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New Brunswick Board of Commissioners of Public Utilities

Hearing April 10th, 2000

IN THE MATTER OF AN APPLICATION BY ENBRIDGE GAS NEW BRUNSWICK
INC. DATED DECEMBER 31, 1999, FOR APPROVAL OF ITS RATES AND
TARIFFS.

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Chairman: David C. Nicholson, Q.C.

Commissioner: Monika Zauhar

Commissioner: Robert Richardson

Commissioner: R. J. Lutes

Commissioner: Leonard Larocque

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CHAIRMAN: Good morning, ladies and gentlemen. First
we will have appearances, starting with the applicant.

MR. MACDOUGALL: Yes, Mr. Chair. Mr. David MacDougall and
Mr. Len Hoyt for the applicant Enbridge Gas New Brunswick
Inc.

CHAIRMAN: Second, Province of New Brunswick?

MR. BLUE: Mr. Chairman, Ian Blue for the Province of New
Brunswick. Sitting with me to my left is Mr. Hugh Johnson
and Mr. David Parcell.

CHAIRMAN: Irving Oil Limited?

MR. STEWART: Christopher Stewart for Irving Oil Limited,
Mr. Chairman. I'm joined this morning by Murray Newton of
Irving Oil.

CHAIRMAN: You were late getting here, I guess,

Mr. Stewart?

MR. STEWART: The fact I got the cheap seats --

CHAIRMAN: Yes.

MR. STEWART: -- Mr. Chairman?

CHAIRMAN: Sempra Energy Sales Limited?

MR. ZED: Peter Zed, Mr. Chairman. I wasn't late. They
just sat me alphabetically.

CHAIRMAN: Union of New Brunswick Indians?

MS. ABOUCHAR: Juli Abouchar, Union of New Brunswick
Indians,

Mr. Chair. And on my right is Mr. Ross Milne. And on my
left is Mr. Ron Perley.

CHAIRMAN: Just so that we comply with our procedures
regulation, Ms. Abouchar, the Board accepts the
intervention of the Union of New Brunswick Indians.

Now I will go through the informal interventions in
case there are some of the parties represented here.
Alliance of Manufacturers & Exporters of New Brunswick,
City of Saint John, Direct Energy Marketing Limited,
Engage Energy Canada Limited, New Brunswick Power
Corporation, Saint John Energy, Sempra Atlantic Gas Inc.
and Enterprise Canada.

The Board gave notice to all of the informal
Intervenors if they wished to make written comments to the
Board then they had to be filed with the Board, served on

all of the parties no later than last Friday.

To my understanding, Madam Secretary, the Board has not received any written -- or have we?

MS. LEGERE: No, we haven't -- from the City of Saint John and from Alliance Manufacturing.

CHAIRMAN: Okay. So we have two then. There are a number of the others who reserved the right to give oral comments.

A housekeeping -- two housekeeping matters at this time. One, we have produced an exhibit list which I believe all of you now have received.

Oh, you didn't pick -- where is it, Madam Secretary, the exhibit list?

MS. LEGERE: It is in front of you.

CHAIRMAN: Well, no. There are some back on the table there, is that correct? There are some back on the table?

MS. LEGERE: I just passed out two. Yes, there are some back there.

CHAIRMAN: Okay. So if you haven't received them, then they are back there. I would ask each party to get copies. And you can update as we have further exhibits put in.

Secondly this room is not available Wednesday morning. So we probably will not be able to begin until about 12:00 noon. However the Board's premises at 110 Charlotte Street are available.

I think as a result of the preliminary matters we will do here today, there may be one or two things that counsel can attend at the Board's premises on Wednesday morning and we can deal with.

The room would not take all of those of you who are present today. It is not big enough. So you will have to leave your witnesses home, counsel. So we can carry on with some things on Wednesday morning.

The Board sent out a letter with some dates as to when, if this does not conclude this week, that we might sit again. And again to my knowledge no one has come forth and said that those dates were not acceptable.

I know that Mr. Blue has written to me and said sit all night and do a few things like that, which we will attempt to do. For instance, this room is available Saturday morning, not Saturday afternoon. The Board would be prepared to sit then and longer hours to get through it.

But if it appears inevitable that it is going to have to be adjourned, then we wanted to make sure that those dates were available.

MR. BLUE: Mr. Chairman, on behalf of the Province I have been asked to state that the Province would appreciate it if the Board and all parties could do their best to make the hearing continuous.

We have all invested time and money into the preparation. An adjourned hearing requires everyone to go away and then turn that up again.

Mr. Barnett has made inquiries. And apparently there are facilities available in Fredericton next week. And I would suggest that all counsel and parties that come to a hearing should be in a position to continue on until the hearing is over.

I have been asked to make that comment. And we would hope that we find a way -- but we would hope to find a way to finish the hearing this week.

CHAIRMAN: Thank you, Mr. Blue. We will visit that subject matter later on in the week. Mr. Holbrook?

MR. HOLBROOK: Yes, Mr. Chairman, a point of order. I represent Marico Oil and Gas Corporation. And Marico filed, albeit late, request for formal participation in this proceeding.

CHAIRMAN: Yes. We are not there --

MR. HOLBROOK: Yes.

CHAIRMAN: -- yet, Mr. Holbrook. I will finish the housekeeping and then --

MR. HOLBROOK: Thank you.

CHAIRMAN: -- come to that matter. I guess we are ready to go there, if there are no further comments in reference to when we might sit again, if this has to be adjourned over

after Saturday of this week.

And Mr. Holbrook, go ahead. The Board received notification, and I believe parties did, that Marico wished to be allowed to intervene.

Go ahead, Mr. Holbrook.

MR. HOLBROOK: Thank you, Mr. Chairman. Yes. All the parties to this proceeding, both formal and informal, should have received copies of our request.

As I indicated, Marico Oil and Gas Corporation is a producer of oil and gas in New Brunswick. We are requesting the right to participate in this proceeding. Admittedly it is a late filing. We appreciate the fact that questions have been raised as far as whether that will unduly delay the process.

I would just like to point out, if I have a moment here, that the reason why Marico is participating at this time is that as a producer it fully intended to put its own delivery system in place, in which case the rates that Enbridge is proposing in this proceeding would not have any direct relationship to it.

Marico has been encouraged, as a result of meetings that it has had informally with staff of the Board, as well as with Enbridge, to see what we could do obviously to work things out between Enbridge and my client.

As part of that process, Enbridge has strongly

encouraged my clients to look to options that would include using Enbridge's system. As a result, the rates and the service that Enbridge proposes to provide that are being addressed in this proceeding becomes far more significant.

So that is the reason for why the timing of this particular request to intervene. I would go on to point out that Marico is fully prepared to accept the record as it exists at the present time.

We will not ask for any extensions of time. We will not request discovery. We will not propose to introduce any witnesses or present any evidence. All we ask for is the opportunity to participate in the proceeding and to be able to ask questions of the witnesses who present evidence in this proceeding.

I think given that offer and that stipulation, our intervention at this time should not affect in any undue manner the timing of this proceeding or create any element of surprise, since the opportunity to ask questions would not have lended itself to any discovery in any event.

So again we ask the indulgence of the group that we would be permitted this opportunity to intervene at this time. I would be happy to answer any questions. Thank you.

CHAIRMAN: Thank you, Mr. Holbrook. Does the applicant have

any comment?

MR. MACDOUGALL: Could we just have one second, Mr. Chair?

CHAIRMAN: Sure.

MR. MACDOUGALL: Yes, Mr. Chair, a couple of comments. I believe the Board and all Intervenors received a copy of our letter of April 5 stating Enbridge Gas New Brunswick's position as at that time.

Mr. Holbrook has addressed some of our concerns in that he has indicated that he will accept the record as of today's date and will not be adducing evidence or otherwise.

However the applicant still does have concerns that a sophisticated party who was fully aware of this proceeding did intervene at a fairly late period in time, somewhat precluding the applicant from being able to prepare for what issues that party may address in this proceeding.

And I guess what we would be seeking to look for is if Mr. Holbrook could identify those issues which he anticipates raising in this proceeding. And then maybe we could give our further comment as to whether we feel it would be appropriate for him to cross-examine our panels or whether it would be more appropriate for him just to make a statement at the end of the proceeding.

CHAIRMAN: Okay. I will go around the room. And then the Board will consider that.

MR. MACDOUGALL: Thank you.

CHAIRMAN: Mr. Blue?

MR. BLUE: No objection, Mr. Chairman.

CHAIRMAN: Irving Oil?

MR. STEWART: No objection, Mr. Chairman.

CHAIRMAN: Sempra?

MR. ZED: We don't have any objection, Mr. Chairman.

CHAIRMAN: Union of New Brunswick Indians?

MS. ABOUCHAR: I do not take a position on this one,
Mr. Chairman.

CHAIRMAN: I guess that is no objection. Okay. All right.

The Board is going to retire for a minute. We will be
back.

(Short recess)

CHAIRMAN: The Board will approve Marico's intervention at
this time. And in reference to the applicant's comments,
if during examination your panel you -- there is a line of
questioning that you couldn't foresee and that you object
to, object to it at that time. Simple as that.

MR. MACDOUGALL: Mr. Chair, could I just make a follow-up
comment with respect to that?

CHAIRMAN: Sure, go ahead.

MR. MACDOUGALL: Mr. Chair, the concerns -- just for the
record, the concerns of Enbridge Gas New Brunswick Inc.
are really to resolve rates issues and other issues to

allow them to start construction this summer, if at all possible.

We have just recently become aware of the fact that Marico has stayed their own application. Those issues are issues we certainly want to resolve. We would hope that we could resolve those issues as quickly as possible in the appropriate forum and we will deal with questions as they arise and then we will treat them as you have requested.

CHAIRMAN: I am certain you are aware of the Board's intention, which is that since Marico has not proceeded with their application, that this Board will proceed with both of the applications of Enbridge Gas New Brunswick and and take them through to decision before revisiting Marico's application to us.

MR. MACDOUGALL: We fully appreciate that, Mr. Chair.

CHAIRMAN: So that we are not going to mark time at all.

Now at the time of the pre-hearing for the construction hearing, why the Board addressed Enbridge and the Irving intervention that -- concerning a possible motion this morning by Enbridge Gas New Brunswick. And we suggested that the parties sit down and negotiate and make use of Board counsel and/or staff as well to bring the matter to a conclusion.

I have in front of me a letter from Enbridge Gas New

Brunswick dated April 9, as I would characterize it setting out the issues that were of concern to Enbridge, and as well a letter dated the 9th from Mr. Stewart on behalf of Irving, that they accept that position. I don't know if the other parties in this room have received copies of that correspondence or not.

MR. MACDOUGALL: They would have but they would have gone out late yesterday, I believe, Mr. Chair. But for those who don't have a copy copies are available at the back of the room for the applicant's letter and I am not sure -- and for Irving Oil's.

CHAIRMAN: Okay. I may be putting things out of appropriate order here but the Board does have as a result of all of the things that have gone on over the last few weeks some comments it wishes to make. And so I am going to make those comments and then we will go back and revisit this from the point of view of whether or not other parties wish to have something to say about the Enbridge Gas New Brunswick motion which Irving has agreed with in reference to leading of evidence.

The Board has some comments with regard to the issues which have been under discussion by the Working Group. All of those issues are important to the introduction of natural gas in New Brunswick and some issues, such as capacity on the MNE Pipeline, are critical.

The Board has been urging the Working Group to complete its discussions as quickly as it can and also to indicate a date whereby decisions would be required by the Board.

The Working Group recently wrote to the Board stating that its report would be provided by May 31 and requesting a Board decision by June 30. The staff of the Board has communicated to the Working Group facilitator that this would not provide sufficient time and requested that the report be made available sooner.

The Board has not received any response at this time to this request.

The Board also was anticipating that there would be considerable discussion on some of the issues during this proceeding given their direct relevance to the costs, rates and conditions of service for EGNB. However, it now appears that discussion in these matters may be limited or not occur at all.

Some of these issues require decisions in the near future. There is uncertainty surrounding whether or not an agreement will be reached on all of these issues. A certain amount of time will be required to hold a public review. In light of the other matters currently before the Board, it is essential to establish a schedule for consideration of these issues as soon as possible.

The Board therefore requests all parties to address the following questions at 9:00 a.m. on Wednesday at the Board's premises at 110 Charlotte Street, Saint John, New Brunswick, or fax their comments to the Board no later than 8:30 Atlantic Standard Time on Wednesday.

And the questions to be commented on -- and we will provide you with copies of this -- for each issue when is the latest date for a Board decision which would still allow parties time necessary to permit a proper start-up for natural gas in 2000.

For each issue what is the most appropriate forum for public review, is it this rates proceeding, the upcoming construction hearing or re-opening of the marketer's hearing or some other approach.

