you choose at the end of the day have a significant impact on the results. Would that be fair?

MR. CHARLESON: It can in periods where there is the volatility in that. But that is also the reason why we have the ability to use the rate riders, so that we can be responsive to the changes in the conditions once that maximum rate is established.

For the next question I had spoken to my learned friend. We will attempt to be very careful about how we phrase this question, so that we don't identify any particular customers.

But it will necessitate looking at a couple of confidential responses that I believe are before the Board.

CHAIRMAN: Ms. Desmond, are you able to ask these questions without having the Board go in-camera?

MS. DESMOND: I believe we can.

MR. HOYT: And Ms. Desmond talked to me. And as I understand, it is going to be a matter of averaging information about a number of customers. So I assume it won't lead to identification of the customers.

CHAIRMAN: Thank you.

Q.681 - The first reference then for the panel would be EUB IR-2 which is in exhibit A-4. And looking at that response it references an average use in 2007 of 32402 gigajoules. I think it is the last sentence in the second last paragraph there --

MR. CHARLESON: Yes.

Q.682 - -- is that correct?

MR. CHARLESON: Yes. That's correct.

Q.683 - And from that response it appears that you have calculated that average without the two largest customers?

MR. CHARLESON: That's correct.

Q.684 - Then if we look at the confidential response IR-8 to AWL, that appears to be the customer usage for the last -- or the most recent 12 months, is that correct?

MR. CHARLESON: Yes. That's correct.

Q.685 - And if we were to remove the largest two customers, so in this instance it would be 17 for the three tiers and 14 in its entirety, and we do an averaging there, would that -- arguably the response or the outcome would be similar to what you have indicated is the last 12 months.

Would that -- should that calculation be the same?

MR. BUTLER: The difference between those numbers is the -- the purpose of that first -- IR number 2 -- that average figure was used to determine, you know, for ratemaking purposes what the average consumption is.

The billed information in the other response includes some customers that were billed on the LFO rate who either did not have a full 12 years of consumption -- so it was a new customer -- or 12 months of consumption, sorry.

So it was a new customer coming on that they may have only had a couple of months or a month of consumption. So for the purpose of trying to determine what the average is, those customers would be excluded.

Q.686 - You excluded them for the purpose of EUB IR-2, is that correct?

MR. BUTLER: Yes, excluded them for the purpose of determining the average consumption, which was the question I believe in IR 2.

Q.687 - Why would they not have just been added to the calculation when you were attempting to come to your average?

MR. BUTLER: Again because we are trying to use this derivation of rates calculation to determine, you know, what is the average typical customer, so by including customers in there that only have one month of consumption.

So for example on -- what IR's -- number 8, you will see the minimum consumption to qualify for LFO is 14000 gigajoules a year. So you will see customers -- you will see, yes, customers in here using less than 14000 gigajoules.

So that would reduce, draw down the average. And it wouldn't really provide you with a true average use, if you included those partial years of consumption.

Q.688 - Can I ask how many customers were added to this class in the last year?

MR. BUTLER: Yes. There is only one. But there is one I recognize here that had been in the past using roughly 30' -- 40,000 gigajoules that only used 7800 gigajoules.

So that customer, although they have been on the LFO rate, their anniversary is coming up shortly. And they have indicated to us that they will not need the 14000 gigajoules. So they are actually a CGS customer. So they will be reclassified.

So that is an example of a customer that doesn't meet the 14,000 gigajoule level. So it wouldn't be prudent to include them in an average -- for the purpose of trying to determine what is the average use for those customers.

MS. DESMOND: If I could just have a moment, Mr. Chair.

CHAIRMAN: Certainly.

Q.689 - Just on that same line of questioning, if we take you to that same IR response in EUB IR-2, the first block forecast usage.

And as you indicated, they were excluded for the average, to calculate the average, is that correct?

MR. BUTLER: I'm sorry. The first?

Q.690 - For the first tier, the first block in the LFO class, we understand from the response that two, the two largest customers were excluded for the purpose of calculating the average --

MR. BUTLER: That's correct. Yes.

Q.691 - -- forecast? Okay.

And I guess our question is why would you not include those two larger customers at least for the first tier, for the first 33,000 gigajoules?

Why would they have not been included for the purpose of calculating the average?

MR. BUTLER: Well, I believe that it would have distorted, you know, the average usage. It would have increased the volume which would have, and as I explained in the response here, that it would have had the effect of increasing the delivery charge to the point where 90 percent of the customers wouldn't realize the targeted savings. And because --

Q.692 - I appreciate that for the second and third tier. But in the first tier why not include their usage for the purpose of the average?

MR. CHARLESON: I think the difficulty that you would run into is 90 percent of the customers who only consume within the first year would not be able to achieve the target level of savings.

Because by including those two larger customers it skews that average use and would lead to a higher delivery rate.

MR. BUTLER: Because you would be including the entire full tier. So the largest customers use 33,000 gigajoules a month, you know --

Q.693 - I appreciate that.

MR. BUTLER: -- whereas we have some customers that only use, you know, less than that in a year.

Q.694 - But why exclude those two? Why not exclude the smallest consumer then, just to make sure that you are hitting the average?

MR. CHARLESON: Again the key that we are looking at is ensuring that the rates that we arrive at provide the best opportunity for customers to achieve the target level of savings.

If we include -- if we were to include -- as we indicate in that response to the IR, if we were to include those two largest customers, it would arrive at a rate that would not deliver on that value proposition.

And again our commitment is to put rates in place that works towards delivering a target level of savings to the customers in that class.

And to create -- to do an average that would compromise that, we didn't see as being appropriate or prudent in terms of managing the growth and the continued use of natural gas by these customers.

Again a large number of these customers have the ability to switch to fuel oil. They are dual fuel. So if our rate is not competitive they are going to switch back to using oil.

Q.695 - But by excluding two customers, both of whom have usage in that particular tier -- what I'm hearing you say is that by including them it distorts the average.

But perhaps the formula needs to be revisited if you are essentially picking or choosing the customers that need to be excluded to accomplish a particular target?

MR. BUTLER: I think the other big difference between the two large customers or any customer that goes beyond the first tier is that their average distribution rate is much less than all of the other customers. So they are really two distinct groups of customers.

Q.696 - So are they not suited then for that particular rate class?

MR. BUTLER: I'm sorry?

Q.697 - Are they not suited for that particular rate class?

MR. BUTLER: Yes, they are, with the second and third tier in there.

Q.698 - With respect to your target savings which I believe is line 6 of page 3 -- just move on to the next line item.

MR. CHARLESON: Yes.

Q.699 - As you have indicated to the Board, there is a 10 percent target saving. Do you still believe the 10 percent is appropriate --

MR. CHARLESON: Yes.

Q.700 - -- for this particular class?

And why is that? Why is that a more appropriate target as opposed to the previous 15 percent?

MR. CHARLESON: Again the 10 percent we believe is appropriate because when we look at the absolute savings that are able to be achieved, if we look in comparison to when this rate was first established in 2000, there is a certain level of absolute savings that were achieved at that time. I don't have that number at hand. And that was what was delivered by the 15 percent savings level.

And as we looked with say the increases in commodity costs, that absolute savings had grown, and that is where we -- to the point where we felt it was reasonable and appropriate to reduce that target savings level where it was still providing sufficient absolute savings that would incent people to convert to natural gas and to continue to use natural gas.

And you know, the evidence or the experience that we have had since that time would indicate that our assumption has been correct.

We have had additional customers convert to natural gas, LFO customers convert to natural gas or start to use natural gas, since that change has been made. And the customers that we have had have continued to use natural gas and haven't reverted to an alternate fuel source.

The other point -- so in terms of valuing that, well, we also felt that was appropriate. Because we saw it as an appropriate level it was also a means to ensure that we were minimizing unnecessary additions to the deferral account.

Q.701 - There has been a lot of discussion about a potential customer with whom you have had a number of discussions with about converting to natural gas.

Is there any concern that that target savings maybe is not sufficient to attracting customers?

MR. CHARLESON: No.

MR. BUTLER: No. Because most customers in this class look at the payback. So the changes over time that Mr. Charleson mentioned, you know, the absolute savings -- the absolute savings have grown since we first set the rate with a 15 percent savings in the year 2000.

Those absolute savings have grown faster than the cost of conversion. So their payback today at 10 percent actually would be less than it was back in 2000 at 15 percent.

Q.702 - The next lien item I wanted to talk about was the monthly demand charge which is line 14.

Can you explain how that demand charge was originally calculated?

MR. CHARLESON: Unfortunately I can't. I would have to look -- we would have to look back at some of the analysis that was done at that time. And I'm not familiar with that.

Q.703 - How is it then that it says 520 today? On what basis do you support that submission?

MR. CHARLESON: Again we believe that, you know, because of the market-based methodology being employed that the focus is really -- that the focus has been on the delivery component.

You know, as we look at cost of service there may be implications at that time where we need to look at is that the appropriate contract demand under cost of service model.

But under a market-based rate methodology we see the 520 as still enabling us to deliver the targeted savings level and just using the distribution rate as the means of adjusting the rates to continue to provide that target savings.

Q.704 - So there has been no review or consideration of whether it is appropriate to maybe amend or vary that demand charge?

MR. CHARLESON: No, there hasn't.

Q.705 - Is it fair to suggest that if that demand charge was increased the distribution rate would be reduced?

MR. CHARLESON: Yes. It would need to be to provide the target savings.

Q.706 - How does that compare to other provinces? Do you have any idea?

MR. CHARLESON: There is definitely variability in terms of what you will see in demand charges. I know within Nova Scotia the demand charge is significantly higher, about more than four times the demand charge that we have here.

But then I believe in other jurisdictions you will find demand charges that are lower than that. So you know, there is going to be a number of factors that are going to come into play.

And while that will establish that level, I don't think there is any kind of set standard in terms of what level the demand charge would be.

Q.707 - For the purpose of this application was there any consideration made to review that figure or to --

MR. CHARLESON: No, there wasn't.

Q.708 - The next line item we would like to look at is item 15. And that is the average monthly contract demand.

And as you indicated I believe to Mr. Lawson yesterday, that number has changed from previous applications?

MR. CHARLESON: That's correct.

Q.709 - How is that calculated? What does it actually represent?

MR. BUTLER: Again it is an average of existing customers or a forecast of the customers.

Q.710 - And what was the rationale for the change?

MR. BUTLER: I don't believe that 350 has been changed since the previous case. Sorry, I think I misspoke there. So it would have been a change.

I'm assuming -- I didn't do this work myself. But I would assume it is just a change in the average contract demand between those two times.

Q.711 - And it was at 487 if I understood your testimony from yesterday. And that is based strictly on the average?

MR. CHARLESON: That's right. I think if you look at the response to the Board's interrogatory number 3, that is where we have indicated that that line item is based on an estimate that was done in October of 2007, where we looked at the average at that point in time.

And again, even though applications have been filed, we continue to look at the contract demand that we are seeing from our LFO class. And we use that in terms of doing a derivation of rates or checking economics on the rate from time to time.

And what we found, when we looked at the average in October, that it was very comparable to the average that we had seen from the analysis we had been using for a period of time.

And as a result we -- you know, the 350 that we had been using as our basis for determining whether a change to rates was required appeared to be appropriate still and a reasonable reflection of the average contract demand.

Q.712 - Looking at that response, IR number 3, where does that 261 gigajoules then come from, if that is your average, excluding --

MR. BUTLER: That is the actual average.

MR. CHARLESON: But what we looked at for this application was the estimates. Those are forecast contract demands for 2008.

Q.713 - And you were expecting your contract demand done on average to decrease essentially is what you are suggesting?

MR. CHARLESON: Sorry?

Q.714 - Your are expecting a decrease in that average contract demand even though your comparison of alternative fuel cost is going up?

MR. CHARLESON: I'm sorry. I guess I'm -- how are you arriving at that we are expecting a decrease?

Q.715 - The previous applications that have been filed before the Board have indicated 487 average contract demand. And for this application you have suggested that the average would be 350?

MR. CHARLESON: Well, that is right. We continue to see a change in the mix of customers that we have. And also we will see a change in terms of the usage that occurs at individual customers.

So it is something that will -- you know, from year to year you continue to revisit how the contract demand should be established for customers based on their consumption patterns.

And what we are seeing, based on the mix of LFO customers that we have right now, yes, it is lower than what we were experiencing the last time a rate change was applied for.

MR. BUTLER: I should point out it is a contracted amount. So it can be change annually by the customer. So customers can change it.

Q.716 - When you did that forecast for this particular application did it include the two largest customers? Just to be clear, I want to make sure that we are comparing the same data.

MR. BUTLER: No, it didn't.

Q.717 - And if they had been included do you have any idea what the average contract demand would have been for that first block?

MR. BUTLER: I don't know what it would be in the forecast. But given the actual -- in the response there it stated that it was 616 including all customers. I'm assuming the forecast would have been even higher than that, so --

Q.718 - Once you have moved out of a development period do you have any idea as to whether the rates for EGNB will be competitive as opposed to what the rates may be offered in other provinces?

MR. CHARLESON: We don't know what the rates will be coming out of the development period. What we expect them to be is competitive to what the alternatives are for people within New Brunswick.

You know, there will always be variability in terms of what occurs in other jurisdictions. There is other factors that come into play in other jurisdictions.