After hearing comments, and we will fax to those parties who are not represented today these comments so that they will be able to fax theirs back to us by Wednesday morning. After hearing comments the Board will render a decision on how to proceed.

The Board encourages all parties to assist it in establishing a process that will result in the necessary decisions being made in a timely fashion.

So those are the comments we had to make. Any comments, Mr. MacDougall, on how that will dovetail with your correspondence and Mr. Stewart's acceptance of it, or

as to the timing of you getting back on the Board's requested decisions.

MR. MACDOUGALL: Certainly, Mr. Chair, just quickly, I believe Enbridge Gas New Brunswick and the other Working Group participants have been working diligently. I know two of my colleagues have been in a lot of those processes and they have raised the issues and dates and timing, I am sure everyone will try to address those issues specifically and the dates and timing by Wednesday morning.

I would presume some of the Working Group members who are not here would probably have to be contacted and told that those issues were going to be raised. And I think I can undertake that Enbridge Gas New Brunswick's representative on that group can contact those parties and tell them that you have raised this issue this morning.

With respect to the motion on the table, the issue was that we felt many of these issues were exactly to be addressed in the Working Group in the appropriate forum as indicated on the second page of our letter of April 9, would either be the Working Group, the construction hearing or re-open part of the marketers' hearing.

So we believe the issues that are raised in this correspondence are ones that should go there and that the timing could be sorted out at that time.

I don't think we can wait until Wednesday for the Board to make a determination on this motion because it wouldn't allow parties to cross-examine our panels on these issues and our panels hopefully will be up today and following on from there.

I believe Irving Oil agrees, because of their correspondence, that these are issues best dealt with in another forum. The issue was primarily that they were to be dealt with in a public forum where appropriate and where determined by the Board. Enbridge Gas New Brunswick Inc. certainly wants a public review of those matters that they feel should come before the Board and which can't be dealt with in the Working Group.

So we would suggest that the motion be accepted by the Board that these are issues that can be dealt with in those proceedings and that the parties try to indicate to you on Wednesday morning the timing for when those issues would be resolved and the specific proceeding in which they would be resolved.

CHAIRMAN: Okay. Mr. Blue, do you have any comments on either what Mr. MacDougall has just said concerning the motion that in effect has been delineated in his correspondence, or Wednesday morning with the Board?

MR. BLUE: No, other than in my experience it often takes less amount of time to let any questions be asked than to

take time arguing a motion about whether they should be asked.

CHAIRMAN: Okay. Mr. Stewart.

MR. STEWART: Mr. Chairman, I have to agree with Mr.

MacDougall in terms of there are really sort of two issues here. One is what is under consideration by the Board during the course of this hearing which will begin in a substantive way in a few minutes. And I think that the parties need to understand exactly what issues are on the table, so to speak, and what are not.

At the Board's -- excuse me, as you indicated, Mr. Chairman, at the Board's suggestion we did speak with the Enbridge people and try to come to some sort of appropriate resolution of that issue, and that is reflected in Mr. MacDougall's letter dated yesterday.

So I think we need a resolution of those particular issues before we go forward, certainly Irving Oil and the other Intervenors or participants in this hearing will need to know whether it is appropriate to address questions to the Enbridge panel on those points or not, quite frankly.

Beyond that I think the Board's suggestion is a good one. All of us, Enbridge and all the market participants and the Board itself are, you now, really beginning to stretch the limits of the time that we have available in

order to put all of these things in place.

I would echo Mr. MacDougall's comments that the Working Group has been working diligently and some of these issues are difficult to wrestle to the ground.

What I suggest and what I would encourage the Board to do would be to allow Enbridge's motion cum request with respect to the issues that are specified so we can proceed with the hearing as suggested. Again subject to the caveat that we put in our response that to the extent they are not otherwise resolved in some form that recourse to the Board would be available.

And for all of the other myriad of issues that are out there, including the construction matters and to the extent that we can determine which category that we -- or under which hearing heading we will place these issues, be it construction, be it marketers, be it some new or a specific hearing, we can accomplish that on Wednesday and move forward on that basis.

CHAIRMAN: Thank you, Mr. Stewart. Mr. Zed.

MR. ZED: Mr. Chairman, we would consent to Enbridge's motion on the understanding that the matter will be dealt with Wednesday by the Board.

CHAIRMAN: The only problem there would be if the Board

agrees and then we decide that certain matters should come before us, Enbridge's panel or panels may have testified.

So that we all understand that that is the case.

Okay. Union of New Brunswick Indians.

MS. ABOUCHAR: Mr. Chair, my client has not been participating in the Working Group and your suggestion regarding a time for settling of the issues and what kind of forum they should be heard in is of interest to my client and we would agree that your suggestion is a good one for proceeding with those matters on Wednesday morning.

CHAIRMAN: All right. Ms. Abouchar, are you saying that you would not want us to go along with the motion that Gas New Brunswick has put forward, agreed to by Irving and not objected to by the Province or Sempra?

MS. ABOUCHAR: We don't object to that motion either, Mr. Chair

CHAIRMAN: Marico?

MR. HOLBROOK: No objection.

(Short recess)

CHAIRMAN: Okay. The Board has decided after a good deal of discussion that we will grant the motion that is contained in the letter from Enbridge Gas New Brunswick of April 9.

And we have gone around the room on that. On the understanding that come Wednesday morning, if it turns out that there is some of the subject matter that has been agreed by parties hereto that they won't form part of the

rate hearing, i.e. no cross-examination on it.

We may very well have to establish procedure whereby we set up something parallel with the same witnesses. So that if the drop dead date is that soon, that we have to make a decision that we can have cross-examination of some of or all of the witnesses who took part in this rate hearing. However, we want to get on with this hearing.

Do parties have any other preliminary matters?

Mr. Stewart?

MR. STEWART: Just continuing on ensuring that Wednesday morning goes as well as it can and we resolve those matters, Mr. Chair, did I hear you correctly that the Board is going to provide a list of issues?

Or are we to generate or are we to bring issues to Wednesday? Or how is that going to work?

CHAIRMAN: I will refer to my written comments. The Board therefore requests all parties to address the following on Wednesday morning.

For each issue, that is those issues that are before the Working Group, for each issue -- so you have to identify the issues that are before the Working Group -- when is the latest date for a Board decision which will still allow parties time necessary to permit a proper startup for natural gas in 2000? For a Board decision, I have left that out.

Secondly, for each issue what is the most appropriate forum for public review? Is it this rate proceeding? That is now out, a parallel type with the same witnesses, The upcoming construction hearing? Reopening the marketers hearing or some other approach?

In other words, as of Wednesday at noon the Board should know what are those issues that are still with the Working Group, when is it that will be the date that the Working Group would either have to come to a consensus agreement or say to the Board, in reference to issue A, Board, you have got to get going to make your own decision.

And then the second part of it is with that particular issue, what do the members of the Working Group think is the best way to handle a Board decision in reference to that particular issue, okay.

MR. STEWART: Thank you, Mr. Chairman.

CHAIRMAN: Any other matters? Mr. MacDougall, your first panel, I guess.

MR. MACDOUGALL: Mr. Chair, there were some opening statements. And I was unsure whether the three parties were going to deal with them first. Our preference would be that Mr. Pleckaitis would do his opening statement on with the witness panel.

But since I understand there is two other opening

statements, if everyone were going to make those first, Mr. Pleckaitis would do his. And then they can do theirs.

It is up to the Board. I just --

CHAIRMAN: Okay. Let me hear from counsel then. Do you want to do opening statements now or when you call your witnesses? Mr. Blue?

MR. BLUE: Well, I'm not calling any witnesses, Mr. Chairman, so I have no opening statement. My under' - - the normal practice, as I understood it, is that people do opening statements in these cases when their witness panels take the stand.

CHAIRMAN: Any contrary views to that? Opening statement with the panel is -- or the witnesses take the stand?

MR. STEWART: Mr. Chairman, that is the way we anticipate proceeding.

CHAIRMAN: Okay. Good.

MS. ABOUCHAR: Mr. Chair, one other matter. It is Juli Abouchar speaking. We have been having a discussion with Irving. And there is a desire for my client, if possible, to present our one witness as early as we can in this proceeding.

We don't expect to be more than an hour in time with -- that includes questions. I mean, there might be more questions than that. But we expect to be an hour.

And my colleague Chris Stewart has agreed that he is

acceptable to us slipping in right after the applicant before Irving Oil. I'm just asking if that is acceptable to the Board.

CHAIRMAN: Well, I -- in other words, you would be the first Intervenor to present evidence?

MS. ABOUCHAR: That is right, Mr. Chair.

CHAIRMAN: Well, if the other Intervenors have no problem with that, I don't see why the Board should. So I guess the answer is if you get the concurrence of other Intervenors, then that is fine with the Board, okay.

MS. ABOUCHAR: Okay. Thank you.

CHAIRMAN: Mr. MacDougall?

MR. MACDOUGALL: Yes, Mr. Chair. I guess I would like to have our first witness panel sworn.

CHAIRMAN: It is a mass swearing.

PANEL SWORN:

MR. MACDOUGALL: Mr. Chair, if I can introduce our witness panel. The first witness panel we are putting forward is our policy and general rate application panel as identified in our letter to the Board of March 31.

It consists of five panel members. Starting closest to me and then going to the Board, Mr. Lino Luison, Mr. Arunas Pleckaitis, Mr. Rock Marois, Mr. Allen Maclure and Mr. Andrew Harrington.

The c.v.'s of the first four gentlemen were filed as

tabs 9, 10, 11 and 12 of exhibit A to our application. The c.v. of Mr. Harrington, who was added to the panel after seeing some of the IR's, was attached to our letter of March 31.

What I would like to do is ask Mr. Pleckaitis to give his opening statement. After he has done so, I will then ask Mr. Marois to adopt the evidence on behalf of Enbridge Gas New Brunswick Inc. And then he will make a brief summary of that evidence, as was agreed to at the prehearing.

CHAIRMAN: Go ahead.

MR. PLECKAITIS: Mr. Chairman, Board Members, and other interested parties to this proceeding, my name is Arunas Pleckaitis and in my capacity as President of Enbridge Gas New Brunswick I would like to make a brief introductory statement regarding our company's objectives and plans.

First, let me begin by saying how pleased Enbridge is to have been awarded the general gas distribution franchise for the Province of New Brunswick. We see the East Coast of Canada as an exciting new frontier for the energy industry and New Brunswick as an enlightened and supportive beachhead for our company to begin and grow its operations.

We are proud to be in a position to offer New Brunswickers a safe, reliable and clean energy

alternative. Initial consumer reaction has been very encouraging. We believe that the rates we are proposing are fair and reasonable and will be accepted by those customers.

As some of you know, Enbridge along with its local investors responded to the Province's very detailed request for proposals issued in December 1998. While the Province was very specific in terms of what should be contained in each proposal to accomplish the Province's objectives, which include maximizing availability of natural gas, ensuring the expeditious development of the natural gas industry, increasing competition in energy markets and maximizing economic benefits to the Province, companies were also invited to be creative and innovative as to the regime under which the general distribution franchise should operate. It is in this competitive context that Enbridge prepared and in March 1999 submitted its proposal to the government. Following a very extensive evaluation and examination process, the government in August 1999 awarded, and in good faith Enbridge Gas New Brunswick accepted the general gas distribution franchise for the Province, and executed the General Franchise Agreement with the Province dated August 31st 1999.

Since the award Enbridge has been extremely busy in

advancing its plans and preparations in order to begin, subject to Board approval, construction in early July of this year. We also know that the Public Utilities Board has been equally busy and we would like to express our company's gratitude for the expeditious manner in which the Board has scheduled and managed the regulatory proceedings to date. From our perspective it is imperative that we maintain this momentum if we are to be successful in bringing natural gas to many New Brunswick residents and businesses as quickly as possible.

While we recognize the Board needs to fulfil its legislative mandate, significant discretion remains with the Board in doing so. While Enbridge has extensive experience in operating a natural gas utility, it is important to recognize the complexities and uncertainties associated with starting up a greenfield operation. No textbook exists to spell out exactly how a company such as ours should prepare and implement its plans. Each situation is unique in terms of circumstances and complexities. As such the company intends to move forward prudently and with flexibility in mind so it can adjust to new information as it becomes available. We therefore encourage the Board to consider the developmental nature of what we are proposing and the sizable uncertainties and risks that reside with the company and its shareholders in

this undertaking.

In regards to the developmental nature of our business and its risks, we would like to highlight several important factors that should be considered by the Board to provide context. First, is the fact that Enbridge has committed itself to putting over \$300 million of capital investment into developing this Province's natural gas infrastructure. As part of our proposed regulatory framework we are requesting the adoption of two deferral accounts. The creation of these deferral accounts does not eliminate shareholder risk. It simply transfers the unrecovered shareholder investments into a future period when they can hopefully be recovered in distribution rates charges to customers. There is no guarantee that these amounts accumulated in the deferral accounts will be recovered. If the company mismanages this investment, our long term costs per customer served will be higher than planned. In turn, if our long term costs per customer are higher than planned we will have fewer customers. This scenario represents one which the company is absolutely incented to avoid.

A second important factor to consider is that Enbridge today has zero customers. It is therefore not in a position, even if it wanted to, to exert monopolistic powers on its customers. If its prices are too high

compared to competing fuels, customers simply will not convert to natural gas. Now one might argue that this changes once Enbridge adds a customer since that customer cannot easily switch to another fuel without incurring a transaction cost. However, if the company were to raise prices abruptly after customers converted this will simply discourage new prospective customers from switching to natural gas. Therefore we contend that we are operating in a competitive market. Accordingly, we need the flexibility to act more like a competitive company.

The final point we would like to make in this regard is the relatively small number of customers we intend to add this year and next. Enbridge is hopeful of converting several hundred customers this year and by the end of 2001 we expect to have a total of approximately 3,700 customers. This pace of addition is consistent with the prudent approach I referred to earlier in my comments. By doing so it provides the company, the Board and other stakeholders the opportunity to observe the development of our business operations and the natural gas marketplace in actual fact, rather than in theory, and then make assessments of what should or could be done differently.

I respectfully submit that the Board should consider these factors in its determinations in this hearing.

Thank you for your attention.

MR. MACDOUGALL: Mr. Chair, I would now like to turn to Mr. Marois.

Mr. Marois, was the evidence prepared at exhibit B prepared under your direction and control?

MR. MAROIS: I imagine you refer to exhibit A?

MR. MACDOUGALL: Exhibit A.

MR. MAROIS: Yes, it was.

MR. MACDOUGALL: And do you adopt that evidence as the testimony of the company in this proceeding?

MR. MAROIS: Yes, I do.

MR. MACDOUGALL: Could you please give a brief summary of the evidence of exhibit A?

MR. MAROIS: Yes. Bonjour. The objective of my introductory remarks is to provide an overview of the evidence filed under exhibit A. I will also try to clarify certain aspects of our application.

As you are aware, EGNB has been granted a general franchise by the Province of New Brunswick under the Gas Distribution Act and has executed a general franchise agreement dated August 31st 1999 with the Province.

The general franchise agreement has been filed under schedule A of our application.

The current application in front of the Board is pursuant to Section 52 of the Gas Distribution Act for an order or orders approving or fixing just and reasonable

rates and tariffs for the distribution of natural gas and for customer services.

More specifically, the company is asking the Board to approve just and reasonable rates filed in exhibit B, schedule 1.

These rates known as target rates are market-based. They have been set to provide the appropriate financial incentive to encourage customers to convert to natural gas.

At this time the target rates have been set to provide a burner tip price advantage of approximately 30 percent versus heating oil in the residential market, 15 percent versus light fuel oil and 5 percent versus heavy fuel in the commercial, institutional and industrial sectors.

The target rates are also postage stamp. By postage stamp rates we mean that customers will be paying the same rates no matter their physical location. So a customer in Edmundston will be paying the same rate as a customer in Saint John.

In addition, the target rates cannot in aggregate be more than the cost of service of the company. Accordingly they represent a ceiling or a cap that is an important safeguard for customers in our proposal.

It is also important to know that for the 2001 test year no single rate will generate revenues that exceed the

cost of service for that customer to us. We will further elaborate on this aspect in the presentation of exhibit B.

It is estimated that the target rates will generate revenues of 5.754 million in the fiscal 2001. I refer you to exhibit A, schedule 7, line 12, column 1.

It is also estimated that the company's cost of service for fiscal 2001 will be 10.471 million. I also refer you to exhibit A, schedule 7, line 11, column 1.

Accordingly, the target rates are not sufficient to recovery company's full cost of service. This results in a pre-tax revenue deficiency of 4.717 million. I refer you to exhibit A, schedule 7, line 13, column 1.

The after tax revenue deficiency is 2.442 million. Again exhibit A, schedule 7, line 25, column 1.

The company is also seeking approval for some specific components that are part of its proposed regulatory framework. The company is proposing a regulatory framework that would apply to a development period rather than a one year test year.

Simply put, the development period is the period during which EGNB cannot be expected to operate like a mature utility because it is still in the early stages of infrastructure development and customer capture. We currently estimate the development period will last approximately eight years, but it is impossible to

determine with precision when it will end.

Accordingly, we are requesting flexibility in

determining when the development period should end.

In addition, an essential component of our proposed regulatory framework is rates or pricing flexibility that would allow the company to reduce and, as specified, only reduce and not increase target rates during the year to ensure that rates provide the incentives necessary to achieve the desired level of market penetration. Target rates would be reset annually as required.

Exceptionally for this application we are requesting the flexibility to do a one time adjustment to the target rates prior to their implementation on October 1, 2000. We believe that this additional and exceptional flexibility is required because we are still several

months away from the implementation of our rates and the environment we are operating in may evolve considerably by then.

The company is also seeking approval for two deferral accounts. One is a pricing deferral account and the other is a forecast discrepancies deferral account.

These deferral accounts are an integral part of our regulatory proposal and are a direct result of the greenfield nature of natural gas in New Brunswick. These deferral accounts stem from the need for market based

prices and pricing flexibility that will prevent the company from recovering in its rates its full cost of service.

Such a revenue deficiency is typical of greenfield conditions that require large up front capital expenditures and start-up costs that will benefit all customers in the long term. However, in a greenfield situation, customers are added gradually over time and customers are very limited at the beginning.

These deferral accounts also recognize that the forward test year approach to establishing cost of service base rates is not well suited for a greenfield development in which accurate forecasts -- actual forward test year forecasts are difficult to establish.

I wish to take the opportunity to clarify that the current cost that EGNB is proposing to apply to the balance of its deferral accounts is the weighted average cost of capital and not its return on equity.

This is reasonable considering the nature of the deferral accounts and it has always been our position, which was clarified in clarification 83 from the Province during the request for proposal process.

I also wish to reiterate that we have 200 million good reasons to keep the balances in the deferral accounts as low as possible. Indeed EGNB will be investing

\$200,000,000 in building its natural gas distribution system in New Brunswick.

In order to ensure the recovery of this important investment, EGNB needs to add customers and in order to add customers it must ensure the long term competitive advantage of natural gas. Accordingly, it has a strong natural incentive to exercise prudence in the amounts that end up in the deferral accounts.

We must remember that what is being deferred are the initial investments including start-up costs that were made to provide long term distribution services to the Province, but that cannot be recovered in initial rates.

The deferrals will be based on the difference between actual costs and actual revenues. Those actual costs will be prudently incurred and reported to the Board annually for its review.

We are not proposing at this time any mechanism for the clearing of these deferral accounts. We believe that this subject is better dealt with closer to the time when we start clearing these deferral accounts.

The company is proposing a cost of capital composed of the following, the capital structure composed of 50 percent equity and 50 percent debt, a return on equity of 13 percent, cost of debt based on ten year Government of Canada bond rate plus 2.5 percent.

We respectfully submit that the elements of our capital structure are just and reasonable based on the risk faced by EGNB in this greenfield venture. It is generally accepted that a greenfield venture is considerably more risky than a mature utility.

In particular, some of the challenges we are facing are, we have no customers, zero. All our customers will have to be won over from established energy providers. Natural gas is an unknown product in New Brunswick. We will be making large upfront investments but will only be able to add customers gradually over time.

We refer you to the evidence of Mrs. McShane who provides an independent opinion on our cost of capital in the context of our proposed regulatory framework.

It is important to note that the capital structure we are seeking approval of are not deemed amounts but are based on what is expected to be the actual capital structure and the actual cost of debt of the company. Deemed amounts are usually adopted when a utility has both regulated and non-regulated activities. EGNB is a pure utility, so there is no need for any deemed amounts.

In addition, the company's proposal regarding cost of capital follow the universally accepted principle of assessing an economic opportunity on a stand-alone basis, thereby eliminating the possibility of reflecting any

opportunity for cost subsidization between various business units.

The company is also proposing a regulatory oversight that is light handed. However, we will provide the Board with all the information it requires in exercising its mandate. In particular, we will provide the Board with prior to a fiscal period projected revenue requirements, cost of service and aggregate, proposed target rates, projected year-end deferrals.

During the year we will provide prior notice of any rate reductions to the target rates. And at the end of the fiscal period we will provide actual financial results and actual deferrals. In essence, the main objective of light handed regulation in this case is to avoid wherever possible full blown hearings

We believe that light handed regulation would provide numerous advantages in the greenfield New Brunswick natural gas market. It would allow the company to act more like a competitive company by providing it with the pricing flexibility to meet market forces.

It would allow the company to focus on its core business, i.e., such as putting pipe in the ground, attaching customers and providing quality distribution services, instead of allocating valuable resources to the regulatory process.

It would also help reduce the cost of regulation and thus the rates to the end users.

The company's proposal in terms of regulatory oversight is consistent with what is contemplated in the Gas Distribution Act.

The company will be offering several customer services in 2001 which will include meter reading, billing, collections, call centre and yard line maintenance. The cost of providing these customer services are reflected in the company's cost of service.

However, we are not proposing distinct rates for these services. The costs of providing these customer services would rather be recovered through our distribution rates.

The only customer service for which we are specifically requesting the approval of rates at this time is ABC billing. The concept of ABC billing was approved in a marketer's hearing and consists of providing an optional billing service to the marketers.

The company's proposed regulatory framework must be viewed as a package. First, the regulatory framework is part of a package that forms the general franchise agreement. The general franchise agreements strikes a delicate balance between the important commitments made by the company in order to bring the benefits of natural gas to the people and businesses of New Brunswick, and the

benefits it can reasonably expect to derive from the distribution of natural gas in New Brunswick. Any change to the regulatory proposal could jeopardize this balance.

Second, all the elements of the proposed regulatory framework form a package. Any change to one or more of the components of the regulatory proposal would invariably have an impact on one or more other components.

For example, the 13 percent return on equity takes into account the existence of deferral accounts. Without these deferral accounts the cost of equity will be considerably higher.

As indicated in our evidence, EGNB will be reconstituted as a limited partnership. The limited partnership arrangement is merely a financing structure that was chosen to facilitate the participation of New Brunswick investors in this opportunity. The Board can be assured that the company's treatment of taxes and any other items to be included in the cost of service were designed to accurately reflect a treatment that isolates the operations of the utility from any other partnership activities and thus is most fair to ratepayers.

We respectfully submit that the company's regulatory proposal is fully consistent with the spirit and the letter of the Gas Distribution Act. Indeed, section 52(5) of the Gas Distribution Act states that in approving or

affixing just and reasonable rates and tariffs the Board may adopt any method or technique that it considers appropriate, including an alternative form of regulation.

In addition, the Gas Distribution Act defines alternative form of regulation as follows: a method of establishing just and reasonable rates and charges by a performance based regulation without regard to methods based strictly on cost of service, rate base and rate of return, including earning, sharing, price caps, price indexing formulas, ranges of authorized rates of return, and the reduction or suspension of regulatory requirements.

In summary, we respectfully submit that the rates we have proposed are just and reasonable and our proposed regulatory framework is appropriate for the needs of the greenfield nature of the natural gas market in New Brunswick.

Merci.

MR. MACDOUGALL: Mr. Chair, the panel is available for cross-examination. The cross-examiners can direct questions as they wish. I think the panel members may occasionally confer among themselves and pick the appropriate person to respond to various questions.

CHAIRMAN: Good. Mr. Blue?

MR. BLUE: Mr. Chairman, the Province has no questions, but

in future I wonder if I might be called for cross-examination just prior to Board counsel, relying on the Province's right to cross-examine last.

CHAIRMAN: All right. I was simply going by the age-old tradition of senior person at the bar.

MR. BLUE: I appreciate that, sir, but we have no questions at this time.

CHAIRMAN: Fine. Maybe I should not stick with that tradition, I might get in trouble here. However, Mr. Stewart, would you like to proceed next?

MR. STEWART: Are you going from oldest or youngest, Mr. Chairman?

CHAIRMAN: Well counsel for the New Brunswick Indians might quarrel with that.

MR. STEWART: Once again I put my foot in it.

CROSS-EXAMINATION BY MR. STEWART:

Q.1 - My first question is directed to Mr. Pleckaitis. And that is, sir, you will agree with me that -- and I think, because it is in your evidence in all sorts of places and I can go to a couple of specific circumstances including I think your opening statement earlier, but you will agree with me that despite what your submission was in your response to the Province's request for proposals for the general franchise, that setting of rates and establishing of rates methodology is entirely within the

purview of this Board.