Do I expect our rates to be say at a level that is in a very mature utility with a large customer base? I would be very surprised if our rates were at that level. I would expect them to be higher than that.

Again what we need to ensure is that they are competitive in terms of fuel sources and fuel choices for consumers within the New Brunswick market.

Q.719 - Has there been any future cost planning done in terms of moving over to a cost-based approach?

MR. CHARLESON: We have looked at long-range projections in terms of -- we do a long-range forecast that looks out a number of years. But again not looking at an individual rate level.

Just more looking at the revenue levels that would be -- you know, at the revenue levels required where you are able to recover more than your -- where you are recovering more than your cost. But not at a rate level.

MS. DESMOND: If I could just have a moment, Mr. Chair.

CHAIRMAN: Certainly, Ms. Desmond.

MS. DESMOND: I think we have covered everything, Mr. Chair. Thank you.

CHAIRMAN: Thank you, Ms. Desmond.

Before we get to redirect I'm just going to see if there is any questions from the panel. Vice Chairman Johnston?

VICE CHAIRMAN: Just a couple of questions.

BY VICE CHAIRMAN:

Q.720 - My first question relates to the EUG and EVP options with respect to gas pricing. I wasn't sure if I understood the evidence correctly.

But can you comment as to the customers in the LFO class who purchase their gas through Enbridge. Do they all purchase on the EUG basis?

MR. CHARLESON: Currently they do, yes.

Q.721 - All right. But it is your expectation that may be something they will be interested in, to move to an EVP model?

MR. CHARLESON: That's right. Again the EVP product was introduced in April of last year. And it wasn't till really the -- you know, we had some customers that went on to it immediately.

We have an HFO customer that is making use of EVP. And it was really in the fall that we started to go out and meet more with some of our LFO customers to talk about the EVP product and kind of what it does.

Now a number of those are getting their supply from other suppliers. But our expectation is that there is at least one LFO customer that will be looking to use the EVP product.

Q.722 - Do you have any knowledge of the LFO customers who obtain their gas supply from other suppliers, whether their contracts are more similar to the EVP model? Or do you have any knowledge of that?

MR. CHARLESON: There is only two customers that we do have knowledge of what their contract prices are like. And it is pretty much identical to the EVP product other than it has got a lower premium attached to it.

Q.723 - Thank you. Now one question I had a little bit of confusion on -- and it may just be my memory or note-taking. And actually I was looking for it.

But there is a small chart in an answer to one of the IR's that shows the deferral account over time, in the past and going into the future. I don't know if it is necessary to find it or not. But I just want to be clear.

Yesterday I thought that the objections there were based on no increase. But today I -- and I may have been mistaken in my understanding. Today I understand that

that is based on the budgeted figures?

MR. CHARLESON: That's correct. It is based on the budgeted figures.

Q.724 - It is based on the budgeted figures, not the projections should the full increase be granted?

MR. CHARLESON: That's correct.

Q.725 - Okay. And my last question is perhaps not terribly important. But it is of interest to me.

There was some testimony from Mr. LeBlanc yesterday with respect to some revenue that was generated on ancillary businesses with respect to a special project. You used a figure of $2 million.

Do you remember that evidence, Mr. LeBlanc?

MR. LEBLANC: Yes. I do recall the conversation.

Q.726 - Okay. Was that revenue or profit?

MR. LEBLANC: It is what we call gross margin. So it is before admin' and overhead.

Q.727 - All right. So it is not the revenue. It is gross margin?

MR. LEBLANC: Right. And we treat it equivalent to distribution revenue in terms of regulatory, the way we present it at regulatory.

VICE CHAIRMAN: Okay. Thank you. Thank you very much. Those are all my questions.

CHAIRMAN: Thank you. Mr. Hoyt, any redirect?
MR. HOYT: A couple of questions, Mr. Chair.
REDIRECT EXAMINATION BY MR. HOYT:
Q.728 - And just following along in terms of the Vice Chairman's questions about EVP. And Mr. Lawson asked a number of questions about EVP yesterday.
Does Flakeboard buy gas from EGNB?
MR. CHARLESON: No, they do not.
Q.729 - And why do you suppose not?
MR. CHARLESON: I assume -
MR. LAWSON: Mr. Chairman, why do you suppose not? Perhaps he can ask a cross examination question of my client rather than asking a supposition of this witness.
MR. HOYT: I'm simply asking if he knows why.
MR. LAWSON: Do you know why?
CHAIRMAN: Why don't you put the question that way. That is fine.
Q.730 - Do you know why?
MR. CHARLESON: No, I don't.
Q.731 - Does Atlantic Wallboard buy gas from EGNB?
MR. CHARLESON: No, they do not.
Q.732 - Do you know why?
MR. CHARLESON: No, I do not.
Q.733 - Could you turn to EGNB follow-up response to

Flakeboard IR number 1 please. It is A-6.

And I would ask you to turn to table 5 which is on page 3. And if you look at the 2008 column, what is the total volume of all three tiers of the LFO class as a percentage of total volume?

MR. CHARLESON: It is about 34 percent.

Q.734 - Thank you. And the last question. Yesterday you were asked about the distance of the five potential LFO customers, a number of different questions.

How far is Flakeboard's plant from the M&NP main line?

MR. CHARLESON: Just under 13 kilometers.

MR. HOYT: Thank you. Those are my questions.

CHAIRMAN: Thank you, Mr. Hoyt. Thank you panel, for your evidence here over the last couple of days. I guess we are at 10 to 12:00.

Do you have any further evidence, witnesses, Mr. Hoyt?

MR. HOYT: No, we don't.

CHAIRMAN: So that is the case for the Applicant?

MR. HOYT: Yes.

CHAIRMAN: All right. Well, then I think this is -- since it is 10 to 12:00 this is probably an appropriate time to adjourn for lunch. And after lunch we will start with evidence from Atlantic Wallboard.

So we will -- about an hour and 20 minutes enough time? I will make it even shorter than that if people felt they could be back.

MR. STEWART: We can be back at 1:00.

CHAIRMAN: Let's say 1:00 o'clock then.

(Recess - 11:50 a.m. - 1:00 p.m.)

WAYNE POWER and MARK BETTLE, sworn:

DIRECT EXAMINATION BY MR. STEWART:

CHAIRMAN: Good afternoon. Mr. Stewart, I see that you have a panel of witnesses present and they have been duly sworn.

MR. STEWART: Thank you, Mr. Chairman. I am just changing my note from good morning, Mr. Chairman, to good afternoon.

CHAIRMAN: Time does fly.

MR. STEWART: Indeed it does. Probably my own fault. Mr. Chairman and Members of the Board, I would like to introduce you to the Atlantic Wallboard/JDI panel who will be speaking with you this afternoon.

Closest to me on the end is Mr. Wayne Power. Mr. Power is a vice president with the JDI group and I guess I could best characterize him as the person in charge of the planning, development, start-up and operation of the Atlantic Wallboard LP plant in the former Saint John Shipbuilding yard.

Closest to you is Mark Bettle, who is Director of Corporate Planning with JDI group. Among other things, Mr. Bettle is responsible for hedging strategies and methodology for forest products and energy for the JDI group as well as the exploration and development of new business opportunities for the JDI group, including among others, the Atlantic Wallboard plant.

Both have a brief bio in evidence. One was marked at the beginning of the hearing on Tuesday morning for Mr. Bettle. And the other is attached to the back of Mr. Power's substantive evidence, which I guess all other things being equal we can turn to now.

For the record, I am going to refer the witness to AWL/JDI exhibit number 1. And Mr. Power, that evidence, that written evidence and the other materials that have been filed with the Board in response to the various written interrogatories I take it have been prepared either directly by you or under your direction and control?

MR. POWER: Yes, they have.

Q.1 - And do you adopt that evidence and those responses as your sworn testimony in this proceeding?

MR. POWER: I do,

MR. STEWART: The witnesses are available by questioning to the other parties.

MR. HOYT: Just one question, Mr. Chair. I just don't understand the status of Mr. Power's opening statement.

MR. STEWART: I'm sorry. He has an opening -- that was -- I apologize.

Q.2 - Mr. Power, you have an opening statement which you wish to give?

MR. POWER: I would like to give that.

Q.3 - Please do.

CHAIRMAN: I guess the status is it is unread.

MR. STEWART: That was a not so subtle nudge, I guess.

MR. POWER: Mr. Chair and Members of the Board, after lying dormant since 1999, JD Irving launched an initiative in 2005 to convert the former Saint John Shipyard into a Green Industrial Park. The strategy was designed to transform the old shipyard into a manufacturing centre of excellence for environmentally responsible products and processes. The industrial park was to be designed to be like no other in North America.

The plan was to begin with one large anchor operation and then continue to add additional operations under the assumption the business model we had developed would prove successful.

The business model was based on the premise that if we could establish a low regional manufacturing cost, then we could afford to absorb the additional transportation costs necessary to ship the products produced here in Saint John longer distances into the larger markets of New England and the mid-Atlantic states. The market in ATlantic Canada is simply not large enough to absorb the capacity of the plant that we have here.

However, moving locally produced products into larger markets is not an issue just with gypsum wallboard. It is a reality facing many manufacturers in this province. We believe the long-term future success of all manufacturing in New Brunswick will be solely based one's ability to access larger markets in a cost effective manner.

We knew at the time the wallboard plant was being considered, that synthetic gypsum was going to be produced at the Coleson Cove generating station from the new flue gas scrubbing system that was being installed. Thus the idea of building a gypsum wallboard plant suddenly became a real possibility since a local gypsum source was going to be available to fulfil a portion of our gypsum requirements.

At the same time this proposed plant would allow us to offer NB Power a way to utilize offware from their environmental scrubbing system in a productive and responsible manner as opposed to potentially sending it to a landfill site.

Another key component we considered was whether we could effectively establish a way to lower the energy costs associated with drying and calining the product, two critical aspects in the production of gypsum wallboard. We knew we needed to have a lower cost position than other manufacturers in our market. As you may be aware, our initial plan was to build a biomass plant on the shipyard site and run our operation with steam. However, the volume of biomass required was extensive and we began investigating the option of using natural gas.

Natural gas seemed logical to us at the time since we had a single end use franchise across the street at the Irving Paper Mill and excess gas available. Never was any alternative fuel considered as an option and now that we have gas burning equipment installed, we have no other option.

Since the original business model was developed, we have had Atlantic Wallboard single end use franchise rejected and the EGNB local distribution fees added to our business model. This is a service fee which, with the proposed increase, puts our operation at risk. This is a service fee which we believe is simply unwarranted, greater than our competitors' costs and puts other developments at the Irving Green Industrial Park on hold.

We believe it is not just and reasonable to simply plug numbers into a formula and generate an answer, regardless of what that answer is, and assume that that is acceptable. Atlantic Wallboard should not be subjected to sudden and excessive increases and Atlantic Wallboard cannot absorb an $852,000 a year increase in our current market conditions.

During these deliberations I ask the Board to consider the cost to ratepayers and the consequences it will have for us, but also consider the rate shock associated with the proposed increase requested by EGNB.

I ask the Board to carefully consider the position of our organization, our employees and other LFO customers and ensure that any increase is just and reasonable. We must have energy cost structures in our province that allow us to operate competitively and provide potential investors with some reasonable assurance that our rates will not double every two years. Excessive local distributions charges which put organizations like our at risk serve no purpose, not even to EGNB who in the end will only lose customers, future an potential and existing, to their detriment and the detriment of the ratepayers.

Thank you.

MR. STEWART: That having been said, Mr. Chairman, the witness is available for questioning by other counsel.

CHAIRMAN: Thank you. So I guess maybe the first person for cross examination would be Mr. Lawson.

MR. LAWSON: My previous cross examination, I don't have any.

CHAIRMAN: Thank you, Mr. Lawson. I don't believe anybody is here from CME yet. Mr. Hoyt?

MR. HOYT: Thank you, Mr. Chair.

CROSS EXAMINATION BY MR. HOYT:

Q.4 - Thank you, Mr. Chair. Good afternoon, Mr. Power, Mr. Bettle. Mr. Power, my understanding is that EGNB's CLGS LFO rates in the three blocks for the first 33,000 Gj's delivered per month, the second block is for the next 25,000 Gj's delivered per month. And the third block is for volumes delivered in excess of 58,000 Gj's per month. Is that your understanding?

MR. POWER: That is my understanding.

Q.5 - In response to EGNB IR-2(c), and for the Board's benefit and the witness' benefit, I will refer primarily throughout to AWL-1, which is the evidence of Mr. Power and AWL-3, which are AWL's IR responses to EGNB.

And in some of them I am only going to ask for confirmations and if it is not necessary to turn to the IR, it may speed things up. But if you ever want to turn to one feel free.

MR. POWER: Okay. Thank you.

Q.6 - So in response to EGNB IR-2(c), you indicated that AWL's anticipated consumption for 2008 will be 25,000 Gj's for the second block and 2,345 Gj's for the third block, is that correct?

MR. POWER: That is correct based on where we believe the capacity of the plant will be at this stage. And based on what we have for the forecast capacity for the plant.

Q.7 - Right. So AWL will be using a significant amount of gas in the second and third block, correct?

MR. POWER: We will be using 25,000 gigajoules in the second block and 2,345 gigajoules in third block.