MR. PLECKAITIS: I think that that is correct, that the Board has the rights under the Gas Distribution Act legislation to set just and reasonable rates, that's correct.

Q.2 - And strictly speaking, your intention that you may have had in mind at the time you filed your proposal would have always been subject to the Board's view on the level of rates and the rate methodology and the form of regulation going forward if you were successful in obtaining the franchise?

MR. PLECKAITIS: I think that is correct. I would just add for purposes of clarifying what our intent and understanding is, as I indicated in my opening statement Enbridge decided to participate in -- or respond to the government's request for proposals in good faith. It expects -- it expected and it put forward the terms of its proposals very specifically in responding to the government's requests for information and proposals as to how it should operate as a utility coming to a brand new province that is introducing natural gas.

And though I accept the -- your statement that ultimately the oversight of the utilities operation remains within the jurisdiction of the regulator, it is my hope and it is the hope of our investors that the

regulator will take into context that we had entered into a contractual agreement with the Province outlining a very specific way of proceeding and operating our utility.

Q.3 - But, sir, you will agree with me that that contract is subject to the Board's views and rulings on these issues?

That is the purpose of this hearing.

MR. PLECKAITIS: I think I have already answered your question that I recognize that the Board has the responsibility to ensure that our proposal is fair and just and our applications are fair and just.

Q.4 - And in fact your actual franchise agreement specifically provides that in the case of a conflict between the agreement or the provisions of the Gas Distribution Act, the Gas Distribution Act governs? It is actually article 1.9, if you want to check it, but you will agree with me that that is the case?

MR. PLECKAITIS: Subject to confirmation by my counsel, I will take that statement as correct.

Q.5 - He is looking it up furiously, I am sure. And with respect -- just so we understand the context of your position here in the market, I mean the simple fundamental effect of your franchise agreement and the award of the franchise to Enbridge is that you have a 20 year monopoly province-wide to be the gas distributor.

MR. PLECKAITIS: We have a 20 year franchise, renewable franchise, to distribute gas to the province, that's correct.

Q.6 - And subject to perhaps a distributor franchise, or a producer franchise, which I understand even the one application that has been made is now on hold, the Province has assured you in its franchise agreement that there will -- it will not appoint any other gas distributors during the 20 year period?

MR. PLECKAITIS: The only other parties that are able to distribute gas are single end use franchisers and local producer franchise, that's correct.

Q.7 - But there will be no other company competing with you in your business?

MR. PLECKAITIS: Specifically with respect to natural gas, that's correct. But I -- the issue of natural gas and other energy forms is really where we see competition taking place. Clearly our biggest challenge during that 20 year franchise, as you stated, is to compete with oil companies, propane companies and electricity companies. That's where the biggest challenge and the competitive issues arise.

Q.8 - Now, sir, I would like to speak for a few minutes with respect to your concept of the development period. And am I correct in my belief that your current estimate, and

I appreciate that it is an estimate, at this time is that the development period will last for eight years?

MR. PLECKAITIS: That's correct.

Q.9 - And it will last until you -- I think the language you used is feel confident that you can consistently operate as a well-established utility?

MR. PLECKAITIS: Yes.

Q.10 - And you are seeking a certain -- in this hearing are you seeking a certain rate methodology for the entirety of the development period?

MR. PLECKAITIS: We are seeking that the Board would approve the methodology of deferral accounts. We are seeking that the Board would approve a mechanism of setting target rates and the flexibility for the company to adjust or lower the actual rate depending on market conditions. That's the fundamentals that are in our development period concept.

Q.11 - So that the decision the Board makes in this process this week, or at the time it renders its order as a result of this hearing, will be -- or what you are seeking from the Board is a direction that will set the ground rules, as it were, for your rate setting procedures throughout the entire development period?

MR. PLECKAITIS: That's correct. However, as Mr. Marois indicated, from the tone of your question it does not in

any way prohibit the Board from calling a subsequent hearing to clarify to address an issue.

I think the important thing for the Board to understand from our company's perspective is the significance of the challenge that we face and the uncertainties that we face. And we don't pretend to have all of the answers as to how the market will operate, and we recognize -- I think one thing that I can state very clearly is that things will be different than the way we expect them to be right now.

Things -- circumstances will change which will cause us to do things differently than we are specifically proposing now. The degree to which those changes are material, that is yet to be seen. But there is a great deal of uncertainty in the market place as to how it will evolve and it will require us the flexibility to adjust accordingly. And again the purpose of me stating that is that the Board will be purview to how we are modifying our operation or how do we propose to modify our operation. And as Mr. Marois stated, we will be presenting information on an annual basis that will provide the Public Utilities Board with the ability to intercede, should it feel that it is necessary.

Q.12 - All right. Just so I understand then. The three basic elements of the so-called development period are the

establishment and operation of your deferral accounts, this rate setting methodology of target rates and market rates, as you have described, and your so-called request -- or your request for so-called light handed regulation during that period?

MR. PLECKAITIS: Well I wasn't intending to list all of the specifics, I mean there is rates of return, et cetera. But in the terms of the development period as a concept from an operational perspective, you have listed from my perspective those that are the most important.

Q.13 - Right. And I would assume then among the most important is your ability to during the development period -- and I mean I think the reason why is obvious, you are going to have a lot higher expenses than you are going to have customers -- to defer your revenue short-falls during the initial period.

MR. PLECKAITIS: That's correct.

Q.14 - And I think you have indicated you are projecting 2.442 million dollar revenue short-fall in the first year?

MR. PLECKAITIS: After tax, that's correct.

Q.15 - After tax, yes. And perhaps I could refer you to -- I think it has been mentioned by either yourself or Mr. Marois already, but schedule 7 to your pre-filed evidence. And you will appreciate that I'm no accountant by any stretch of the imagination. But as I understand

the schedule, and as I believe you just explained it to us earlier, line number 11 is your forecast of your revenue requirement for the first fiscal year?

MR. PLECKAITIS: That's correct.

Q.16 - Being I guess it is 10,000 -- 471,000. And line number 12 is your revenue at your proposed target rate?

MR. PLECKAITIS: That's correct.

Q.17 - And then line 13 is the gross revenue deficiency. And when you back out your taxes, you are down to the net annual deficiency on the bottom. That is your \$2.4424 million?

MR. PLECKAITIS: That's correct.

Q.18 - And that is, as I understand it, your initial estimate of that portion of your deferral account?

MR. PLECKAITIS: That's correct.

Q.19 - All right. Now the remainder -- or the remaining columns of this schedule are your forecast year going forward up to year 20, is that correct?

MR. PLECKAITIS: Yes.

Q.20 - All right. So if we go across line number 25 we see a deficiency of \$2.4 million, is that correct, in the first year?

MR. PLECKAITIS: Sorry. Can you repeat that question?

Q.21 - Line number 25, under column 1, the 2.4 million, that is your projected deficiency, your revenue shortfall for

year 1?

MR. MAROIS: Yes.

MR. PLECKAITIS: Yes.

Q.22 - But in year 2 you are showing a revenue surplus based on your forecast, is that correct, 62,000?

MR. MAROIS: Yes and no.

Q.23 - Well --

MR. MAROIS: Well, it's a bit more complicated.

Q.24 - -- is there 62.1 thousand there in your chart?

MR. MAROIS: It's a bit more complex than that. Maybe I could take just a minute there, and using column 2 as the reference, to explain I guess from line 14 to 25 what we are trying to achieve here.

And I realized after the fact that maybe we could have presented that section in a different sequence. But I will try to explain it in a logical flow so that you will understand why we end up with a surplus.

I would start with line 23. Line 23 is really our gross revenue sufficiency -- or deficiency in this case.

And if you take and tack on the taxes directly related to that you end up with a net revenue deficiency of 1 million 420.5. So that's really your net revenue deficiency for that year.

Then I guess in a logical manner the next step would be to go to line 14 and say okay, if you are deferring

that amount you need to take into account the return that that will generate.

So the purpose of lines 14 to 16 is to say okay, that deficiency, if put in rate base, would generate a return of \$248,000. But that in turn will generate a tax shield on the interest component which is line 17 to 20 of 41,700.

So all I have done up to now is say okay, there is a gross deficiency of 2 million 582.7. You remove the taxes, it gives you a net deficiency of 1 million 420.5.

Then in the two next steps, what you have done is you say okay, the return on that component if deferred would be line 16, the 248,100 minus the tax shield of that, the 41,700.

The reason you end up with a sufficiency is really lines 21 and 22. And that -- the only thing that does, it thinks to account that you are using your startup cost to eliminate your taxable income.

So what you are effectively saying is since you won't be paying any taxes in that year, it reduces the amount you need to defer in the future. So instead of deferring a deficiency, the tax benefits of the startup cost converts that into a sufficiency.

So the main driver here is the fact that you are using the startup cost to eliminate your income tax for

that year.

Q.25 - Thank you.

MR. MAROIS: A longwinded answer.

Q.26 - You have missed your calling perhaps, Mr. Marois. But the bottom line is -- and I appreciate it may be in a large measure because you have startup expenses that you can write off against your taxable income.

The bottom line in your forecast here is that you are not forecasting a revenue shortfall after tax?

MR. MAROIS: After tax, you are correct. And we are taking that into account.

Q.27 - Right on. And in column 3 you are not forecasting a revenue shortfall after tax?

MR. MAROIS: Yes. My colleague just reminded me of something that's important here. And that's the reason why we end up with a taxable -- tax payable of \$10,000 in another schedule, is our proposal here, our application here is based on the information contained in our proposal to government, with one exception.

In our proposal to the government we had assumed an initial reaction from the oil companies in our target rates. What we have done here is set target rates without taking into account that initial reaction.

So that initial reaction, if it occurs, will be picked up in our rate flexibility. So what that does is

it increases our revenues compared to what we believe will happen in the market.

So I guess the way to put it is the target rates here in our view is -- are probably overstated. Because there will be an initial reaction in the market that will have to be reflected in our actual market base rates.

Q.28 - In column number 3 -- and I appreciate that you have now added the caveat that the revenue is based on achieving your target rates. You are not forecasting a deficiency at this time?

MR. MAROIS: Well, in year number 3 the same -- the same thing occurs that I just explained. There is --

Q.29 - That is right. You get a --

MR. MAROIS: The final --

Q.30 - -- tax benefit --

MR. MAROIS: -- the final write-off of the startup expense.

I think the message to be retained there is the customers are getting the benefits of writing off the startup expense to lowering or eliminating any deferrals.

Q.31 - I agree. Column 4 you are projecting forward I guess, because you are running out of tax benefits, a deficiency of 869.1 thousand dollars?

MR. MAROIS: You are correct.

Q.32 - And in column number 5, 94.5?

MR. MAROIS: You are correct.

Q.33 - And from column 6 forward through column 20, assuming your target rates are met and continued, you are forecasting sufficiency of almost 95,000?

MR. MAROIS: You are correct.

Q.34 - So your forecast here is, as this chart represents -- and I appreciate that it is based on getting the tax benefits of your startup cost, and it is based on obtaining your target rates, is that of your 20 years you are only projecting a deficiency of three of those years, and none post year 5?

MR. MAROIS: With the caveats you just said, that is correct.

Q.35 - All right. But you are still estimating the development period will last eight years?

MR. MAROIS: Yes. And as we have mentioned in numerous places in our evidence, the development period does not only hinge or does not specifically hinge on the return of one year.

It's -- we have to take into account several factors to determine if the development period is over or not.

Q.36 - Now you use the language, sir, or your evidence in several places, including I think in page 6 of your prefiled evidence for this panel, and we alluded to it earlier, the development period will be over when you are confident you can consistently operate within the

"traditional operating parameters of a well-established utility."

And I think you go on to say that you wouldn't advocate ending the development period until you are confident you can meet your obligations under the franchise agreement and obtain your desired return on equity, is that correct?

MR. MAROIS: Well, I guess the message that is said there is we don't want to attain -- I'm going to say our intention is not to attain the desired return by not performing to the level expected.

Q.37 - But your performance level in terms of when you can end the development period will be when you are confident that you can consistently earn the return on equity for your shareholders?

MR. MAROIS: Well, I guess that's going to be maybe the end result. But to get there -- and we have elaborated in one of our responses to the Province -- is there is a slew of things that must occur to be able to get there.

For example the market needs to be levelized. And we need to be able to forecast with some degree of accuracy. So there are several components that needs to be attained before we are able to determine if we are able to constantly achieve the desired return.

Q.38 - Okay. The development period could be four or five

years, it could be nine or 10 years, depending on how things unfold?

MR. MAROIS: Correct.

Q.39 - But you will agree with me that as soon as Enbridge can consistently meet its revenue requirements, which would include -- revenue to requirement as defined, which would include your rate of return for your shareholders, that the development period should be over?