Q.8 - And in response to EGNB IR-2(b), you confirm that EGNB is not requesting any increase to the second or third blocks or the demand charge of its CLGS LFO rate, correct?

MR. POWER: That is correct.

Q.9 - Now a couple of places your evidence in A-9 and A-11, you refer to a 90 percent increase in distribution charges and your counsel referred to it a couple of times yesterday, is that correct?

MR. POWER: There is a 90 percent increase in the distribution charge in the first block.

Q.10 - And how did you calculate the 90 percent?

MR. POWER: We took the rate as we understand it today, the posted rate, at again at the 33,000 gigajoules and the proposed rate and the differential between those to is $852,000, which equates to 90 percent within that block.

Q.11 - But again you did it in terms of the rates themselves, right? You took the proposed rate, subtracted the existing rate and divided by the existing rate, is that correct?

MR. POWER: Correct.

Q.12 - And you just confirmed the 90 percent does only refer to EGNB's delivery charge on the first block?

MR. POWER: Yes.

Q.13 - So in that 90 percent calculation, you didn't factor in that there is no proposed increase for the second or third blocks or the demand charge of EGNB's rate did you?

MR. POWER: We are concerned about the $852,000 in our operation as a whole.

Q.14 - Right. I have heard you say that, but what I asked was whether or not in calculating the 90 percent, you considered that the fact that there is no proposed rate increase in the second or third blocks or the demand charge?

MR. POWER: No, that's understood.

Q.15 - And you didn't consider commodity costs either, correct?

MR. POWER: Commodity costs for us is not a factor, simply because the service that EGNB provides to us is the transfer and distribution of the gas. We do not purchase gas from EGNB.

Q.16 - But again in that 90 percent calculation, there is no commodity cost factored in?

MR. POWER: There is no commodity cost factored in for gas, nor is there cost factored in for the price of our gypsum or our paper or any other commodity we use in the direct manufacture of our product.

Q.17 - Now in A-10 of your evidence, you indicated that if the requested rates are granted, AWL's distribution charges will be $2.1 million each year, correct?

MR. POWER: Based on the forecast as we have in our plant, correct. In that ballpark, Mr. Hoyt. You know, there is plus or minus. It could be plus or minus $50,000, depending on the volume of gas we use and the capacity of the plant.

Q.18 - Sure. Now even though I said was only go to refer to two things, I do want to refer in this one instance to the evidence of Barry Gallant, which I understand is

Flakeboard 1. And again I can make the reference. It may not be necessary depending of Mr. Power's response.

So I just ask you to turn to A-5 of Mr. Gallant's evidence.

MR. POWER: Yes.

Q.19 - And he indicated that Flakeboard's annual distribution charges would also be at $2.1 million. Do you see that?

MR. POWER: Yes.

Q.20 - So would it be fair to say that AWL and Flakeboard are comparable customers?

MR. POWER: I honestly can't comment on that. I don't know what his consumption levels are in the other blocks. I can tell you that I think it is fair to say that they used 33,000 gigajoules and fill out the first block and we used 33,000 gigajoules and filled out the first block.

Q.21 - But you would acknowledge that you both indicated that your annual distribution charges will be approximately $2.1 million?

MR. POWER: Based on Mr. Gallant's response, yes.

Q.22 - Now in response to EGNB's IR-3(b), you indicated that AWL contracted to be a CLGS LFO distribution customer of EGNB on September 12th 2006, correct?

MR. POWER: Correct.

Q.23 - And EGNB can apply to this Board at any time to change its CLGS LFO rate, correct?

MR. POWER: I believe so. But I can't say with great confirmation. I assume they can, yes.

Q.24 - If you would just turn to AWL's response to EGNB IR-4? And in the reference to the question, we referred to your evidence where you had indicated that in the fall of 2005, EGNB's LFO rate for the first block was -- and this is this number that changed yesterday -- it says there .9273, but I think Mr. Charleson indicated that the rate at that time is actually .9773?

MR. POWER: Okay.

Q.25 - And as I said I don't think anything really turns on that. So in terms of -- that's what we had asked you to indicate was that in the fall of 2005, EGNB's LFO rate was the .9773, correct?

MR. POWER: Correct.

Q.26 - And then in response to the actual question in EGNB IR-4, you confirm that EGNB's LFO distribution rate was 2.3910 dollars per Gj at the time you entered the contract with EGNB, correct?

MR. POWER: Correct.

Q.27 - So you knew prior to signing up with EGNB that it's CLGS LFO rate was 2.3910 dollars per Gj, correct?

MR. POWER: Correct.

Q.28 - And also that would indicate that EGNB's rate were subject to fluctuation?

MR. POWER: Are you asking a question?

Q.29 - Yes. Is that correct? I mean it was 9773 --

MR. POWER: Right.

Q.30 - -- when you first started talking to them?

MR. POWER: Right.

Q.31 - And you were aware when you signed up with EGNB that EGNB had market-based rates?

MR. POWER: Correct.

Q.32 - Now in A-7 of your evidence, you refer to CertainTeed, correct?

MR. POWER: That is correct.

Q.33 - It's A-7 of your evidence, which is AWL 1.

MR. STEWART: It would be page 2 of 7.

MR. HOYT: Right. And it's probably five or six lines down.

MR. POWER: Correct. Got it.

Q.34 - So you refer CertainTeed?

MR. POWER: Yes. I referred to different companies that are operating or have been operating wallboard manufacturing facilities in Atlantic Canada.

Q.35 - And CertainTeed has a wallboard plant in McAdam, New Brunswick, don't they?

MR. POWER: Correct.

Q.36 - Do you know what CertainTeed uses as their primary energy source at that facility?

MR. POWER: I cannot say for certain what their fuel source is, but it is my understanding a component of it, if not all of it, is heavy fuel oil.

Q.37 - And you could confirm though that they do not use natural gas?

MR. POWER: It is not my understanding that they use natural gas, correct.

Q.38 - Now in A-7 of your evidence, I guess the same paragraph, you indicate that in order for Atlantic Wallboard to be successful, 70 percent of the product produced must be exported, correct?

MR. POWER: Correct.

Q.39 - So a lot of AWL's product will be sold in the United States, correct?

A. Correct.

Q.40 - And in U.S. dollars, I assume?

MR. POWER: Correct.

Q.41 - At A-5 of your evidence you indicated that AWL officially began production on December 12th 2007, correct?

MR. POWER: That is correct. The plant ran for a full total of 7 minutes that day.

Q.42 - But that was the initial --

MR. POWER: That was the initial day that we attempted for the first integrated production run of wallboard at our plant.

Q.43 - And you are using natural gas at the plant?

MR. POWER: Yes.

Q.44 - And in addition to the various components of EGNB's distribution charge that we went through earlier, the three blocks for the demand charges, AWL has to pay commodity costs for the natural gas itself, correct?

MR. POWER: We pay -- we pay commodity costs for the natural gas, correct.

Q.45 - So do you think that Enbridge's EVP product, which has been discussed, I guess both yesterday and today, is a reasonable proxy for LFO customers, natural gas commodity price?

MR. POWER: I am not sure. We have a gas contract that we use. We pay for the commodity. It's confidential information that is within the Irving organization. And this hearing in our opinion is not about the price of the commodity, this hearing is about the distribution charge for the commodity.

Q.46 - Right. I understand your concerns in terms of confidentiality. So you are not prepared to provide us with AWL's monthly price for natural gas during 2008?

MR. POWER: No, I think we have responded to that in one of IRs previously that that's confidential information that we will not -- we will not publish.

Q.47 - Okay. So then just back to my question then, so do you think that EVP's are a reasonable proxy for LFO customers, natural gas commodity price?

MR. POWER: I -- you are asking me a question, which I don't have information to confirm or not confirm.

Q.48 - And have you investigated the EVP product?

MR. POWER: To my knowledge, we have not investigated the EVP product.

Q.49 - But again you are not prepared to put your price before this Board so that they have that information on which to base their decision?

MR. POWER: No, we are not.

MR. HOYT: No further questions.

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

MS. DESMOND: No questions from Board Staff, Mr. Chair.

CHAIRMAN: Anything from the Board?

MR. TONER; Yes, may I?

CHAIRMAN: Mr. Toner.

BY MR. TONER:

Q.50 - In your opening statement, on the second page, when you went on and you mentioned that -- I will just read it. It's the first paragraph on the second page and the second sentence, "Never was any other alternative fuel considered as an option and now, having invested in gas burning-equipment, we have no other option."

Can you elaborate on that? Taking into account the $852,000 increase, and explain further?

MR. POWER: What we mean there?

Q.51 - Yes.

MR. POWER: When the shipyard site was dormant, so there was really no operation over there. And you have heard from EGNB over the past day or so about customers having the capability of switching from one fuel to another. We don't have capability to switch from one fuel to another. We run on natural gas.

The only other fuel that was ever considered at the shipyard site, was whether we wanted to build a biomass energy plant and bring in in excess of 500,000 tons of biomass from our forestry operations and run the operation on steam, which we decided was not an appropriate way to operate, nor one that we could operate in a cost effective manner. So we decided to go to natural gas. But we do not have the capability to burn any other fuel on site. And that's what was intended in that comment.

Q.52 - And so when you do look at your costs, because you do know what your costs of natural gas is and you do look at in the big picture as if you were buying all your products from Enbridge, not just a distribution, but as a whole, is it less expensive or more expensive than biomass?

MR. POWER: No, we do not look at buying all our products from Enbridge. We just want to go back to the original premise of our business model. When we started this, we made the assumption that we had gas from our single end use franchise across the street, literally a few hundred meters away. And that we would be able transfer that gas at virtually no cost other than the cost of a pipe from the Irving paper mill to our plant across the street. Never was there any contemplation of buying gas, the commodity or anything.

So when we signed the deal with Enbridge, after we had the single end use franchise rejected, we look at this as strictly a cost that we have to absorb to transfer gas from a point A to a point B. And that is the extent of the service, and that is the extent of the evaluation that we have done.

Q.53 - So your savings by having built here versus in Boston, for example, the transportation cost is -- that's where the savings is supposed to go, like to basically to pay for transportation between here and your market?

MR. POWER: Yes. In Atlantic Canada, the wallboard plant has a capacity somewhere between 350 and 390 million square feet. The entire market in Atlantic Canada for wallboard is 190 million square feet. You know, we don't capture the whole market.

So in order for this plant to have scale and to be effective, we have to move product into the northeast quadrant, basically New England the mid-Atlantic states. But the future of all manufacturing the province of New Brunswick is going to be predicated on the fact that we don't have a population big enough here to support world scale manufacturing. We have to move it to the market. So the trick is can we have a manufacturing strategy here that allows us to have manufacturing costs and then tack on top of that the fact that we have to spend a little more to move product into Boston, into Philidelphia and into those markets, than somebody who is sitting with a plant in downtown Boston would.

So if we -- if you have the same criteria and your manufacturing costs are X in Saint John and X in Boston, but your transportation costs are twice as much in Saint John as they are in Boston, you simply can't compete, because we deliver product on a delivered basis to a customer.

MR. TONER: Yes. No further questions. Thank you.

CHAIRMAN: I guess that's all of the questions from the Board. Any redirect, Mr. Stewart?

MR. STEWART: None, Mr. Chairman.

CHAIRMAN: Thank you, Panel, for testifying here today.

CHAIRMAN: I will ask Ms. Desmond to come forward and swear this witness.

JOHN REED, (sworn)

CHAIRMAN: The witness has been duly sworn.

DIRECT EXAMINATION BY MR. STEWART:

MR. STEWART: Mr. Chairman, I would like to introduce the Board to Mr. John Reed of Concentric Energy, who has been retained by Atlantic Wallboard to give evidence with respect to this matter and his views on certain matters.

Mr. Reed's curriculum vitae is part of his evidence. I think it shows extensive expertise. And I would submit would qualify him to give his expert opinion on the matters at issue in this matter. And would move that the Board so accept him in that regard.

CHAIRMAN: So in terms of qualifying him as an expert, you are indicating in the matters at issue. Are you able to be any more specific?

MR. STEWART: Oh, certainly. With respect to the market-based ratemaking methodology, as well as, its proper application in these circumstances.

CHAIRMAN: Thank you.

MR. STEWART: And I can go through his qualifications, but they are all in evidence.

CHAIRMAN: Mr. Hoyt any --

MR. HOYT: No objections, Mr. Chair.

CHAIRMAN: Anybody else have any objections or questions? All right. He will be so qualified.

MR. STEWART: Thank you, Mr. Chair.

Q.1 - And Mr. Reed, do you have -- having heard the evidence and the discussions and the proceedings in the last day and a half or so, do you have any sort of opening remarks that you would like to make with respect to the matters that have been discussed so far?

A. Yes, I would like to make some opening remarks with regards to new evidence that has come in since my direct testimony was filed.

MR. HOYT: Excuse me, Mr. Chair. Is this a summary of the evidence or is this an opening statement? Because my understanding is that the opening statements are to be filed at least a day in advance so that parties aren't taken by surprise. If it's a summary of the evidence then that's fine.

MR. STEWART: Well it's a comment on evidence that has bene -- some positions that have been put forward since the hearing began.

MR. HOYT: I mean I can refer to a provision of the procedures regulation under the Gas Distribution Act if necessary, but I think just in terms of the procedures that have been followed today, I mean we filed the opening statement in advance. Mr. Stewart filed Mr. Power's opening statement in advance and that process worked fine. Because we had the opportunity to know what was coming.

CHAIRMAN: What precisely, Mr. Stewart, is it that this line of questioning will pursue?

MR. STEWART: Well, I believe that this line of questioning will just pursue -- there have been certain comments made by the Enbridge Panel with respect to things said and commented on in his -- in Mr. Reed's evidence. And so Mr. Reed is looking to simply respond to the comments made with respect to his evidence and the matters before it. There is nothing -- I mean it's not like -- there is no ambush here. It's not like he is going to say something substantially different that hasn't been raised since this matter began.

CHAIRMAN: Just so that I can understand what you are saying is it's essentially what you are asking him is to comment on evidence that he has heard over the last day and a half?

MR. STEWART: Correct. And that's all.

MR. HOYT: But Mr. Chairman it sounds like it is in the nature of a reply. And I don't know where that fits in the process. And Mr. Stewart even at lunchtime didn't give us any indication in terms of what's coming. I mean we are prepared to cross examine this witness on his evidence.

CHAIRMAN: It seems to me it would be very difficult for Mr. Stewart's client to have provided evidence in advance if what he is -- if the question just really relates to responding not to the pre-filed evidence, but to evidence heard in testimony over the last day and a half, if in fact it -- it seems to bring up new evidence then we will address that issue if it arises. And if somehow you are caught by surprise and need a little extra time to deal with it to prepare your cross, we will deal with that as well. But it strikes me that it would be extremely difficult to pre-file evidence based on, you know, what he hadn't heard until yesterday and this morning.

MR. HOYT: If that's the case, thank you, Mr. Chairman.

MR. STEWART: And we are limited to that.

CHAIRMAN: So proceed?

MR. STEWART: Thank you.

Q.2 - Mr. Reed, if you would?

A. Yes. Mr. Charleson's opening statement contained a few statements, which I feel compelled to comment on. The first is that he refers to Enbridge's value proposition. And specifically he stated that the value proposition the company has is delivering target levels of savings to its customers. If that is in fact the only mandate for this company, then it implies an approach to ratemaking that's very different than a traditional just and reasonable standards for public utility rates.

I would contrast this value proposition to use his phrase, to the mandate that most public utilities, most gas distribution utilities have across North America. And that is to provide safe, reliable and efficient service at reasonable rates.

I think that is in fact the proper value proposition or mandate for Enbridge in this case. And one that implies an approach to ratemaking here that is very different than simply charging whatever the market will bear.

The second comment he made, and he made it a number of times, both orally and in his written opening statement, is that a delayed response to changing market conditions for the LFO customer class would mean that costs are being added to the deferral account unnecessarily. Now implicit in that statement is a view that the LFO customers based upon the current rates are in fact contributing to that deferral account.

I believe that the evidence suggests that that is not the case here. That in fact the LFO customers are already paying a rate that is far above the fully allocated cost of service, the fully cost-based charge that they should be paying, and that in fact they are contributing today to reducing the deferral account. Therefore, any increase above and beyond that level is not going to in fact help -- again offset the proper deferral approach with regard to the LFO customers, but it is in fact going to create an even greater cross subsidy between LFO customers and the remaining customers on the system.

Finally, Mr. Charleson commented in his opening statement that under the market-based methodology today, market conditions would support a rate as high as $5.75 per gigajoule, even though we don't have any support for that statement. I think that that statement is a very good indication of the fundamental flaw with the methodology as it has been produced in this case. And that is that the rate can produce -- the rate it produces can essentially be anything that Enbridge wants it to be.

What we have now is a statement from Mr. Charleson, that for the exact same service, LFO delivery service, a just and reasonable rate could be $5.75 per gigajoule and it could also be 9 cents per gigajoule, because that is in fact the rate they are proposing for Tier 3.

I would put to that based on my experience over the last 30 years in public utility ratemaking that is simply an absurd position that a just and reasonable rate for the same exact service could be anywhere from 9 cents to 5.75 cents per gigajoule. Such a methodology can best be described in my opinion as arbitrary, almost to the point of being capricious.

As an expert in this field for the last 30 years, I can only conclude that the methodology and the proposed rates do not meet recognized standards for just and reasonable rates and should not be approved by this Board.

That concludes my comments. Thank you.

MR. STEWART: The witness is available for examination by the parties.

CHAIRMAN: Thank you, Mr. Stewart. Mr. Lawson, any questions for this witness?

MR. LAWSON: Just one, Mr. Chairman. I won't bother moving up if that's okay with everybody, because it is only one question.

CROSS EXAMINATION BY MR. LAWSON:

Q.3 - But I would like to refer you to, if you have it before you, I guess it is part of A-4, AWL's interrogatory number 9, EGNB's reply to it. You may be familiar with it.

In it the question was asked, and I am paraphrasing, that if the methodology of calculation resulted in a $20 per gigajoule rate for the LFO class, do they think that is what should happen. And the answer they gave is yes.

What is your thought or comment with respect to that?

A. Again it is a demonstration that this methodology does not have any bounds in terms of being just and reasonable. Their view was that a $20 per gigajoule rate could be justified just as easily as a 9 cent rate. Again, it begs the question, are there any standards by which we can judge these rates to be just and reasonable. I would conclude no, that under this methodology we have abandoned the concept of just and reasonable rates rather than complied with it.

MR. LAWSON: Thank you. No more questions.

CHAIRMAN: Thank you, Mr. Lawson. Mr. Hoyt or is it going to be Mr. MacDougall? I see a bit of shift in the position of the microphone.

MR. HOYT: Mr. MacDougall.

MR. MACDOUGALL: Good afternoon, Mr. Chair, Panel members. Good afternoon, Mr. Reed.

WITNESS: Good afternoon, Mr. MacDougall.

CROSS EXAMINATION BY MR. MACDOUGALL:

Q.4 - I think, Mr. Reed, I would just like to ask a couple of questions arising from your opening statement. As it is fresh in my memory, we may as well deal with those. And because I could only take the notes here, I will go from memory and you an correct me if I am wrong.

I think you made a reference today, I think you said, if EGNB's only mandate is the value proposition. Are those the words you used?

A. Yes. That was part of the sentence.

Q.5 - Is there anything that Mr. Charleson said in his evidence -- first, you were here the last couple of days, correct?

A. I was.

Q.6 - Did at any time you hear Mr. CHarleson say that that was EGNB's only mandate?

A. That was the only one he referred to in the opening statement.

Q.7 - Then you go on to say that the standard you are looking at is safe, reliable, efficient service at reasonable rates.

A. Yes.

Q.8 - Do you have any reason to believe that Enbridge does not provide safe, reliable or efficient service?

A. Sage and reliable seems to be accomplished at this point. Efficient is something that hasn't been tested. There has been no test as to the efficiency of the cost stream that has been incurred to date by Enbridge. So I can't comment on that. I think it remains to be tested.

And reasonable rates, the final piece of that, I think is -- you know from my evidence, I think quite clearly, these rates are not reasonable.

Q.9 - Yes. But Mr. Charleson has put forward the position that they are reasonable, correct?

A. Yes. And I am offering my position as a rate expert, not as a company employee.

Q.10 - No, but you were commenting on Mr. Charleson's evidence so I would just like you to comment. Do you not believe that Mr. Charleson's evidence was that Enbridge is providing safe, reliable and efficient rates at reasonable rates? That is his evidence, correct?

A. I don't know that he ever spoke to efficiency. His position as the company spokesman is that yes, it is safe, reliable and reasonable.

Q.11 - Thank you. Now you talked about a fundamental flaw, I believe, with the rate methodology. Correct?

A. Yes, I believe so.

Q.12 - Do you realize that the rate methodology being used in this rate proceeding is essentially the same as the rate methodology that has been used since Enbridge started business here?

A. Yes, I believe the methodology, subject to changes in things like the discount levels and so forth is essentially the same approach. I think what we see here is a fact pattern that demonstrates to us the inherent flaw that is now apparent.

Q.13 - Okay. So is your view that it was always flawed, it has just now become apparent?

A. Yes. I think it always had the potential to produce flawed results and we now have seen under current market conditions the apparency -- the transparency of that flaw.

Q.14 - In your opinion?

A. Yes.

Q.15 - So it is the methodology itself, in your view, that is flawed?

A. Yes. Without the constraints. Again, I speak to this in my prepared testimony. But without the constraints of the cost-based floor and a cost-based ceiling, I think this methodology has become flawed under current market conditions.

Q.16 - And this methodology has never had a cost-based floor or a cost-based ceiling applied to it previously by this Board, correct?

A. That is my understanding, that is correct.

Q.17 - Thank you. Those are my only comments on your opening remarks.

MR. MACDOUGALL: Now the two documents I think, Mr. Chair, I will refer occasionally to some other documents but the two primary ones I think would be useful for Mr. Reed and for the Board Members to have in front of them would be AWL-2, which is Mr. Reed's direct evidence and AWL-3, which is the AWL IR responses.

Q.18 - Now Mr. Reed, if we could turn to your response to question 10 on page 4 of your evidence, AWL-2?

A. Yes, I have that.

Q.19 - You say that there are four areas of Mr. Charleson's testimony with which you disagree, correct?

A. Yes.

Q.20 - Okay. I would like to deal with each of those four points but not necessarily in this order. So I would like to start first with number 4. And here you say, Mr. Charleson's proposed rate completely disregards the actual cost of service for AWL. Correct?

A. Correct.

Q.21 - Now just to start and because you refer to Mr. Charleson throughout here, you realize that this rate is being proposed by Enbridge Gas New Brunswick, on whose behalf Mr. Charleson is testifying as a company expert, correct? Or company witness?

A. That is my understanding, yes.

Q.22 - Now are you aware that the form of derivation, I think we might have talked about this just recently with respect to your opening comments, the form of derivation of the distribution rate that Mr. Charleson is putting forward in his evidence is consistent with the development of rates for the CLGS LFO class and in fact all of EGNB's general rate classes since it started to do business in New Brunswick?

A. Again, subject to a lot of judgement being layered into that, such as the 21 days, such as the level of discount, such as the timeframe that one looks at for the historic data. Subject to all of those judgemental elements being included, I think the methodology is virtually the same.

Q.23 - Well I am going to get to some of the specifics, but let me just stop you there. I asked you if it was consistent with the way it has always been done and you made a comment there subject to the 21 days. But the 21 days has always been used, correct?

A. Not those 21 days.

Q.24 - Okay. Well for each different rate case you couldn't go back 7 years and pick 21 days, could you?

A. That's correct.

Q.25 - Okay. So the methodology has been consistently applied, correct? The methodology?

A. Again, the discount level has changed across time, is my recollection. And that is part of the methodology. But I think that is correct that the current application of that methodology, subject to those elements we talked about, is consistent with the prior application of that methodology.

Q.26 - So that is all I was getting at. I just want us to be on the same page. And the approach Mr. Charleson is taking is in fact the current Board approved market-based rates approach, correct?

A. With the same caveats, yes.

Q.27 - Now what I would like to do is if I could hand to you the Board's decision in its recent motion in this proceeding of January 18, 2008.

MR. MACDOUGALL: Maybe, Mr. Chair, I will give Mr. Reed these documents as I put them forward and Mr. Hoyt can distribute them for the Board and everybody.

CHAIRMAN: If you are talking about the January 18th decision of this year, I believe the Panel all has that.

MR. MACDOUGALL: Great. We can see if others in the room have it?

CHAIRMAN: Sure.

MR. MACDOUGALL: No takers on that, Mr. Chair. Everyone had it. That requires me to take more paper home, which is unfortunate.

Q.28 - Now Mr. Reed, do you see the document in front of you?

A. Yes, I do.

Q.29 - As a decision of this Board January 18, 2008?

A. Yes.

Q.30 - Did you read this document before you prepared your evidence?

A. Yes, I did.

Q.31 - Can we go to page 4 of this document? And you will see in the last paragraph towards the end of the fifth line, that the Board has indicated that it will therefore proceed to set rates in this application using the market-based method?

A. Yes, I see that statement.

Q.32 - So for the purposes of this proceeding, all parties understood that the Board was going to set rates in this application using the market-based method?

A. Yes, general terms, yes.

Q.33 - Not in general terms, that is what they said they would do?

A. That is correct.

Q.34 - And that is the method that has been put forward by EGNB in this proceeding, correct?

A. Yes and by me.

Q.35 - And by you, so you are saying you accept the methodology?

A. Oh no.

Q.36 - You just said and by you?

A. Yes, the methodology as I have proposed it with some modifications to assumptions to data patterns to elements of what are called the judgemental elements of that formula as consistent with the Board's mandate.

Q.37 - But the way EGNB has used it and this Board has approved it is fundamentally flawed, but you think all those fundamental flaws will be dealt with in the way you propose?

A. I think they can be. As I said in my evidence, I think we can live within a market-based rate methodology the Board has constructed. We can make some changes in judgemental elements of it in terms of the historic data we use, in terms of the level of discount we use, and in terms of adding an element of a floor and ceiling that would vastly improve the methodology and make it consistent with regulatory standards across North America.