MR. MAROIS: That's the message we are conveying, yes.

Q.40 - Now at some point, either Enbridge or --

MR. MAROIS: Well, maybe just to clarify -- and that's including the recovery of the deferral account.

Q.41 - All right. So --

MR. MAROIS: Because if you are -- if you are not able to recover the amortization of the deferral accounts, you are not generating sufficient revenues to be able to really attain your cost of service. Because cost of service will include the amortization of the deferral accounts.

Q.42 - All right. So it is not only can you meet your revenue requirement, but I guess included in that revenue requirement will be, for lack of a better way to put it, paying the payments or paying down whatever the balance of the revenue account is -- or excuse me, the deferral account is at the end of the development period?

MR. MAROIS: Yes. And that's one of the advantages of amortizing it over 40 years, as we are proposing. It makes the annual instalments a lot less.

Q.43 - We will get into that in a few minutes. Now at some point Enbridge or the Board or some stakeholder in the industry or someone will come forward and suggest that the development period should be over.

When Enbridge feels that the development period is now over, you are confident that you can consistently operate as you suggested.

What is your intention on what evidence you will file with the Board to that effect?

MR. MAROIS: Well, I think we have addressed that issue in several parts of our evidence. We have addressed it in a more generic format in the sense that we, on an annual basis, will be providing a lot of information to the Board that we believe will be useful in assessing this issue.

And my understanding is we won't wake up one day and say oh, surprise, the development period is over. I think we will see it coming. We will see how the market develops. We will see how we are able to add customers.

And we believe that information we will be providing to the Board on our financial results and on the balance of the deferral accounts should allow us to make that

judgment call.

Q.44 - So your intention is then to file materials with the Board on an annual basis, which among other things will be to demonstrate that the development period should be continued for another year?

MR. MAROIS: Either that or -- I think the one way of looking at it is during the proposed development period, the development period will last until we come forward with evidence suggesting that it should end. But the evidence will be filed anyways.

Q.45 - But see, there is my question, Mr. Marois. Because I'm trying to understand which of those two things it is. Is it that these annual filings will be reviewed, so the Board will determine whether or not the development period is ongoing or should end?

Or at some point -- I mean, you chuckled a moment ago and said well, we don't think we will wake up one day and decide the development period is over. But you have just suggested at some point we come forward and we will file materials with the Board.

Which of those two approaches do you envisage?

MR. MAROIS: Well, for me it's a question of the semantics.

We will -- we will be in front of the Board one way or the other on a regular basis. We will provide information to the Board on a regular basis.

In my mind, it's going to become obvious if and when the development period should end or should continue. To be honest I have not given any thought exactly on if we are going to be coming in on an annual basis with a request to have it continue or request that it should stop.

But like I say, I believe with information we will be providing to the Board on a regular basis, we will see the train coming. And we will know -- I think it would - - in my mind it's going to become clear when we feel comfortable that it should end.

Q.46 - Will Enbridge accept that the onus should be on you to establish that your development period should continue on an annual basis?

MR. MAROIS: Well, anything we bring forward to the Board, the onus -- the burden of proof is on us. The only thing is the way you are positioning it is starting even in year 2 we would have to justify if it continues or not. And I think that would definitely be premature.

I'm certain if the Board has any concern that the development period should not continue, it will raise it with us. And definitely the burden of proof will be on us to demonstrate if it should continue or not.

Q.47 - All right. Just so I'm clear, in year 2 you are not showing a deficiency in this forecast we are looking

at --

MR. MAROIS: Yes. But --

Q.48 - -- schedule 7?

A. -- you are playing on with words. The fact that there is no deficiency in year 2 has nothing to do at all with any indication that the development period is over or not.

The only reason there is no deficiency is because there is a tax write-off. So it's -- and no oil reaction built in, yes.

Q.49 - But so I'm clear, are you going -- is what you are requesting from the Board here with respect to your rate methodology and light handed regulation -- is it that the Board deem you to be in a development period until you request or suggest that you are not in a development period?

Or are you requesting the Board to confirm for -- on a fiscal year basis that you are in a development period until circumstances change, and the onus is on you to establish that on an annual basis or on an every other year basis?

MR. MAROIS: It's a long question. But I think it's a bit of both. Our evidence clearly states that we would like the opportunity to be able to raise when we feel the development period is over. But by providing the Board

with information on an annual basis, I think this will be an evolving process.

And if the Board has any concern at all that the development period might be over, I'm certain it will raise it with us. And we will have the burden of proof to demonstrate if it should continue or not.

So I think it's going to be a combination of both your statements.

Q.50 - Do you accept the proposition that the public or other market participants should have a say in whether the development period should continue or end?

MR. MAROIS: My personal opinion is I would leave that to the Board. I believe if the Board feels comfortable in determining if the development period is over or not, then albeit.

And if the Board feels that there is -- that it's preferable to seek input from other parties, then the Board has full powers to do that.

Like I mentioned in my opening comments regarding light handed regulation, we are fully committed to provide the Board with all information it requires. What we are really seeking is try to avoid full-blown hearings whenever possible.

Q.51 - All right. But you have told me repeatedly that you intend to file information with the Board. Do you intend

to provide that information to any other parties?

MR. MAROIS: Not in our proposal. Our proposal is to file information with the Board.

Q.52 - Would you have any objection to, as a matter of course, for example, that information being provided to marketers or those entities holding marketer's certificates at that time?

MR. MAROIS: Yes. My position I guess is still it is up to the Board to decide, because I think if information is given to parties it has to be given to parties with that sort of view in mind. So if the Board has a set process on how to deal with this information, we will abide with the Board's wishes.

Q.53 - Well with respect, that is part of what we are doing here today, I submit, is to set the Board's process, and so I am trying to determine whether -- because quite frankly, that is one of the submissions I am going to make at the conclusion of this hearing. And I want to know what your position is on that point?

MR. PLECKAITIS: Our position would be that if as a result of a process that you may be recommending in your submission, if it results in an ongoing regulatory review process during the development stages, that we would be very concerned about that and we would oppose that.

Q.54 - My specific question was, would you object to the

materials that you are filing with the Board on an annual basis to, apparently among other things, suggest that the development period should continue, be provided to marketers or those entities holding marketer's certificates in the normal course?

MR. PLECKAITIS: And my response to you, it would depend on what -- to what end that information was provided to the interested parties, as you say. If the purpose was to facilitate the beginning of a regulatory proceeding with interrogatories and issues, I would say yes, I would be concerned about that.

Q.55 - So your position is that you wouldn't have any objection to that information being provided to interested parties but you don't want to embark on a process where they get to comment on those?

MR. PLECKAITIS: First of all, our position was that it is up to the Board to decide how it wanted to handle that. My position is if that information is provided by the Board or if we are directed to provide that information to the parties, our position would be we would be concerned if it resulted in an ongoing regulatory review process during the development period.

Q.56 - Okay. Does your request to this Board for "light handed regulation" include a request that these annual filings with the Board be provided to the Board only for

the Board's internal review, and only provided to other entities if the Board orders at some point?

MR. PLECKAITIS: It is my view that that is what we are seeking. We would be providing this information for the Board to make its determinations if there is further information required. If that information -- that information may be information that simply the Board requires for further clarification or information at one end of the spectrum.

I guess at the other end of the spectrum is the Board may seek, because of concerns that it has, regarding how our process or our development may be impacting other stakeholders to share that information with other parties and ask their input.

Q.57 - But it is not the intention of Enbridge Gas New Brunswick to ask those party's input or submit your filings to the other parties for their comment in advance?

MR. PLECKAITIS: Our position was that we believe strongly that light handed regulation is important. And light handed regulation is not just a word, it is intended to mean staying out of the hearing room during a period of time in which we are trying to add customers and build the natural gas infrastructure in this province.

Q.58 - Gentlemen, I would like to ask you a few questions now with respect to these deferral accounts.

MR. STEWART: Mr. Chairman, my watch says five after 12:00.

I am perfectly prepared to continue. I am just wondering the Board's pleasure in terms of when and if you are going to take a lunch break.

CHAIRMAN: What is your estimate on how long this next line of questioning will go?

MR. STEWART: It may go a while. That is a pretty vague answer, Mr. Chairman.

CHAIRMAN: Okay. Let's break for lunch now and -- this is a guessing game on my part because I don't know how long it will take us all to arrange for lunch being in this hotel, but can we try and come back here by 20 after 1:00.

MR. STEWART: Certainly.

(Recess - 12:05 p.m. - 1:20 p.m.)

CHAIRMAN: Just before we resume questioning of this panel, my comments of earlier have been handed out, I believe.

If you didn't get one they are down on the back table.

Mr. Stewart?

MR. STEWART: Thank you, Mr. Chairman. Before we broke, I indicated that I would ask -- would be asking a few questions with respect to the deferral accounts and how you anticipate that they will be working.

And I guess normally I would direct the question to Mr. Marois. But to the extent the others feel it is appropriate.

Q.59 - The first few questions I just want to ask is to make sure, to be perfectly candid, that I understand how these things -- or what your proposal is and how these things are going to work.

Now as I understand it there are two deferral accounts proposed, is that correct?

MR. MAROIS: That's correct.

Q.60 - The first one is the so-called pricing deferral account?

MR. MAROIS: That's correct.

Q.61 - And if I could perhaps refer you back to, for ease -- just because we were looking at it earlier, schedule 7 to your prefiled evidence, exhibit A.

And as I understand it this pricing deferral account is in turn broken down into two other categories?

MR. MAROIS: Exactly.

Q.62 - Okay. And the first category is as is demonstrated by this schedule, that is I guess the revenue shortfall that you are forecasting you will have?

MR. MAROIS: Exactly. It would go into that account.

Q.63 - Right. So even if you are able to achieve your target rates, you know you are going to spend more than you are going to make, simply put?

MR. MAROIS: Yes. In a perfect world, if the actual results are identical to our forecasts, at the end of the year the

balance in that account would be the amount shown --

Q.64 - Right.

MR. MAROIS: -- in exhibit --

Q.65 - The 2.4 million, et cetera?

MR. MAROIS: Exactly.

Q.66 - Okay. So that is part 1 of the pricing deferral account?

MR. MAROIS: You are correct.

Q.67 - Now part 2 of the pricing deferral account is to the extent that you are not able to meet your target rates, and you reduce your target rates, that increased revenue shortfall resulting from that decrease in revenue?

MR. MAROIS: Exactly.

Q.68 - All right. So if we can refer back to column 1 of schedule 7 here, as I see line number 12, your forecast or your suggestion is that you will in essence have revenues of \$5.7 million provided you can meet your target rates?

MR. MAROIS: Exactly.

Q.69 - And to the extent that you don't then that number will be lower. And consequently the deficiency of 4.7 will in fact be higher?

MR. MAROIS: You are correct.

Q.70 - Okay. So in terms of determining what may be in the pricing deferral account say at the end of your fiscal year 2001, at the moment you are forecasting a minimum of

\$2.422 million?

MR. MAROIS: Yes.

Q.71 - And potentially more depending on whether or not you have to decrease your target rates?

MR. MAROIS: Exactly.

Q.72 - Okay. Now in your earlier presentation you spoke of some sort of one-time special reduction in rates?

MR. MAROIS: Yes.

Q.73 - Is that something envisioned separate and apart from the normal adjustment of a target rate down reflected in a rate rider?

MR. MAROIS: Yes. And maybe just to correct your question, in this one-time adjustment it could also be an increase, but an exceptional basis.

What we are looking at right now and what we are asking the Board approval for is an exceptional one-time adjustment to the target rates themselves, just because we are still several months away from October 1st.

And the environment we are in may evolve. So that the target rates themselves might have to change. After that, once the target rates are in place during a fiscal year, the target rates themselves will not change.

What will change is -- the net result will change to an amount -- an adjustment made to the rider. But we will not touch the target rates themselves.

Q.74 - Okay. So just so I understand, you are in this rates case asking the Board to set target rates?

MR. MAROIS: Yes.

Q.75 - But you are asking for the ability to change those target rates sometime between now and next October?

MR. MAROIS: Yes. The issue is -- as you know, the target rates are market-based rates. And the target rates we have in front of the Board right now are based on a forecast which dates back several months. And again there are several months left before the start of the fiscal period.

So our intention is to update our energy price forecast to make certain that the target rates are as appropriate as possible for the start of next fiscal period.

So it's a question of -- the concept would not change. They are still market-based rates. It's just the market conditions may evolve to the point where it might be more appropriate.

And the main reason for that is -- for example if the price had -- if the competitiveness of natural gas has improved since we have prepared our initial target rates, by adjusting the target rates upward it would reduce the forecast deficiency.

And I think it's to -- it's in everybody's interest to

try to minimize as much as possible the forecast deficiency.