Q.38 - Now if we could flip back in the decision to page 3. And here we say that the Board said the deferral account is necessary because of the use of market-based rates.

A. I'm sorry, where are you on page 3?

Q.39 - At the bottom paragraph.

A. Yes, I have that.

Q.40 - So it says the deferral account is necessary because of the use of market-based rates -- market-based rates were necessary to develop the natural gas system in New Brunswick and the Board believes that they are an essential element of the development period. All customers have, and continue to benefit from the existence of a natural gas system. It is important to remember that the market-based method of setting rates is designed to provide customers with savings when compared to an alternative source of energy.

Do you see that?

A. I do.

Q.41 - And if we can go to page 4 of the decision. And in the last paragraph in the fourth sentence, the Board says, the Board, based on the evidence is convinced that the development period has not yet ended, nor will it end in the near future. Correct?

A. Yes.

Q.42 - Now if we can go to page 8 of your evidence, again AWL-2. And if we can go to line 21. And here I think you have already mentioned this this afternoon. You say that you propose that the Board should immediately seek to determine a so-called cost-based floor and ceiling to the LFO rate. Correct?

A. Yes.

Q.43 - And you say in lines 23 and 25, many other regulatory boards in Canada and the US use market-based rates. Most often when the customers have alternate fuel capability or when competition conditions dictate that cost-based rates are likely to be uncompetitive. Correct?

A. Yes.

Q.44 - Now in New Brunswick, you do understand though that the market-based rates approach was put in place in order to develop the natural gas system during its greenfield development phase. Correct?

A. Yes, I do.

Q.45 - And in fact all of EGNB's general rates, not just the

CLGS LFO rate follow the same market-based rates methodology. Correct?

A. In general terms, yes.

Q.46 - And then you go on to state on the same page, lines 25 to 30, that as part of these market-based regimes other regulators have concluded that certain parameters are necessary to ensure that the market-based rate is just and reasonable. And then you list some of these on exhibit JJR-2. Correct?

A. Yes.

Q.47 - Now if we could turn to AWL-3, your IR responses. Particularly EGNB IR-23(a).

A. Give me just a moment. 23 (a). Yes.

Q.48 - 23. And here where you were asked if any of the so-called market-based rates in exhibit JJR-2 were developed by similar methodologies to that used in New Brunswick, you stated that they are similar in that they consider the cost of an alternate fuel?

A. Yes.

Q.49 - Correct?

A. That's the answer.

Q.50 - But none of these rates are similar in the methodology that is used for their determination are they? Similar to the methodology used here, not to each other?

A. Well beyond the similarity I note in my answer, I would say they have different applications.

Q.51 - The methodology in order to develop that is not similar to what is used here at all?

A. I would disagree in terms of not at all. They are similar based upon the application of this competitive standard being alternate fuels.

Q.52 - So for each of those jurisdictions do you know how they specifically develop the rate they come up?

A. I would have to come go back to the tariff pages to come up with their formulas.

Q.53 - And are the methodologies in those tariff pages though at all familiar with the methodology that is used here -- at all similar with the methodology that is used here?

A. Similar only in that they based the competitive rate off of alternate fuels. So I don't think they have tried to include all of the judgmental elements that the methodology here does.

Q.54 - And there are very specific rates in utilities broader -- of rates, correct?

A. Yes.

Q.55 - So in those jurisdictions, we don't have an overall market-based rates approach. These are just single tariffs for a specific circumstance?

A. They are tariffs that are generally applicable, meaning they are not specific contract rates applicable to one customer. They are openly available tariffs. And they are based upon circumstances in which the customers have a competing fuel available to them.

Q.56 - Sure. But those tariffs, correct, those aren't the general tariff that is used by the majority of customers in those jurisdictions?

A. I would say if you talk in terms of customer account, that is correct. More customers are on the residential cost-based rate than on the dual fuel market-based rate.

Q.57 - Correct. So in those jurisdictions, all of the general rates are not based on market-based rates. Some of them are based on cost-based rates. You might have a market-based rate. These are just -- you gave examples of single rates and jurisdictions that have cost of service rates, correct?

A. Those jurisdictions have both cost of service rates and market-based rates. And most of the customers are on cost-based rates.

Q.58 - Thank you. And some of the rates you showed are interruptible rates, correct?

A. Yes, I believe so.

Q.59 - And one of them is a power generation transportation rate

A. Yes.

Q.60 - Thank you. And from what I understand your testimony is, you are saying that the rate ceiling that you are proposing should be based on a fully allocated cost basis, correct?

A. Yes.

Q.61 - But you do understand that in New Brunswick the methodology is to allow customers to see a potential savings against an alternative fuel, correct?

A. Could you give me that question again?

Q.62 - Sure. That in New Brunswick the methodology is set up to allow customers to see a savings against an alternative fuel?

A. That's part of the methodology, yes.

Q.63 - Yes.

A. And I think it would be -- it would benefit from having the addition of a cost-based floor and ceiling again to bring it in conformance with the standards across the rest of North America.

Q.64 - But in fact it's been clear for the past number of years that the rates in New Brunswick are not cost-based, correct?

A. They are market-based, as are the rates I have spoken to with cost-based floors and ceilings.

Q.65 - Now if we could just turn again to the January 18 decision.

MR. MACDOUGALL: And Mr. Chair, I apologize, I think maybe we should give that an exhibit number. I don't think that we did.

CHAIRMAN: I don't know that it is necessary. It's a decision of this Board. I don't think we --

MR. MACDOUGALL: Fine, Mr. Chair.

Q.66 - And if we could go to page 3, in the first full paragraph. It's underneath the paragraph in quotations. And here the Board found during the development period rates have been set using a market-based method. This method establishes rates that provide an incentive to convert to and continue to use natural gas. The rates are not based on costs. Correct?

A. That's what it says, yes.

Q.67 - Now, Mr. Reed, if we can go back to page 4 of your evidence?

A. I have that.

Q.68 - And now line 21. We are now going to deal with one of the other points you raised that you had concerns with. And if we go to the third point you raised, was a concern with Mr. Charleson's evidence was the use of fuel oil prices as the only relevant measure in setting a market-based distribution rate, correct?

A. Yes.

Q.69 - And in discussing this issue on page 7 at Q-17 of your evidence, you explain here how AWL is in your view at a competitive disadvantage as compared to other wallboard manufacturers, correct?

A. Yes.

Q.70 - And if we could turn to your response to EGNB IR-12(c), AWL 3?

A. 12(c), yes.

Q.71 - 12(c). You confirm that the comment we were just discussing about AWL being at a competitive disadvantage, you confirm that that comment was only with respect to AWL's gas distribution rate, correct?

A. No, I don't believe I said that in that answer.

Q.72 - Okay. Well let me go through the answer then maybe, because that's what we were trying to get at, and I might have a series of further questions.

The question was is Mr. Reed familiar with the cost structures of inputs into the overall production of wallboard? If so, please provide support for expertise in this area? Correct?

A. That was the question, yes.

Q.73 - And your answer was, Mr. Reed is not an expert in the cost structures of inputs in the overall production of wallboard, nor does he have to be in order to make the statement at answer 16. His direct testimony was that compared to other wallboard manufacturers AWL would be competitively disadvantaged in terms of its gas distribution rate, correct?

A. Correct.

Q.74 - I guess my question now then is your evidence that AWL is competitively disadvantaged in any other ways, or is your evidence about the gas distribution rate?

A. No, I would not say I have undertaken a competitive cost analysis for the plant in other areas.

Q.75 - So your evidence is with respect -- your comment on competitive disadvantage is solely in terms of the gas distribution rate, correct?

A. I think that's fair, yes.

Q.76 - Okay. And when your client AWL signed up with EGNB, as Mr. Power just recently said, they were fully aware of the methodology used to determine the CLGS LFO rate in New Brunswick, correct? The methodology?

A. I think Mr. Power's response to that was he was familiar with the rate. I don't recall him saying he was familiar with the methodology, but he may have.

Q.77 - But I guess I would ask you if this is a significant part of their cost structure would you have thought Mr. Power would have been familiar with the methodology of the rate that they were getting into?

A. I would have to speculate on that. I don't know.

Q.78 - You don't have a view?

A. I do not.

Q.79 - Then if we could turn to your response to EGNB IR-22(a)?

A. 22(a). Yes, I have that.

Q.80 - And here you confirm that you understand that EGNB's application is for an increase to the rates for the CLGS LFO class as a whole and not with respect to any one specific customer in the class, correct?

A. Yes.

Q.81 - And if we could just flip back two responses to EGNB IR-20? And here you indicated that you were not sure whether AWL was the only CLGS LFO customer of EGNB that does not have the ability to use light fuel oil, correct?

A. That is correct. I might add that I have more recent information on that since that was submitted.

Q.82 - Sure. I was going to get to that, because of some of the things Mr. Charleson said, but maybe you could you tell me what your understanding is?

A. What I have in terms of additional evidence on that is in the evidence of the Flakeboard witnesses in which indicate that they do not have LFO substitutability for some of their applications.

Q.83 - I am going to follow up on that in a second based the -- my colleague is getting. But do you recall, you were here yesterday, right?

A. Yes.

Q.84 - And do you recall -- I am just going to read from the transcript. I am sorry, I don't have another copy of the transcript, but I can certainly had it to you. It's only one line. Mr. Charleson said again, the majority of our customers do have oil as an alternate fuel. 13 out of the 20 customers have oil as an alternate fuel and that is why oil is used as the comparative. Do you recall that testimony?

A. Yes, generally.

Q.85 - So if 13 do have oil as an alternate fuel out of 20, that would suggest that seven do not, correct?

A. That is correct.

Q.86 - Thank you. Could you turn to -- I don't know if you will have that in your binder. Do you have Flakeboard's reply to EGNB interrogatory number 1?

A. No, I am sorry I don't have that.

Q.87 - I can actually hand that to you. I need to get my second copy now so that we can follow along. And you had just made a comment about the fuel switching or duel fuel capability at Flakeboard?

A. Yes.

Q.88 - And what was the comment that you made?

A. That they do not have LFO substitutability for some of their applications.

Q.89 - And if we can read here what Flakeboard does say, and maybe you could just read their response there into the record?

A. The first paragraph?

Q.90 - Yes. EGNB IR-1, I think there is only one response.

A. It says, while Flakeboard does not believe this evidence is relevant, it would advise that approximately 85 percent of its natural gas burning equipment is also convertible to light fuel oil.

Q.91 - Thank you. Now if we could turn back to your evidence and if we could go to answer 19 on page 8?

A. I have that.

Q.92 - And here you state in the third sentence at line 16, you make the -- the opening part of the sentence says, given all of the competitive factors that EGNB has not considered. Do you see that?

A. Yes.

Q.93 - Okay. But as we just discussed in response to EGNB IR-12(c) that we were talking about a minute ago, you confirmed your evidence is only talking about the gas distribution rate, correct?

A. Yes.

Q.94 - So you are not an expert in the cost structure of the wallboard industry, correct?

A. That's correct.

Q.95 - So what did you mean by all of the competitive factors that EGNB has not considered?

A. As I said first the competitive rates that are available to other manufacturers for distribution service. And I would add to that even competitive alternatives that were available to both Flakeboard and AWL prior to them becoming customers of Enbridge. And we have evidence in this case from Dr. Gaske with regard to the cost alternative that Flakeboard had wherein the service was going to be in the range of today's dollars $300,000 per year for firm transportation service to that plant. We have information from Mr. Power with regard to the very small amount of facilities that would have been required to interconnect the AWL facility to the Irving Paper facility across the street.

There were competitive alternatives before these customers joined the Enbridge system that would have been far, far less expensive than even the current rates, let alone the proposed rates in this case.

Q.96 - Let's follow up on those. I was going to get to some of that with Dr. Gaske, but since you have raised it, you have read his testimony obviously?

A. I have.

Q.97 - And you have just made some comments on it. Let's start with the first point. First off you said one of the factors was other manufacturers?

A. Yes.

Q.98 - So you are talking about manufacturers in other jurisdictions?

A. Yes.

Q.99 - Okay. So not in New Brunswick? Because this is a class rate for the LFO class, correct?

A. It is a class rate for LFO. But, yes, my evidence goes to other jurisdictions as well.

Q.100 - And then you raised some evidence with Dr. Gaske had put on or through either Dr. Gaske or Flakeboard of possible other competitive alternatives at the time Flakeboard was considering signing up with EGNB, correct?

A. Yes.

Q.101 - And Flakeboard ended up signing up with EGNB, correct?
A. Yes, they did.
Q.102 - And then you talked about some comments about Mr. Power, issues he made about other alternatives, and Mr. Power, AWL, they ended up signing up with EGNB, correct?
A. They did.
Q.103 - And you indicated that Mr. Power at least knew the rates, although you are not sure if he knew the methodology at the time?
A. That's correct.
Q.104 - Would you have any reason to believe that Flakeboard didn't at least know the rates?
A. I don't know what they knew or didn't know.
Q.105 - Okay. That's fine. Let's turn now to your response to EGNB IR-17(b)?
A. 17(b)?
Q.106 - 17(b), yes. B, as in Bob. And here where you were asked what industries you were comparing the wallboard manufacturing industry to in your evidence, when you referred to it as being a very highly competitive industry, you stated that you were comparing the wallboard industry to itself, correct?
A. Yes.
Q.107 - I guess my question is though, but other industries

could easily characterized as very highly competitive, correct?

A. Certainly.

Q.108 - So lots of industries compete aggressively with competitors for market share, correct?

A. Yes.

Q.109 - And response to question (c), where you were asked what makes an industry -- and here the question was what makes it very highly competitive, which is what you said in your testimony.

You then went on to say that a highly competitive industry is one in which there are numerous firms competing on a price basis for the same market area, correct?

A. Yes.

Q.110 - But you never answered the question which asked -- was trying to get, what makes an industry very highly competitive, the terms you used. I am just wondering why you were referring to the wallboard manufacturing industry as being very highly competitive as opposed to any other industry?

A. Sorry. Could I have that last question again? Just the question?

Q.111 - Sure. Why you were referring to the wallboard manufacturing industry as being very highly competitive as opposed to any other industries? You added a qualifier to the qualify.

A. I apologize in terms of the answer. I am perfectly willing to accept answer (c) as the definition of a very highly competitive industry as well. I describe it in my testimony as very highly competitive based upon my review with Mr. Powers and others at the company as to how their products compete in the delivered markets.

Q.112 - But as we just talked about earlier, and I used the same phrase in my last question, if you agreed that other industries are easily characterized as very highly competitive as well?

A. Certainly. Although the relevance of natural gas or distribution service to that position is very different.

Q.113 - There is no other industries that use natural gas as a large component of their production costs in the wallboard industry?

A. No, I didn't say that. What we have here is a company who has to compete with producers far beyond service territory, far beyond New Brunswick, on a delivered cost basis. And for whom natural gas and natural gas distribution service are a significant cost component.

(In-camera)

Q.117 - So then if we could turn to EGNB IR-18?

A. Yes, I have that.

Q.118 - And here you were asked to please provide all assumptions data, details and calculations conducted by you that supported your comments referred to in your evidence that the proposed LFO rate increase has the effect of reducing the distance over which AWL can ship it's product and remain competitive by approximately 10 percent, right?

A. Yes.

Q.119 - And from my read of this, Mr. Reed, you didn't provide any detailed calculations, but rather you provided the one paragraph answer we see in EGNB IR-18. I just want to know is that the sum total of the analysis and calculations that you carried out to support this statement in your testimony?

A. Yes. And I would point out that this statement is also made in Mr. Power's testimony. And my position here is based largely on my discussions with him of the relevant economics that are contained in this answer.

Q.120 - And that's great because I was going to get to the next point. Because in fact we asked you, please indicate which of this information was provided to Mr. Reed by AWL, correct?

A. Yes.

Q.121 - And you didn't respond to that in the IR, correct?

A. I think that's probably fair. The answer should be that all of it was supplied by AWL.

Q.122 - Thank you very much. And then you go on to say that in order to absorb the extra local distribution costs, the shipping budget will have to be reduced by 10 percent, correct?

A. Yes.

Q.123 - And that's your understanding from Mr. Power?

A. Yes.

Q.124 - So this is an independent testimony? These were just statements you were just making that you drew from Mr. Power explaining that to you?

A. Yes. It's based upon my analysis from his discussions. It's the kind of evidence that you would typically have an expert rely on for this type of a factual matter.

Q.125 - But you said it was -- you used his information for your analysis. But I thought you just confirmed that the analysis you did was set out in paragraph number 18?

A. That's correct. That's the sum and substance of my analysis.

Q.126 - And that analysis was based solely on information from Mr. Power?

A. Yes.

Q.127 - Thank you. So you wouldn't know then that if every time there is a cost increase at AWL, whether that immediately reduces AWL's shipping budget?

A. Independent of my discussions with Mr. Power?

Q.128 - No, including your discussions with Mr. Power?

A. The answer is I have provided it to you and the response to interrogatory number 18 is the understanding I have, that all other things remaining equal, this is where the competitive effect is felt.

Q.129 - Sure. All other things remaining equal?

A. Yes.

Q.130 - Thank you. Are you privy to the internal rate of return for AWL's facility?

A. No.

Q.131 - And this information has not been provided by AWL or you in this proceeding, correct?

A. That's correct.

Q.132 - Now if we could turn to your response to EGNB IR-3(d). Actually, this is Mr. Power's response. They all came consecutively numbered so your answers are in the same group.

A. 3(b)?

Q.133 - 3(d).

A. (d), okay. And here Mr. Power indicated that at the time the business case was developed at the AWL facility, the Canadian dollar equivalent was 0.85. And that the model was readjusted in 2007 to a Canadian dollar equivalent of 0.95. Correct?

A. Yes.

Q.134 - And I think Mr. Power said and maybe if you can recall, that today that a large part of their market is the export market?

A. Yes, that is correct.

Q.135 - And that the product sold into the US export market is sold in US dollars?

A. That is my understanding, yes.

Q.136 - And are you aware from Mr. Power what impact this had on AWL's shipping budget?

A. No, not directly. I am aware of the effect it had on their competitiveness, which is it is yet another reason that the delivered products are less competitive just as they are resulting from the increase in gas costs or would be.

Q.137 - Okay. Now if we could turn to EGNB IR-19.

A. Okay.

Q.138 - Okay. In here you state that the development of data was not necessary in order for you to say in your words the commonsense proposition that other plants with lower local distribution rates would pose a competitive threat. Correct?

A. That's correct.

Q.139 - And again, I am assuming that is again all other factors being equal?

A. That is correct.

Q.140 - Now if we can turn back -- just we are still on the same point here but I just want to refer back to another IR response, EGNB IR-13.

And here we were asking some questions of you of some distribution utilities in other eastern Canadian jurisdictions. And if we could turn to page 2 of your response which is page 8. And this is the chart that was filed in response to IR number 13(c).

A. I have that.

Q.141 - And here you are showing Gaz Metro's rate, Union Gas, Enbridge Gas, Heritage Gas, and EGNB's proposed rate at the top. Correct?

A. That's correct.

Q.142 - Now here we see very different rates for the energy component of the distribution charge. Correct?

A. That is correct.

Q.143 - For example, Gaz Metro rate that you show, right, is 10 times higher than that of Union Gas', correct?

A. Roughly, yes.

Q.144 - And Union Gas' is double that of Enbridge Gas Distribution?

A. In Ontario.

Q.145 - Correct, in Ontario, yes. So here under your analysis, Gaz Metro or let's say Union Gas would have a ten-fold -- like if Wallboard plant was in that jurisdiction, it would have a 10-fold advantage over Wallboard plant in Quebec. Correct?

A. With regard to gas distribution, yes.

Q.146 - So that is the point you were making here about the rates in New Brunswick?

A. Yes.

Q.147 - But as we can see here, there is significant,

significant deviation from different jurisdictions on what their gas distribution rate is, the energy component. Correct?

A. That is correct.

Q.148 - But in fact we can't even rely on that for gas distribution, right, because in your footnotes you say that all of the rates exclude customer and demand charges. Correct?

A. That's correct.

Q.149 - And are you aware of the demand charges in some of these jurisdictions compared to Enbridge's demand charge.

A. We did look at that. As I recall, the Heritage Gas rate does have a higher demand charge in Nova Scotia.

Q.150 - Can I just stop you there because I am familiar -- it is significantly higher, isn't it?

A. It is a multiple perhaps 3 or 4 times. The overall delivered rate is still a tiny fraction of the EGNB proposed rate.

Q.151 - But all of these rates are significantly -- you decided to show this -- for example the Union Gas rate -- well I guess we would take maybe, you know, any of these rates, they are all significantly different by 5, 10 times?

A. They are certainly different, yes.

Q.152 - Thank you.

A. None of them approach the proposed rate here.

Q.153 - Well I guess if you were a Union Gas customer, or a Gaz Metro customer, Gaz Metro's rate is 10 times Union Gas.

A. Yes.

Q.154 - Thank you. And if your proposition is correct about the competitiveness deriving out of natural gas rates to distribution rates, would it be equally fair to say that a plant with lower capital costs, because it has a financing incentive, would compose a competitive threat to a plant in another jurisdiction that did not have that benefit, all other factors staying equal?

A. I think that is fair, all other things being equal, if they have a lower cost of capital or a lower capital expenditure level, it is going to be more competitive.

Q.155 - Thank you. Your proposition from your evidence, and just because I am struggling with it a bit, isn't that when setting local distribution rates for a class, that this Board should take into account the competitive position of all of the various different manufacturing facilities in that class with all of their various competitors' gas distribution charges in all of the other jurisdictions in which all of those competitors exist, is it?

A. No, I think that is too narrow. What I am saying is if we are going to adopt a methodology that we call a market-based rate methodology, we need to understand that the market and market forces go beyond simply the cost of oil versus the cost of gas on a delivered basis. It includes in fact the most relevant consideration would be the cost of competing transportation alternatives. And we have that information now on the record as to the fact that competing transportation alternatives would have been a tiny fraction of the $2 million a year that Flakeboard and AWL are being asked to pay under the proposed rates here. Now if that is true, gas transportation competition, apples to apples.

Beyond that I do think it is fair to consider the effect on the competitive position of the customers here. If in fact we are going to consider market forces, let us consider market forces on a broad basis rather than simply saying let's take the delivered cost of gas and the delivered cost of oil and focus our consideration of market forces exclusively on that. Under that approach you could very easily lose all of the throughput from a manufacturing facility simply because it is shut down because it can't compete on delivered cost basis. Even though your gas may be, when rolled together with the commodity, may be cheaper than oil, that is not the end of the story.

Q.156 - But gas distribution charges are one component of all of the factors that make any manufacturing facility competitive. Correct?

A. They are and again, it is the only component that is being provided by EGNB and the only component that is before this Board.

Q.157 - Correct.

A. My point exactly and we seek to then roll in gas commodity costs and try to compare on an end use delivered cost basis. We are really going beyond the bounds of what many people would consider to be just and reasonable rates for the utility for the service being provided.

Q.158 - But that methodology has been found just and reasonable by this Board on quick math at least four occasions?

A. I will accept that, subject to check, that it has been four occasions. I think what we are saying is now that we see the effects of that methodology, it is time to step back and seek to add something to it which is the cost-based floor and ceiling.

Q.159 - Okay. I want to just step back. I thought we had dealt with this a few moments ago but you reraise now the issue of competitive alternatives. But again, you did confirm previously that with knowledge of whatever competitive alternatives there may have been, and I am not conceding that there were any at the time, both Flakeboard and AWL signed on with EGNB understanding the methodology? Correct? Or understanding the rates?

A. Understanding the rates at that time, yes.

Q.160 - And you are not a legal expert, are you? You are not here with any legal qualifications, are you?

A. That is correct.

Q.161 - Now if we could go back to page 4 of your evidence, AWL-2, and here this is your third point. Again, I think I might be doing this exactly backwards. But it is number 2 on page 4, line 20.

A. Yes.

Q.162 - Was that you would suggest a target savings rate -- this is the other point that you had some disagreement with here. You would suggest a target savings rate of 15 percent versus a target savings rate of 10 percent? Correct?

A. That is correct.

Q.163 - Now before filing your evidence did you read the Board's decision of December 15, 2005 which was the decision dealing with the setting of the current CLGS LFO rates?

A. Yes, I did.

Q.164 - Okay. And are you aware that the 10 percent savings level was used in that decision?

A. It was referred to in that decision. The rates were approved based on a 10 percent saving.

Q.165 - And those are the current rates?

A. Yes, they are.

Q.166 - And are you aware when AWL signed on for distribution service with EGNB?

A. My recollection is it is 2006 but I could be wrong.

Q.167 - If I told you it was September 12, 2006, would you take that subject to check?

A. Yes.

Q.168 - And that when they signed on that was for distribution service after the December 15, 2005 decision setting the current rates. Correct?

A. That is my understanding, yes.

Q.169 - And I believe Mr. Power confirmed today that he was aware of the rate at that time?

A. That is correct.

Q.170 - Thank you. And that rate at that time was derived off of a Board approved methodology that had a discount for the LFO class of 10 percent? Correct?

A. Yes, at that time.

Q.171 - Now Mr. Reed, are you aware from what you have read in the record and the testimony of the past few days, that EGNB continues to have the 20 existing LFO customers who are within reasonable proximity of a natural gas main on their system?

A. I'm not quite sure what you mean by continues to have?

Q.172 - They haven't left?

A. That is my understanding, yes.

Q.173 - So there is no evidence that the change from 15 percent to 10 percent in the December 15, 2005 decision caused anyone to migrate off of natural gas, in fact, the opposite is true, correct?

A. I think I can confirm that there is no evidence that it caused customers to shift off of natural gas. I'm not sure what you mean by the opposite is true.

Q.174 - Well that is what I meant, they didn't shift off natural gas.

A. Okay. I think we can agree that they did not shift off natural gas.

Q.175 - And two customers joined since the rates that were set using the 10 percent. Correct?

A. I was aware of one but it could be two.

Q.176 - Let's look at -- I think I might have that in here. I will just get that IR pulled up and show it to you. Now, Mr. Reed, are you aware that to the extent that EGNB does not recover its cost of service in any year during the development period, those under recoveries go into a deferral account, which is maintained as a regulatory asset to be cleared in the future?