Q.76 - Okay. And I have sort of got you on a bit of a tangent here. But let's continue with this point.

How do you propose to deal with the Board, and what mechanism do you propose will be used to effect this one-time target rate adjustment between now and October?

MR. MAROIS: Well, we will be filing information to support the proposed change in the target rates. And this information will be I guess -- the reason they would change is because of change in the market conditions. So we would supply information that explains those changes.

Q.77 - Okay. What information would that be?

MR. MAROIS: Exactly, I can't tell you at this time. But it would be sufficient information to allow the Board to do it. And if the Board requires more information, I'm certain they will ask us.

Q.78 - All right. But with respect, you are asking the Board to give you authority to change rates between -- in the next six months?

MR. MAROIS: Mmmm. A special one-time adjustment.

Q.79 - A special one-time adjustment, I understand that. But -- and you are asking them to approve your ability to do that now. I mean, you are asking for them to authorize it now, even if you don't actually do it for six months.

And so what types of information -- you say the competitive of natural gas.

What kinds of things are indicative along those lines that you might provide to the Board?

MR. MAROIS: Yes. Well, I think if you look at in each market segment, what we are -- okay. The way we set our target rates is the residual that would allow us to have a burner tip advantage in each market segment.

So we would file the information of each of those components. So there would be the component on the most -- the closest alternate source in each market category.

So under residential we would file the information regarding the most recent price forecast for heating oil.

And regarding the gas component we would file the most recent numbers regarding the various components that comprise the actual burner tip rate.

Q.80 - So you would be providing the Board with an updated gas commodity number for example?

MR. MAROIS: Exactly.

Q.81 - And whatever your nominal threshold is for market penetration, oil, electricity, whatever. So you would be providing updated numbers on that.

Would you also be providing updated cost of service numbers?

MR. MAROIS: No. Because that's irrelevant to establish the

target rates.

Q.82 - No, but it will dictate the size of the deferral account though, will it not?

MR. MAROIS: But it's the same issue today. Even without changing the target rates, the forecast can evolve.

Q.83 - Right. But you will have in essence by next October, be more or less complete with your construction program for the year?

MR. MAROIS: For year 2000.

Q.84 - Yes.

MR. MAROIS: But the cost of service you have here is for the year 2001.

Q.85 - All right. Well, I'm not talking about the schedule.

I'm asking what you are going to file with the Board. So do you intend to file updated cost of service figures?

MR. MAROIS: That was not the intention. The intention was to file -- the cost of service at the end of the year will be submitted to the Board, the actual. That's part of the reports we have committed to file.

Q.86 - Mmmm.

MR. MAROIS: So the Board will be able to determine what came in in actual. The issue, as you know, is -- the issue is forecasting in a greenfield operation.

We could do a forecast today, it could be better than the one we have right now. But it's so very uncertain.

We can't have the same degree of accuracy that a mature utility may have.

Q.87 - So you are going to file some information. You don't know exactly what yet on -- you know, what your threshold price would be, whether it has changed between now and then, updated information on what the gas commodity price is, in terms of what marketers could likely expect to pay for gas.

MR. MAROIS: Mmmm.

Q.88 - What other components? Updated information on --

MR. MAROIS: Well, all the components that --

Q.89 - -- the totals?

MR. MAROIS: All the components that comprise the establishment of the target rates.

Q.90 - Okay.

MR. MAROIS: So the information on --

Q.91 - Does that include an element for the tolls?

MR. MAROIS: Yes.

Q.92 - Okay. What else?

MR. MAROIS: Well, it's the tolls, our estimate of the marketers' margin, the load balancing cost, the commodity forecast and the forecast of the competitive -- the price of the competitive fuel.

Q.93 - Okay. What do you mean by the load balancing cost?

MR. MAROIS: Well, let me direct you to maybe an exhibit we

have already filed, so to avoid confusion.

Q.94 - Sure.

MR. MAROIS: Mr. Harrington will guide you to the appropriate schedules.

Q.95 - I'm somewhat sceptical of that suggestion, but --

MR. HARRINGTON: If I could refer everybody to exhibit G, schedule 4, the second page of that.

Q.96 - I'm sorry, Mr. Harrington, was that G or B?

MR. HARRINGTON: G. That's Irving Oil interrogatory number 4.

MR. MACDOUGALL: Mr. Chair, can I just ask a quick procedural matter? We are presuming that these exhibits are the same exhibits as the numbers we had given, and that your exhibit list continues on after that.

I just don't want people referring to them if they are different from your document. Because we never did get a list of those exhibits.

CHAIRMAN: It has changed none of your numbering.

MR. MACDOUGALL: Okay.

CHAIRMAN: It is too complex.

MR. MACDOUGALL: Thank you.

MR. HARRINGTON: This provides in a general way the way in which we intend to derive our distribution rates. And you can see within there that there are a number of components that are variable over time.

And these variable components that we would seek to update and provide information to just before we go into operation in October.

So if it would be helpful I will go through that process and maybe give a little bit more insight into it.

Q.97 - Okay. The immediate question was -- and I see them identified as the second or third or whatever it is item on this list -- the load balancing --

MR. HARRINGTON: Mmmm.

Q.98 - -- costs if applicable. Can you explain that to me?

Because it appears in two places there. I'm just wondering how that works.

MR. HARRINGTON: Where load balancing comes into play?

Q.99 - Yes.

MR. HARRINGTON: Load balancing is included in both the commodity costs as well as in the tolls if it's applicable.

The way that we have done our modeling, and the assumptions that we have that underpin it, is that marketers will have, depending on their buying and selling of natural gas, the ability to manage the load and optimize or create as many efficiencies in their purchases of natural gas.

And so portions of the load balancing will arise in their purchase price for natural gas at Country Harbour.

Q.100 - All right. Okay. That tells me how it arises. That doesn't tell me what it is. I mean, what is this load balancing charge?

And what information do you intend to file with the Board, when you adjust your rates in October, about what those expenses will be, that element of your -- that component of your pricing scheme?

MR. MACDOUGALL: Mr. Chair, while the witnesses are going through that, if I might just raise that the load balancing was one of the issues that is raised in the letter that we had a motion on this morning.

I'm willing to have Mr. Stewart continue on the questions that deal with rate-specific issues on load balancing, and to the extent the witness panel wants to answer some of the operational questions. But we have agreed that we are not determining load balancing today.

So I will leave it to the witnesses to continue to give the information they want with the understanding the Board is not making a determination on load balancing, as it is extremely complicated, and being dealt with by the working group in great detail.

And it is one of the significant issues in front of the working group and has been since day one. And the Board is fully aware of that.

So I will leave it to Mr. Stewart to continue. But I

want my witnesses to know that they should address it to the extent necessary. And if they have any difficulties with it, they should raise that it is a working group issue.

MR. STEWART: Mr. Chairman, I couldn't agree with my friend more. Certainly the questions here are directed solely with respect to this information be filed with the Board.

How load balancing is going to be affected and all those issues, I agree that is not what we were talking about. I'm just talking about how these charges are -- how these rates are determined, that is all.

MR. HARRINGTON: I'm going to ask now if everybody could look at exhibit E, schedule 47. It is a Board staff interrogatory number 47. That is page 2.

Is everybody there? This gives a numerical example of the descriptive illustration that I pointed you to before.

Here you can see the various components.

Largely this is the sort of evidence that we would expect to file demonstrating the different components of costs breaking down to our proposed distribution rate.

Q.101 - So that the concept is that -- for example, if I look at this -- the first one of the SGS class or group --

MR. HARRINGTON: Correct.

Q.102 - -- I assume, you know, you have these numbers, a commodity price of 2.06, a pipeline toll of 65 cents, a

marketers' margin of \$1.06, whatever. You will -- to the extent those numbers have changed, you will provide new numbers to the Board come October, is that the plan?

MR. HARRINGTON: That's correct.

Q.103 - Okay. And what information will you file with the Board or do you intend to file with the Board in support of those numbers?

MR. HARRINGTON: In terms of the end use energy costs that we are deriving our market-based rates on.

Q.104 - Yes.

MR. HARRINGTON: So those retail refined petroleum products --

Q.105 - Right.

MR. HARRINGTON: -- from which we are deriving this information from. Any updated forecasts for gas commodity costs, updated tolls.

Q.106 - Do you have a forecast for gas commodity costs included in the materials you have filed with the Board so far?

MR. HARRINGTON: No.

Q.107 - And --

MR. HARRINGTON: Except to the extent that it's presented within these exhibits here.

Q.108 - Sure. And then -- and actually my understanding is that there is actually a hearing before the N.E.B. with

respect to changing the Maritimes Northeast toll?

MR. HARRINGTON: That's correct.

Q.109 - And what will it be changing to? Or what is the application -- what is being applied for? Do you know the rate that is being applied for?

MR. HARRINGTON: Yes. The rate that's currently set out in Maritimes and Northeast's evidence is -- and it's subject to check -- but it's 74.2 cents per MMBTU.

So it's not directly comparable to what's here. But if my conversions are working in my head right now, that's about 70 cents per GJ.

Q.110 - Right. So there is at least a possibility then that this toll rate could increase by 5 cents a GJ between now and October, for example?

MR. HARRINGTON: That's correct.

Q.111 - Now I have to come back after all that to my initial question which is when I look at, you know, this segment of this exhibit or information request -- response that you have referred me to, I see burner tip price, the quantity price, the pipeline toll. I think I can understand all those things.

I don't see any number for load balancing. Where does that all fit in terms of --

MR. HARRINGTON: Those numbers are incorporated within certain components that are illustrated here.

Q.112 - Okay.

MR. HARRINGTON: And so that is where that information is.

Q.113 - Okay. Where?

MR. HARRINGTON: It's incorporated within the commodity price.

Q.114 - Okay. It is not incorporated in the marketers' margin?

MR. HARRINGTON: As well as in the marketers' margin.

Q.115 - So there is some load -- the cost of load balancing elements in both of those things?

MR. HARRINGTON: That's correct.

Q.116 - All right. And to the extent that you anticipate those costs will change, you will be filing some information with the Board --

MR. HARRINGTON: That's correct.

Q.117 - -- between now and October? Okay. I will ask you the same question I asked earlier. And that is is it your intention to simply file that information with the Board in support of your new target rate and have the Board accept that?

Or are you now seeking the ability to -- I guess this one-time unilateral rate adjustment in your target rates. But you will file some support with the Board after that.

I'm just trying to -- conceptually which way are you going there?

MR. MAROIS: Well, conceptually is -- if we file revised information for this special one or if we request this one-time special adjustment, it's because there is going to be some changes in the assumptions we have made here that underpins the target rates.

We are not proposing any change in methodology. The methodology will be exactly the same. It's just an update of the numbers we have used here.

So from that perspective our intention would be, if the methodology is approved by the Board, it will be factual. We would just be presenting the Board with an update of our forecast, make it as actual as possible.

Q.118 - So are you envisioning that there would be a new order issued by the Board in October reflecting your new target rate?

MR. MAROIS: Yes.

Q.119 - So any adjustment in your target rate, even this one-time adjustment, would require a Board order?

MR. MAROIS: That is our understanding. Because the target rates themselves would change.

Q.120 - Right. Now if you don't seek to adjust your target rates, are you still going to file this updated information in October?

MR. MAROIS: To be honest, I haven't thought about that. If we don't -- if we don't update the target rates, in my

mind it is because the net impact of the change in assumptions don't warrant a change. So one might offset the other.

But our intention is as long as the change in assumptions would warrant a change in target rates, we would proceed.

Q.121 - But you will agree with me that you have already -- and as I believe you already have indicated, circumstances could change dramatically between now and October.

That is why you are requesting the ability to change your target rates, correct?

MR. MAROIS: I don't think I have used the word dramatically. But yes, the situations might change.

Q.122 - And at the very least we know there is an application pending to raise the Maritimes and Northeast toll?

MR. MAROIS: Yes.

Q.123 - Now this process in October, do you envision any of the other industry participants or the general public having any role or comment on your proposed target rate adjustment?

MR. MAROIS: That was not the intention, no. It was to file the information with the Board.

Q.124 - And do it?

MR. MAROIS: And do it. It's -- the Board -- if the Board asks questions, we will clarify them. But like I say,

it's factual. The approach will be identical with what we have here today.

Q.125 - So it would then be up to the Board and Board staff to assess the validity of your request to change your target rates?

MR. MAROIS: Effectively, yes.

Q.126 - And if for example you change your target rates downward because tolls have gone up or commodity prices have gone up or something between now and October, how will those amounts be reflected in your deferral account? Which deferral account will they go into?

MR. MAROIS: Well, theoretically if the -- if we feel that the target rate should go down, we have two options. We can propose a change in the target rates itself or use the rider. Because the rider will give us the same results.

Q.127 - All right.

MR. MAROIS: The issue is more as if we feel there is an opportunity because of the market conditions to increase the target rates to try to minimize the deferral as much as possible. So it's really more from that perspective.

Q.128 - Okay. And I will come back where we started. And that is talking about the deferral accounts.

MR. MAROIS: Perfect.

Q.129 - Okay. We have the pricing deferral account to the extent that your target rates don't equal your cost of

service or your revenue requirement, they go in.

To the extent that you have had to lower your target rates and I guess lose more money, with the risk of oversimplifying it, they go into -- both of those amounts go into your pricing deferral account?

MR. MAROIS: You are correct.

Q.130 - Do you have any estimate at this point as to the size of part 2 of -- I mean, you have provided an estimate of 2.4 million in the first half of that, you know, your target rates, forecasts, revenues.

Do you have any estimate at this time as to how big the second element might be in terms of how far you expect to lower your target rates?

MR. MAROIS: No. Because if we would have it, probably it would already be reflected in our rates.

Q.131 - Okay. So -- but it could very dramatically, depending on what happens in the market?

MR. MAROIS: It could change, yes.

Q.132 - Yes. It could be zero?

MR. MAROIS: That second component?

Q.133 - Yes.

MR. MAROIS: It could be zero if we do not change the target rates during the year.

Q.134 - Right. Or it could be significant. It could be a million dollars plus?

MR. MAROIS: I can't comment on the amount. You have to remember the purpose here of rate flexibility. The purpose of rate flexibility is giving us the opportunity to reduce rates if we feel that the rates are not sending the proper economic signal to get customers to convert.

So this is going to be the first year we are going to be in the market. It is extremely perilous at this time to try to determine how we will have to adjust the rates.

That's -- by definition that's why we want flexibility, is we will know as we go along. It is one component, that enters into the equation. There are other numerous equations -- numbers -- factors we need to take into account.

Q.135 - I understand that. If I look at line number 12 of this schedule 7, you are forecasting your revenue at target rates of 5.7 million, is that correct?

MR. MAROIS: Yes.

Q.136 - So if you have to reduce your rates by say 20 percent roughly --

MR. MAROIS: Mmmm.

Q.137 - -- you could add another million dollars to your deferral account in the first year?

MR. MAROIS: You are asking a hypothetical question.

Q.138 - Yes, I am.

MR. MAROIS: But based on your hypothetical question, you

are correct.

Q.139 - Right. And I appreciate it is only my hypothetical situation. But if your fiscal year 1, the year 2001, results in your volume staying the same, in terms of your forecast, your cost of service staying the same, as you have now forecast, not getting any worse, and you felt the need to reduce your target rates using your rate rider or whatever, say by 20 percent, you will have a pricing deferral account with a balance of approximately 3. -- 3 1/2 million dollars?

MR. MAROIS: Again your question is hypothetical. But the million you are adding would be pretax. So you would have to go after tax to add it to the 2.4 million.

Q.140 - Good point. How much would tax reduce that million? Haven't you run out of losses you can claim in the year? Or have you?

And if you claim those losses in this year, aren't you going to not be able to claim them in the subsequent two years like you have forecast?

MR. MAROIS: Well, you are just going to -- if you have got less revenues, you are going to use up less deferred taxes, so --

Q.141 - That is right. So you only have tax expenses you can write off this big. And either than use them up in the first year -- or first, second or third year?

MR. MAROIS: Mmmm.

Q.142 - So to the extent that you have tax changes, it will be reflected in the next two years if you use them up now?

Yes. All right.

Now the second deferral account, that is the forecast discrepancy deferral account. Now as I understand that, that account is to capture -- again I hope you understand what I say by those extra amounts you have lost. I mean, I appreciate that in this early startup time you are going to be, you know, have less revenue than you have expenses.

But those amounts you have lost as a result of differences between your actual revenue and your forecast revenue and your actual cost of service and your forecast cost of service, or revenue requirement perhaps I should say?

MR. MAROIS: I guess the main purpose of that deferral account is to recognize the fact that during the development period, it's practically impossible to forecast with any degree of accuracy.

So the way to look at it in my mind is that what's going to go into the deferral account is going to be the difference between the actual revenues and the actual cost of service that's going to be submitted to the Board for their review.

Q.143 - All right. Let's go back to our schedule here to look

at the numbers. Amounts if any that would go into the forecast discrepancy deferral account would be -- or am I correct in saying they would be, to the extent that the revenue requirement reflected in line 11, that is the 10.47 million is higher? In other words it costs you more to do what you intend to do during year 1 than you forecast?

MR. MAROIS: That's part of it.

Q.144 - Yes. Or on the other side, if your revenues as reflected in line 12, the 5.753 million are lower than expected, but not lower because you have had to lower your target rates, but lower because you haven't had the through-put that you have forecast you would have?

MR. MAROIS: You are correct. But it's important to note that this account goes both ways. If we have more volume, thus more revenues. And if our costs are less, it also goes into the account.

Q.145 - Right on. And that was my very next question. Thank you. But first off I was just trying to understand what goes in there in the first place.

And if there is more, it will -- it will go both ways, as you said, as you go forward?

MR. MAROIS: You are correct.

Q.146 - Okay. Now my understanding is that you are suggesting that you be entitled to put amounts in this forecast

discrepancies deferral account for the entirety of the development period, is that correct?

MR. MAROIS: Yes.

Q.147 - And the development period could last as long as -- well, 10 years, by your consideration?

MR. MAROIS: It could. But our current projection is that it's going to be eight years.

Q.148 - Okay. It could last eight years?

MR. MAROIS: And that's probably one of the major factors or important factors entering into determining if the development period is still needed or not because of the difficulty in forecasting with accuracy.

Q.149 - Okay. What will happen to the amounts -- you said, you know, this account goes both ways?

MR. MAROIS: Yes.

Q.150 - Right. What will happen to the amounts if the balance of this account is zero and your revenue requirement is lower or your revenue is higher? Will it go to reduce the first deferral account?

MR. MAROIS: Could you repeat please?

Q.151 - Well, you have said to me -- and let's use a real example here.

MR. MAROIS: Well, I think I can answer your question. Is the way to look at it is -- and we have answered this to one of the questions from the Province.

Theoretically we could work with one deferral account.

And I think that's the best way to look at it, is it nets out. The reason we are proposing two, it's a question of proper ventilation of the amounts and better tracking.

But the way to look at it, to understand it, is look at it from one account perspective. And it's really a catch-all. It catches the difference between your actual revenues and your actual costs.

And variances in your actual revenues, part of that is caused by lower unexpected rates or rates that are lower than what are required to recover costs and service. And the rest are volume differences.

Q.152 - Okay. But with respect, I don't think you have answered my question.

The question was to the extent that there is a zero balance in the forecast discrepancies account and the actuals turn out better than the forecast, will those amounts be then applied to the pricing deferral account to reduce it?

MR. MAROIS: Well, indirectly, yes. Because they are going to be applied as a credit payable to the customer in that account. But once it's netted from the pricing deferral account it's going to be applied against it. You are correct.

Q.153 - I'm correct.

MR. MAROIS: At the end of --

Q.154 - So --

MR. MAROIS: For example at the end of the development period, it's quite possible that we have an amounts receivable from the customers in the pricing flexibility account and an amounts payable to the customer in the forecast discrepancy account. And we would net the two for future rate-making purposes.

Q.155 - So at the end of each year you are going to net the two accounts?

MR. MAROIS: Well, the way we have proposed it is the amounts would stay in the individual accounts. But for rate-making purposes they would -- they could be netted.

Q.156 - So you are suggesting then the forecast discrepancies account could run a positive balance while the pricing deferral maintains a negative balance?

MR. MAROIS: That's quite possible.

Q.157 - But you will still be earning a carrying cost on any balance in the pricing deferral account, won't you?

MR. MAROIS: Yes. But we would have to pay a return on the balance of the other one. So it would reduce our overall return. It works both ways. If the account is payable we pay a return to the customer.

Q.158 - Why don't you just net them out?

MR. MAROIS: Well, it's just for tracking purposes. Like I

said, the advantage of two accounts is you know what goes into each. But the way to look at from a conceptual perspective is assume there is only one. It makes it easier to maybe to grasp the concept.

Q.159 - Do you intend to pay on a positive balance in the forecast discrepancy account the same 10.375 percent --

MR. MAROIS: Yes.

Q.160 - -- you are going to collect on the pricing deferral account?

MR. MAROIS: Yes.

Q.161 - Mr. Marois, is it fair to say that at least during the development period there isn't any revenue short-fall however caused that Enbridge Gas New Brunswick won't be able to put in either one of the deferral accounts?

MR. MAROIS: As long as the Board determines that the costs incurred are permanently incurred, you are correct, from a conceptual basis.

Q.162 - And to the extent that those accounts have a balance in them you are proposing to earn a carrying cost of 10.375 percent?

MR. MAROIS: Well the weighted average cost of capital.

Q.163 - Right on, which is that amount?

MR. MAROIS: I will take your word on it.

Q.164 - Well it is in your evidence Now you just said to me I believe as long as the Board approves. What mechanism

do you propose for the Board to review and approve the status of your deferral account as you go forward during the development period?

MR. MAROIS: Well I think we have indicated clearly that we will be filing information first of all at the beginning of the year on our forecast deferral, and at the end of the year on the actual deferrals, and the Board will be able to ask any questions it has on those deferrals and that should form the basis for its decision.

Q.165 - Okay. For the first half of the pricing deferral account, that is those amounts that you know the target rates are going to meet on your forecast, say the 2.4 million for the next fiscal year, when are you going to actually put that amount notionally in the deferral account and start earning your return on it, when throughout the year, at the beginning or at the end or in the middle, or what point?

MR. MAROIS: We assume the middle because it's going to be the average -- it's going to be half the amount.

Q.166 - With respect you assume. When are you going to do it?

MR. MAROIS: Pardon?

Q.167 - When are you going to do it?

MR. MAROIS: What do you mean when?

WQ.168 - Well you said we assume in the middle.

MR. MAROIS: Well that's what we have here. If you look at

exhibit A, schedule 7, line 14, column 1, you see that the rate base would go up exactly half the net deferral of 2 million 422.4. So the assumption there is it goes in mid year and we end up with an increase of rate base of exactly half.

Q.169 - Okay. So as of halfway through the year -- sorry, when is your fiscal year going to run?

MR. MAROIS: What we have proposed to the Board is from October to September, but because we will be going into a partnership it might be changed to the calendar year.

Q.170 - So most -- at least in the initial development period most of your revenue requirement is going to be taken up by constructing infrastructure?

MR. MAROIS: Most of our -- can you repeat that, please?

Q.171 - Revenue requirement will be based on construction expenses.

MR. MAROIS: Yes, combined with I guess all the other start-up costs.

Q.172 - Yes. No, I understand that, but -- and whether your fiscal year starts in October or January you propose to credit the entire 2.4 million, to use as this example, halfway through the year which would either be March or June.

MR. MAROIS: Well for the modelling purposes here that's what we did. We tried to reflect the fact that this

deferral account will be generated gradually over the year, so --

Q.173 - Right. But the construction season, at least in these parts, is roughly best guess March or April through October, November?

MR. MAROIS: That's realistic, but we will have done a lot of construction even before the start of this fiscal period.

Q.174 - In fairness, Mr. Marois, I think you may have answered this question in your sort of earlier presentation, but is it your intention to clear the deferral account basis on an annual basis when you seek to have your target rates set?

MR. MAROIS: Well our intention at this time is to start -- well based on our forecast we won't start clearing it before year six or seven. In other words, we won't start recovering it from the customer -- actually recovery it before then, so that's why we are suggesting that when we get closer to that date we might -- we might have a better understanding of the objectives we might want to reach by the recovery of these amounts, so we should decide then exactly when we should -- exactly how we should proceed.

Q.175 - Okay. And, Mr. Marois, I am sorry, I think I probably --

MR. MAROIS: Translation?

Q.176 - Exactly. And Mr. Nicholson knows what part of New Brunswick I am from and my knowledge of the second official language is limit at best I am sure, but what I am really asking is, notionally for accounting purposes, when you calculate your target rates on an annual basis, will you bring the balances of the deferral accounts back into your costs and reset your target rates on that basis, or is it your intention to leave the deferral account balances such as they are completely out of the equation until the development period is over?

MR. LUISON: It's the former.

Q.177 - It's the former?

MR. LUISON: Yes.

Q.178 - Okay. And how is that going to work?

MR. LUISON: What we are trying to do here is to keep track of the differences between what we are actually spending and what we are actually collecting in revenue, and that at the end of the day is what we want to collect in deferral accounts and carry them forward. The fact that we have put together two deferral accounts and described two deferral accounts in the evidence is really accounting conventions to keep better track of what is actually going on during the course of the year and to provide a little bit more information to the Board as to what is going on, and whether or not the balances in the deferral accounts

are attributable to forecasting error or changes in rates or whatever.