A. Yes.

Q.177 - Okay. Mr. Reed, maybe you can go to response Flakeboard IR-1, page 2 of 4. In fact, you may not have had that previously. I can give you that. And if you can just look in the column there for LFO in the top chart actual customers, you see that in 2006, there were 18. 2007, 20 customers?

A. I do.

Q.178 - Thank you. Sorry, for jumping back there for a moment. So we were talking about the deferral account. It's not to the long term advantage of the ratepayers of New Brunswick for the deferral account to be any larger than necessary it is?

A. Well that's a complicated question. It's certainly not to their advantage to have it be any larger than necessary. The question then becomes what is necessary?

Q.179 - Let's go back now again to page 4 of your evidence.

And I just want to deal with the last point that you had raised. And this is point number one on page 4. And here you say you take issue with the use of the 21 day average of the closing settlement price for the WTI crude oil prices from NYMEX, correct?

A. Yes.

Q.180 - And are you aware that the 21 day average has been used as part of the methodology that has been in place for setting of all of EGNB's general rates from the outset of its business in 2000?

A. That's my understanding, yes.

Q.181 - And can you confirm that the 21 day trading average that we are discussing here essentially refers to 21 trading days in a month? So we are talking about a one-month period, not actually 21 days?

A. We are talking about a rolling one-month period, yes.

Q.182 - But it is one month, because takes out the Saturdays and Sundays?

A. It's 21 trading days, yes.

Q.183 - Now, Mr. Reed, it appeared unclear to me from my reading of your evidence whether your suggesting that a longer period should be used only for the WTI oil prices or for both the oil prices and the natural gas prices?

A. For both.

Q.184 - For both. And if we could turn to page 5 of your evidence. Line 7 and 8. And here in regard -- you make a comment that in regard to the November 1, 2007 date used by EGNB in its evidence that the spread between oil prices and gas prices was the highest it had ever been up to that date, correct?

A. That's correct.

Q.185 - And are you aware that on the methodology that EGNB has been following that they would have to apply to the Board for a rate increase if they wish to increase their rates?

A. That's correct.

Q.186 - And their stated intent is to try and increase rates when appropriate because of the difference between the spread in oil and prices so as to maintain as close as possible the target savings level for the LFO class of 10 percent, correct?

A. That's my understanding of their objective.

Q.187 - And then if we could go to your response to EGNB IR-9 in AWL 3?

A. I have that.

Q.188 - And this is a response you provided, correct?

A. Yes.

Q.189 - And in fact the spread between oil and natural gas prices has been higher for the entire period covered by your response than the spread at the time it was chosen by EGNB, correct?

A. I think for the purposes of this chart it does look that way. By the end of this chart, which is February 6th 2008 -- I should not that they did request a response -- the interrogatory response is wrong, it's not 2007, it's 2008. It looks like it has just come back down to essentially the same level.

Q.190 - But when people are making comment, I think you made about picking a date and the date being high, in fact EGNB's methodology suggests that they are seeing a trend, they can apply for a rate increase. But the day they picked it, from that date all the way until you responded to this, price was higher on every single day, correct?

A. Yes. Oil prices certainly have been very volatile during that period of time.

Q.191 - Volatile, but sustained high?

A. Sustained high, yes.

Q.192 - Thank you.

A. And the point, of course, is that's distinctly different than the period before November 1st, which goes to the instability of this methodology.

Q.193 - Well, we will argue how the methodology is supposed to work. And EGNB is entitled if it appears appropriate in EGNB's view to use a rate rider to reduce its rates to a class, correct?

A. It's entitled to seek the Board's approval for that rate rider.

Q.194 - Correct. The Board has to approve?

A. That's correct.

Q.195 - Now at line 15 on page 5 of your evidence. And here you say a general rule is that the historic date interval should cover a period at least as long as the forecast period, correct?

A. That's correct.

Q.196 - If we could turn to your response EGNB IR-10(a)?

A. I have that.

Q.197 - And the question here, you were asked for support for this statement, but the question asked for support for this statement in the context of predicting forward looking oil or natural gas prices for utility ratemaking, correct?

A. That's the question, yes.

Q.198 - But the response you gave referred to two quotes from two statistics textbooks, neither of which quote is related with any specificity at all to forward looking oil or natural gas prices for utility ratemaking, correct?

A. I think that's correct. They are not related specifically to that. They are related generally to that.

Q.199 - Well let's talk about that. In this first quote, and I won't read the whole quote, I think there is some underlining here. My understanding is it is from a Penn State statistics textbook. And it simply says from what I can read here that the sample must be representative of the population?

A. That's correct.

Q.200 - That's just a general statistical comment, correct?

A. I would say so, yes.

Q.201 - And then the next text is the Plane and Opperman text. And this refers again I think the conclusion is that short term trends can cause deviations from long term patterns, correct?

A. That's correct.

Q.202 - Thank you. Now would it be your view that in determining whether or not to use the rate rider, EGNB should look at periods longer than the 21 day average when it is determining from time to time whether to lower rates?

A. I guess that would require an understanding of the rate rider that goes beyond my understanding. I am not sure if rate riders have an defined duration to them. I mean they are in effect until change during an effect for a specific period of time.

If EGNB is attempting to respond to market conditions over a short period of time, let's say the next month, then I would think it would focus on the best estimate of what's going to happen in the next month with regard to oil prices or competing fuel prices to make that determination.

As I recall it can revoke or rescind the rate rider after some period of time. I don't recall if that requires Board approval as well, but it would -- it should focus on their market conditions for the period in which it is going to have that rate rider remain in effect.

Q.203 - But, of course, if there is a sustained change and they use the rate rider, the rate rider could remain into effect for some considerable period of time, correct?

A. It could.

Q.204 - And is it your view that if they are unsure, because they are executing the rate rider, that it should be for the longer periods of time that you are suggesting also be used in the methodology?

A. If they intend to have the rate rider remain in effect for a longer period of time, yes, I think that would be appropriate.

Q.205 - And I think you said in your response there that you understood that EGNB's position was that it tries to react to the market up and down?

A. Generally, yes.

Q.206 - But reacting upwards, it can only reduce its rate rider or release rate riders up to the maximum price that the Board has approved, correct?

A. That's correct.

Q.207 - And what's your understanding of how retail oil prices are set in New Brunswick?

A. Are you talking about the ceiling prices established by the Board? Is that the question?

Q.208 - Yes. Well let's just talk first generally. Retail oil prices generally. Do they move daily basis?

A. Yes, I would think so.

Q.209 - So if you are trying to stay connected with oil prices, do you have to have some level of flexibility?

A. I am sorry. If you are trying to stay connected?

Q.210 - Well, if you are trying to create a relationship associated with oil prices, does one have to have some measure of flexibility available?

A. I would think so, yes.

Q.211 - Thank you.

CHAIRMAN: Mr. MacDougall, would this be an appropriate time for a break?

MR. MACDOUGALL: Mr. Chair, in about two minutes would be an appropriate time to be over, so maybe we can --

CHAIRMAN: Well let's continue then.

Q.212 - Mr. Reed, in response to EGNB IR-8(b), you stated at the end of your response that a rate rider was most recently applied to the LFO rate at the time of the last increase, but then you go on to say offset rate shock, is that correct?

A. That's correct.

Q.213 - What evidence do you have that the reason the rider was used was to offset rate shock?

A. That was based upon discussions with counsel. And to be honest I don't know that we have a document to support that.

Q.214 - Okay. Do you understand though from your understanding of the rider, that's not how the rider supposed to be used, it's not for rate shock, right?

A. I think the purpose of the rider is to respond to competitive conditions.

Q.215 - Correct. So there is no evidence whatsoever that the rider was ever used for purposes or rate shock, correct?

A. I am not aware of what the evidence is. As I said that statement is based upon discussions with counsel.

Q.216 - Maybe I can give you a copy of the document. And this the Board's decision of December 15, 2005.

A. Okay.

MR. MACDOUGALL: Mr. Chairman, I am not sure whether the Board has that decision. I do have copies.

CHAIRMAN: We do not. What is the date of the decision?

MR. MACDOUGALL: December 15th 2005, Mr. Chair.

Q.217 - And if we could go to the final page of that decision, Mr. Reed, which is page 12?

A. I have that page.

Q.218 - And in the second full paragraph of this decision, it says the Board recognizes that EGNB must base its decision to implement a rate rider on achieving the proper balance between providing an incentive to its customers and maximizing revenues. EGNB had not previously implemented a rate rider. It is believed that the filing requirements that will be developed for EGNB will allow the Board to monitor the market more effectively, including the value of rate riders. Do you see that?

A. Yes.

Q.219 - And you see that the Board recognized what the use of a rate rider was for, correct? The first sentence?

A. Yes.

Q.220 - And your understanding as you said before that the

Board has to approve a rate rider, correct?

A. That's correct.

Q.221 - Thank you.

MR. MACDOUGALL: Thank you, Mr. Reed. Those are all my questions. Thank you, Mr. Chair, Board Members.

CHAIRMAN: Thank you, Mr. MacDougall. So we will take a break and then Ms. Desmond, we will have your questions. About a 15 minute break.

(Recess - 2:50 p.m. to 3:15 p.m.)

CHAIRMAN: Yes, Mr. Hoyt.

MR. HOYT: Just a couple of preliminary matters. Just before lunch, EGNB gave an undertaking number 3. And I have that information. The request as I understood it was to provide the number 2 distillate at New York Harbour price that appears in Board interrogatory number 4 to EGNB. And that price is 16.9014 U.S. dollars per mmbtu.

MR. YOUNG: 16 point?

MR. HOYT: 16.9014. And then Mr. MacDougall has an item that he wanted to address. Thank you.

CHAIRMAN: Mr. MacDougall?

MR. MACDOUGALL: Yes, Mr. Chair, Board Members. A small mea culpa. I released inadvertently a piece of confidential information in my cross examination. It was not in my notes, but it came up in the interchange between me and

Mr. Reed.

I would request -- and I have talked to the party with whom whose confidential information it is that I referred to that that information be noted as confidential in the transcript so that there not be a public record of that piece of information. I don't want to describe it here by therefore compounding the problem. But so that all parties know there will be one very small piece of the record removed that was one small exchange around a piece of confidential information and the counterparty solicitor has agreed with that, as I believe has Ms. Desmond.

CHAIRMAN: And Mr. Lawson, is that satisfactory to you?

MR. LAWSON: It certainly is to me, Mr. Chairman. I would think that probably covers off everybody. So you are suggesting that the exchange that deals with the confidential information be transcribed as a confidential portion of the transcript, is that essentially what you are asking?

MR. MACDOUGALL: Correct, Mr. Chair. So that there is no -- only the parties that have signed the confidentiality agreement would have access to it and it would be on the public record if other people seek in the future to read the transcript in this proceeding.

CHAIRMAN: And have you got a process in place so that you can make sure that the court reporter is familiar with what the exchange is?

MR. MACDOUGALL: My understanding is that the court reporter will send me and the other counsel the transcript. We will agree on the piece that will be made confidential and we will advise her of that.

CHAIRMAN: And then the revised transcript will then be sent out?

MR. MACDOUGALL: To all parties and the confidential transcript presumably given to the Board. And if those parties sign the confidential undertaking required, they could seek that.

CHAIRMAN: That seems to be a satisfactory way to deal with that.

MR. MACDOUGALL: I apologize very much to the Board and to counsel and the opposing party for that inadvertence.

CHAIRMAN: Ms. Desmond, are you ready for cross examination?

MS. DESMOND: Thank you, Mr. Chair.

CROSS EXAMINATION BY MS. DESMOND:

Q.222 - Mr. Reed, we have just a couple of questions this afternoon. The first question, if you could refer to your evidence at page 8?

A. Yes.

Q.223 - And line 21, starting at line 21. And Mr. Reed you talk about setting floor and ceiling rates for this particular class. And could you kindly expand on what that would mean, what that proposal would look like?

A. Yes. It says that the actual rate charge would still be set on a market-based parameter, just as it is now. And the process with the rate riders could remain in effect just as it is now. But there would be a floor and a ceiling. In other jurisdictions, the floor is based upon variable costs. So you do a fully allocated cost of service study for this customer class, and you determine the mix between fixed costs and variable costs. And the variable costs component of the cost of service is what is the price floor.

The ceiling is the fully allocated cost. And it essentially becomes a maxed rate. Other jurisdictions have used that approach because they felt that customers in a franchise utility service territory should have access to what's called a recourse rate, which is the maximum cost-based rate. And then the market would set the price within the ceiling and floor. But that's basically how you would approach -- you do have fully allocated cost of service study. And you would then segregate into fixed and variable costs, and that would determine your floor and ceiling.

Q.224 - And within the floor and ceiling, would the relationship between natural gas and oil still track each other? Would that approach still be used?

A. Yes. You would still use the approach to establish the rate between that floor and ceiling. And that's consistent with how other jurisdictions have done it. You want to be responsive to market conditions so you don't lose the throughput. That's what everyone should start with trying to do is maximize throughput on the system. But you say there is a limit to how high that rate is going to go or how low that rate is going to go based upon costs.

Q.225 - When you talk about other jurisdictions that have done this, were those jurisdictions in a greenfield situation?

A. At least partially. If you look, for example, at the FERC order, which is in the data request, interrogatory responses, it is most often done when you are trying to build to a new customer. That new customer is essentially a greenfield situation. You are trying to get service to a new industrial, a new power plant, something like that, especially where alternate fuel is the competition.

So the entire facility, the entire LDC is not greenfield, or the entire pipeline is not greenfield. But you are seeking to build service to a new end user or a group of new end users.

I remember one case in New York where it was to an entire four or five county area where that rate approach was derived and was used. So I would say partial greenfield is the best description of that.

Q.226 - Have you seen it used in situations where it was applied to simply one rate class, as opposed to the entire range of rate classes?

A. Yes. There are lots of examples where utilities have cost-based rates for most of their customers. And then market-based rates within a band width for customers who have a different form of competition.

Again, the objective is to maintain throughout at all times to make sure you get as much throughput on the gas distribution system as possible and respond to competition. But at the same time provide a degree of protection to the customer, because they are a captive customer. And the only -- they are within an LDC service territory, the transportation alternative to them is the LDC.

Q.227 - Now as you might be aware, EGNB has not in the past done a cost allocation study. How could the Board apply your proposal to this particular application or to this rate increase?

A. That's addressed in the last paragraph of my prepared evidence where I believe that they could adopt an increase here that is substantially below their requested level. I have proposed 31 to 39 percent on an interim basis only. And as part of that order at the same time direct that a cost of service study be done for this class and submitted to the Board for further review.

At that time I think we could then look to establish a cost-based floor and ceiling as an adjunct to the existing market-based methodology.

Q.228 - The second area that I wanted to speak to you about is with respect to the fuel price setting. And I believe you have addressed that on page 5 of your evidence.

A. Yes, I have that.

Q.229 - And you provided a range of other timeframes that could be considered when looking at the data to determine the cost of an alternative fuel. Are there any disadvantages to using a longer timeframe?

A. I think the only disadvantage would be if you set a rate that is going to be below the rate that would maximize contributions from that customer class. And I know that that is EGNB's concern. But you know, I have to say I would almost characterize their approach as being one of let's set the rate as high as possible and then trust us to respond with rate riders as necessary.

I don't think that is appropriate in a regulated environment. I would say that in this case, given that we have a lot of competitive circumstances that need to be considered, the competitiveness of the plant, the competitiveness of the transportation to other transportation alternatives that existed, that the 365 day average would be appropriate.

It is my understanding that with this Board's experience in the oil markets, you typically look at weekly price movements to determine prices for the following week -- do a ceiling price for the following week, so that is very similar. You are using a period of history that matches up against the forward look that you are trying to establish in the oil market.

Here realistically we are setting a rate -- we should assume we are setting a rate -- a max rate, a ceiling rate, for at least a year and probably longer.

Q.230 - How do you address the concerns that EGNB has raised about being responsive to the market, being able to react, you know, in a timely fashion?

A. Well again, if we take a longer term perspective on oil and gas spreads, we are in a period right now that is unprecedented in the degree of spread that exists. There is a larger spread now than there has been at any time in the past decade. In fact, I think the last 20 years.

If in fact we see things get even worse, EGNB can always come back with another application to increase the maximum rate.

I don't think it is appropriate to set that max rate higher than otherwise would be justified on the grounds that we can always come back and reduce it through rate riders. I mean, that is discretionary and there really is no opportunity for the end user to come back in and say I deserve a rate rider because my throughput is priced against a natural gas contract that is different than the assumption here.

So it is that function essentially of let's set the rate high -- as high as we can and then we will correct it through rate riders that has an element of trust me that I really don't think belongs in rate making.

Q.231 - Mr. Reed, I believe you provided to the Board sort of a range of options in terms of what you think is a more appropriate rate increase. What is your opinion in terms of what is the most appropriate?

A. That is really presented on answer 14 on page 6 of my direct evidence where I show increases for 365 days, 90 days and 60 days based upon a discount of 15 percent that suggests that the result would be 31 percent to 39 percent.

Now I should say that this is based upon no change in the approach that EGNB used for oil prices other than changing the timeframe. Based on the information we just heard it would appear that the New York Harbour price is some 70 cents lower than the derived number 2 price in their calculation. That would indicate that the transportation rate should even be lower than the 31 to 39 percent increase that I have spoken to here.

So I would want to take that new piece of information into consideration as well but generally I think that range adjusted for now the lower number 2 price as in the information we just got would be appropriate.

Q.232 - But your range of 31 to 39 percent is based on a number of different time periods, 365 days, 90 days or 60 days. And I just wondering if you were to indicate to the Board which of those numbers is the most appropriate?

A. I would use the 365 day figure as the single best figure. I think that is most representative of the conditions coming up for the next year or more.

MS. DESMOND: Those are all of our questions. Thank you.

CHAIRMAN: Thank you, Ms. Desmond. Any questions from the Board? Mr. Johnston?

BY VICE CHAIRMAN:

Q.233 - Mr. Reed, if we take the proposal that you put forward to have market-based rates with the cost ceiling and we apply that across the entire series of rate categories, what would you see happening to the deferral account?

A. That's a good question. And I do have a specific proposal on that. The deferral account in my opinion very clearly should be established on a class by class basis, with a fully allocated cost of service study, you will now have what the cost-based rate would be for GS customers, commercial, residential, all the different classifications. You will also have the actual revenues derived from that classification and the differential can be tracked on a class by class basis.

I think what you would find -- in fact I am almost certain what you would find is that there are very distinctly different levels of contribution to the deferral account across customer classes.

It is my belief that a proper study would show that some classes are actually paying more than cost currently, some are paying less, some are paying far less. And I think that deferral account then should have some accounts established by customer class to better assign the responsibility for recovery of the deferral when that cross over point is reached.

Q.234 - But would the cross over point ever be reached if you had market-based rates with a cost ceiling in every class?

A. Typically the way that would be done is that the cost-based ceiling would be ex-amortization of the deferral account. It would exclude amortization of the deferral account. And whatever the appropriate amortization of that deferral account is would be in addition to the otherwise applicable cost-based ceiling.

So that if -- let's pick a number. Let's say the cost-based ceiling is $2 per gigajoule, but you determine that an amortization of the existing deferral account over the next 10 years is appropriate, that would be in addition to that cost-based ceiling.

Q.235 - So and what you talked about the fully allocated cost of service study that would include a component where we were allocating the existing deferral account as well?

A. No, I would do the study without the deferral account and then I would separately have essentially a surcharge for amortization of the deferral account.

Q.236 - So the two studies would go on simultaneously though?

A. Yes.

Q.237 - And they would both be used for setting rate?

A. Yes. You need to have an understanding of cost responsibility for the creation of the deferral account in order to address how it should be amortized and to whom.

Q.238 - Now one comment that caught my eye was on page 4 of your report, your response to question 10?

A. Yes.

Q.239 - The last sentence you say that the proposed rate completely disregards the actual cost of service for AWL. And I was unclear on this point during your testimony. Do you believe that there should be a specific rate for AWL, as opposed to the other members of the class?

A. That's a fair question. Based on the information that I have seen so far, I think that most experts in rate regulation would probably not support having Flakeboard and AWL in the same customer class as the other LFO customers.

We would conduct what is called a bill frequency analysis that looks at the consumption levels of this customer versus all the other customers in the class and their load factor, as well as their -- so it's the ratio of average use to peak use and their aggregate use.

Those types of studies are useful in determining where you draw the boundaries for a customer class. That's an important element of a cost of service study. Based on everything I have seen so far, it's highly likely that the most appropriate approach would be to have an extra large customer class, if you will, separate and apart from the general LFO class, because it looks like there are very different consumption levels and consumption patterns for these two extra or ultra large customers. But that is something that would need to be looked at as part of the study.

The standards established elsewhere are, you know, are the customers similarly situated? Do they have similar usage characteristics and similar cost characteristics? And if they do not, they should be in a separate class. But that is something I would want to look at as part of the study.

Q.240 - Now in response to some questions from Board Counsel, you talked about some partial greenfield situations. Are you aware of any utilities similar to EGNB where the entire operation is a greenfield operation?

A. Well certainly Heritage, just north -- in Nova Scotia. That's a very good example. There are a couple in Florida as well, where natural gas distribution service has just been made available to entire community. Typically as a result of new pipelines coming into that part of the state. So there are some isolated ones. Those are really the best examples I can think of right now.

Q.241 - The reason I raise that is because you talked a number of times about the regulatory standards across North America, and I guess the point that raised for me was to what extent where in a similar situation or a parallel situation with other jurisdictions across North America where those standards might apply?

A. That's a fair question. And I think the answer is whenever you are talking about adding a new complex, a new county, or an entire new service territory, the rules in that partial greenfield area are very comparable to what we are talking about here.

In fact some of the counties that were added to New York State Electric and Gas service territory are essentially the same in population as New Brunswick is. So we did see market-based rates there and we did see deferrals. We also what was called levelization, where they did a long term projection of rates and levelized those rates over a five or 10 year period as opposed to the traditional decline in costs that would be applicable under traditional ratemaking. You know, there are a lot of approaches that can be looked at within the construct of cost-based ratemaking to try and deal with new customers in a new service territory.

So I think when you have the opportunity to get into variations on cost-based ratemaking and how to approach that within a greenfield structure, you will find that there are some good examples to look to. And that can be done in the construct of cost-based parameters that also reflect market forces inbetween those parameters.

VICE CHAIRMAN: Thank you very much, those are my questions.

CHAIRMAN: I guess those are all the questions from the Board. Any redirect?

MR. STEWART: Just briefly.

REDIRECT EXAMINATION BY MR. STEWART:

Q.242 - Mr. Reed, in his questions to you, Mr. MacDougall referred you the decision of the Board in their last LFO rate case, December 15th 2005. Do you have that with you?

A. I do.

Q.243 - Mr. MacDougall referred you to page 12, the last page of that decision?

A. He did.

Q.244 - And did you note the last sentence of the first paragraph of page 12? And could you read that for me, please?

A. The last sentence on that paragraph says EGNB did state during final argument that it intended to file a rate rider to reduce distribution rates after the proceeding.

Q.245 - Thank you. And I believe Mr. MacDougall asked you about 20 LFO customers and whether any of them had migrated away. Do you recall Mr. Butler's testimony earlier this morning where he talked about one of the LFO customers had I think shut down their business and they just had a minor heat load and on their anniversary they were going to cease to be an LFO customer?

A. Yes, I recall that testimony.

Q.246 - So it would be down to -- in fact then there is one LFO customer who has gone out of business and just heating the plant now?

A. Yes, in terms of the process load it has disappeared apparently because of the plant being shut down.

MR. STEWART: Those are my questions.

CHAIRMAN: And does that conclude the evidence that you will be calling at this hearing?

MR. STEWART: It does conclude the case of Atlantic Wallboard.

CHAIRMAN: Thank you. Mr. Lawson, we are pretty much at the end of the day.

MR. LAWSON: If we do have -- we were intending to call our witnesses out of order to try to accommodate our expert from out of town in hopes that the Board might be willing to sit a little longer. I have asked Mr. MacDougall what he might expect by way of time frame with him and it would be something close to three-quarters of an hour. So I guess the call is the Board. Needless to say, I will only be two minutes with him.

CHAIRMAN: I think that we -- we would certainly be willing to embark on that if you will. The difficulty is it's a bit of a nasty day and we if at all possible don't want to see anybody have to drive home in this weather after dark.

I am not sure -- Mr. MacDougall, do you feel that your cross examination would be concluded within that time frame? I know it's always difficult. As soon as you estimate it, things change in the course of cross examination I know.

MR. MACDOUGALL: All I can say, Mr. Chairman, I have less questions for Dr. Gaske than I did for Mr. Reed. So if Dr. Gaske answered with the speed of Mr. Reed, I will be shorter than that time period. I think 45 minutes to an hour. But I do take your point about -- we will accommodate, I understand your other issues.

MR. LAWSON: Perhaps in fairness to the Board and the other parties, Dr. Gaske will just have to stay over. It may be that Air Canada will provide that gift to him anyway. So as a result, perhaps if the Board is inclined we should wait till the morning and add the certainty.

CHAIRMAN: Would it be helpful if we started earlier in the morning to Dr. Gaske in terms of getting an earlier flight?

MR. LAWSON: We don't know the alternate flights, but I suspect it would be.

DR. GASKE: I can arrange something later in the day, so that there won't be a problem, unless I take all day.

CHAIRMAN: Well, I mean I am certainly prepared to start, but it strikes me that we are not going to finish it today. I guess we would have to -- Ms. Desmond, do you have some cross examination for Dr. Gaske as well?

MS. DESMOND: We have very little at this stage, Mr. Chair.

CHAIRMAN: Well, I think all things considered, perhaps we would be best to set it over until the morning. And I will ask you, Mr. Lawson, do you think it would be useful to start early, would that be --

MR. LAWSON: If the parties don't mind, I think it would be helpful, if we started perhaps at 9:00 o'clock instead of 9:30, if the Board is amenable to that?

CHAIRMAN: Well again -- and I guess maybe I will put the question the Applicant. I don't know if they are travelling back and forth from Fredericton or whether they are staying here?

MR. MACDOUGALL: We will accommodate. 9:00 o'clock.

CHAIRMAN: All right. We will adjourn to 9:00 a.m. tomorrow morning.

MR. LAWSON: Thank you.

(Adjourned)

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

Reporter