So at the beginning of the year we will go to the Board and present evidence and forecast what we believe the deferral account will be on a perspective basis. Then at the end of the year when we are coming in for the next year's target rates, we will have data on what actually transpired and we will true up the forecast of the deferral account to account for the actuals, and it is only the actual that will actually be attracting any cost of carry and will be carried forward into future years.

So there will always be a truing at the end of any period with what actually transpired as opposed to what we predicted would happen prior to the year starting.

Q.179 - How will your carrying costs on the deferral accounts be calculated? I know you propose an annual rate, but when will they be compounded?

MR. MAROIS: Well if you look at again our famous exhibit A, schedule 7, we do calculate the return on the deferral account. So if you look at again lines 14 to 16 of column 1, for example, we calculate the cost of capital as 1 million 211.2 times 10.38 percent, for a cost of capital of \$125,700. What that states is that the return is calculated on the average balance. So in other words it's not 10.38 percent of the 2 million 422, it recognizes that

it's gradually incurred during the year, so it is calculated on the average amount.

Q.180 - But it is not gradually incurred during the year, it is incurred in a large measure during the construction season?

MR. MAROIS: Well it depends how you look at it. The cost may be incurred in lumps, but one way of looking at it is the reason you have the deferral is your rates are not as high as they could otherwise be, and your rates will be collected gradually over the year. So if the rates were a bit higher for each unit you would be collecting more money, thus avoiding the creation of deferral accounts. So in my mind it is safe to say that it is gradual.

Q.181 - Okay. But when actually are the carrying costs calculated and compounded?

A. They are not compounded during the year. It's calculated on the average amount. So in one way -- I guess another way of doing it is you could take the 2 million 422, divide it by 12 and grow that amount by one-twelfth each month and calculate the interest at the end of each month and it would give you this amount.

Q.182 - Right. That is akin to compounding monthly, is that correct?

MR. MAROIS: Probably what will happen is we will be recording monthly entries into our deferral account, so

that will generate a monthly balance, and we will calculate interest on that monthly balance. Here for I guess modelling purposes we calculated an average which is appropriate for modelling because you don't know exactly how it is going to --

Q.183 - I understand. So you are going to be calculating the interest on those on a monthly basis?

MR. MAROIS: Yes, but not compounding it.

Q.184 - Now when will the amounts in the second half of the pricing deferral account, those amounts that -- I guess extra amounts you fell behind because you had to reduce your rates from the target rates?

MR. MAROIS: Well we should be able to record those on a monthly basis as well by calculating I guess the amount of the rate rider times the volumes we have billed during that month, and that will give us automatically the rate reduction.

Q.185 - So when you calculate a -- or excuse me -- when you affect a rate reduction your additional revenue short fall will on a monthly basis be posted to the deferral account and begin earning a carrying cost?

MR. MAROIS: Yes.

Q.186 - Does the end of the development period mean you will start paying off the deferral accounts?

MR. MAROIS: Well it's most likely going to be recovering

the deferral accounts, but yes.

Q.187 - Okay. And what is your current estimate of the actual size of all deferral accounts at the end of the development period for your estimated eight year period?

MR. MAROIS: Well you can add them using exhibit A, schedule 7.

Q.188 - Well no, you can't, because those amounts don't reflect -- that is only one of three elements, isn't it? I mean that is only to the extent target rates do not equate full cost of service. What about it when --

MR. MAROIS: Oh, you mean if we have a forecast of the others?

Q.189 - Yes, the whole thing. I mean --

MR. MAROIS: Well that is impossible. One is forecast discrepancy. If we knew in advance what will be the forecast discrepancy we wouldn't need an account.

Q.190 - Okay. But you are asking for those -- you are asking to be allowed those -- for those accounts to be allowed to grow until the end of the development period?

MR. MAROIS: Yes.

Q.191 - Right. But do you have any idea now what the balance of those might be?

MR. MAROIS: No. Well the nature of these accounts by -- yes, the nature of these accounts preclude us from knowing what they will be.

Q.192 - I appreciate that -- but I mean -- well with respect I look at this schedule 7, you have been able to forecast out, you now, volumes and all kinds of things 20 years out, but don't you -- and I appreciate it is going to be a pretty rough estimate at this point, but do you have any idea?

MR. MAROIS: Well if you want my best estimate of the forecast discrepancy account it's zero, because that's the forecast we have right now. So if we meet this forecast we will have zero in our account. And the other one we simply don't know. We are asking for pricing flexibility, so the market will dictate how much will go in that account.

Q.193 - Okay. And so the answer is with respect to the amounts contributed if you have to lower your target rates is that you just don't know at this time?

MR. MAROIS: Exactly.

Q.194 - Now included in your request with respect to these deferral accounts as I understand it is a request that the Board authorize you to amortize them over 40 years beginning at the conclusion of the development period, is that correct?

MR. LUISON: Beginning when, sorry?

MR. STEWART: At the conclusion of the development period.

MR. LUISON: That is the way that it was modelled in the

proposal, but what we will actually be doing is -- what we intend to be doing is actually starting to amortize it on an annual basis, just like you would any other piece of plant. So think of it just like another capital expenditure. If I put a piece of pipe in the ground this year, I will start to amortize it next year while next year I am adding another piece of pipe. This deferral account will work exactly the same way.

MR. MAROIS: So in other words, the amount incurred in year one will start to be amortized in year two even though theoretically they might not be recovered in rates.

Q.195 - Well now I am confused. Can you explain that to me, help me out, help me understand what that means, because I heard you say earlier that -- at least I believe I heard you say earlier that, you know, we don't know how we are going to -- or when exactly we are going to start clearing these accounts, it wouldn't be until the end of the development period, but I don't -- and I appreciate I am no accountant, but I am just trying to get a handle on what that means as a practical matter. Like what will be in the deferral accounts at the end of the development period?

MR. LUISON: What will be in the deferral account at the end of the development period is everything that has actually accumulated up until that point, reflecting the fact that

as it was building up on an annual basis it was also being amortized on an annual basis.

Q.196 - Right. And also incurring your carrying costs on an annual basis?

MR. LUISON: On the amortized balance, correct.

Q.197 - Okay. So at the end of the development period, whenever that is, eight years, five years, ten years, there is going to be a package of money, a sum of money, an identifiable amount of money, is that correct?

MR. LUISON: Yes.

Q.198 - And so -- and then you will cease to -- stop being able to contribute to those deferral accounts, is that correct?

MR. LUISON: There will be no need to presumably.

Q.199 - Right. And then that amount of money, whatever it is, will be then recovered in rates going forward from the end of the development period, in essence included in each years cost of service will be a component to pay down a certain amount of that account?

MR. LUISON: Yes.

Q.200 - So I think I can understand that to the extent -- just like -- well I don't know maybe not like everybody in this room, but I sure as heck have a mortgage on my house. So starting year one it is amortized, whatever it is, over 20 year, and I pay my monthly payments and I eventually

hopefully pay it down to zero. So starting year one, the post-development period there will be some amount worked into your cost of service to pay down the deferral account balances, is that correct?

MR. LUISON: Yes.

Q.201 - Just like I pay my mortgage payment on a monthly basis?

MR. LUISON: Yes.

Q.202 - And just like my mortgage on my house, to the extent that the balance on the deferral account is not paid off, there will be interest or carrying charges accruing as you go forward?

MR. LUISON: Yes.

Q.203 - And so just like my mortgage the faster you pay off the deferral account the smaller those carrying charges will be?

MR. LUISON: All things being equal, yes.

Q.204 - Right. So if I am a rate payer of Enbridge the faster I have these deferral accounts paid off the lower your expenses will be and arguably the lower my rates will be, correct?

MR. LUISON: The shorter the period that you write these things off of the larger the write-off in any particular year. So your rates will be higher in any particular year doing it your method.

Q.205 - Well -- but that's just like paying off my household mortgage. I mean sure, if I want to pay it off in ten years instead of 20 years my monthly mortgage is going to get higher, but in the end I will pay less money, won't I?

MR. LUISON: All other things being equal.

Q.206 - Right. And so at the end of the development period the faster I pay them down -- now I grant that that also would require me to pay each year, each month, the larger their overall cost savings?

MR. LUISON: All other things being equal.

Q.207 - Right on. And to the extent that Enbridge Gas New Brunswick is able to reduce those amounts in less than 40 years, that will result in a lower cost of service for Enbridge Gas New Brunswick overall in the long term?

MR. LUISON: Well again I guess I would go back to again, all things -- all other things being equal. The reason of course that we picked the 40 years is because that deferral account has the same nature as all expenditures that are being undertaken by -- being undertaken by the utility. They go into the deferral account in the first place, they relate to the start-up expenses, they relate to the plant, all of which is a long lived asset and which is being appreciated over a long period of time. So the nature of the deferral account is no different than any other expenditures being made and hence they are properly

deferred and amortized over a long period of time.

And the reason I keep going back to the all other things being equal is of course we see the other advantage of doing it that way being that there is more rate stability and on the whole the rate level is lower and hence will allow us to attract more customers more quickly which is one of the most fundamental objectives we are trying to achieve here.

It is no different -- if you use your mortgage analogy, it is not different than adopting a 15 year mortgage -- an amortization of 15 years versus 40. You can -- you change the level of rates that you pay in any particular year on your mortgage payments when you change the amortization period. We recognize that principle here and that is an added advantage of going for the longer amortization period. Our first objective is to attract customers.

Q.208 - Right. You will agree with me -- but this is only post-development period, isn't it? This is after you are already able to function as a well-established utility, correct?

MR. LUISON: But we will have gotten to that point by following this convention all along.

Q.209 - You will agree with me if I can pay my household mortgage off in 15 years rather than 40 years, I will

overall pay less?

MR. LUISON: Yes.

Q.210 - All right. And to the extent that there are balances remaining in the deferral accounts it is Enbridge Gas New Brunswick that is earning the carrying charge on those?

MR. LUISON: Yes.

Q.211 - Mr. Marois, I would like to ask you a couple of questions about this whole ability to reduce your rates from your target rate?

MR. MAROIS: Okay.

Q.212 - And I understand from your evidence and I know that it appears -- I think it is the last page of -- what is it, schedule 1 to exhibit B of your evidence, that is your -- whatever it is, this revenue adjustment rate rider document. Perhaps we can turn to that. If you would turn to that, please. It is page 17 of 17 of schedule 1, exhibit B.

MR. MAROIS: We will look at it but just a reminder we have a separate panel on the rate issue.

Q.213 - Okay. And to the extent I have questions with respect -- it's better left to the other panel on this whole rate design thing.

MR. MAROIS: Well maybe we can start and we will raise our hands if --

Q.214 - Sure, okay. Well no, that's fine, because I have some

questions for both, but I think where I am going with this it will be -- because I am not actually concerned about the actual numbers here. I am just concerned with how it is going to work.

Now -- are you with me?

MR. MAROIS: Yes.

Q.215 - Okay. Now as I understand your proposal, you are suggesting that if during the course of a given fiscal year you determine that you are not achieving your desired level of market penetration, you would like to be able to reduce your rates from the target rate set by the Board to something less than that to make it more attractive for people to hook up to your system and buy gas.

MR. MAROIS: If we determine the reason why the targets are not met is due to the price.

Q.216 - Right. Fair enough. That is all you are affecting by doing this?

MR. MAROIS: Yes. And we would have to feel comfortable that the price -- the lack of price differential is sustainable. If it's a short term blip we would not propose to adjust rates.

Q.217 - All right. On what basis will you make those conclusions? What things will you look at?

MR. HARRINGTON: I think this may be an area that might be best addressed by the other panel, but what the heck.

I think the basis that we are going to look at is strictly customers converting to natural gas and the rate at which they are converting to natural gas.

Q.218 - Okay. But how will that allow you to determine that the rate is too low as a result of the pricing issue?

MR. HARRINGTON: I think we are going to be out in the marketplace and we are going to understand what customers are thinking about forming an incentive -- or forming an intention to convert to natural gas. So we expect to be receiving public input into that.

As well we will understand what the upstream costs of natural gas are, we will understand what the competitive prices of other energy sources are, and I think we will be able to make a determination on that.

MR. MACLURE: Mr. Stewart, just as an add-on there, I think that one of the things -- I will say it now, it will probably also be addressed by the second panel -- our second panel, but as an example, Irving Oil is expected to become a gas marketer. It would be very clear that it is in Enbridge Gas New Brunswick's best interest to communicate and talk to Irving Oil about their expectations, the fact that customers are not attaching, and when they go out to try to sign customers up and customers are saying, well the price is too high, I would expect that Irving oil will be coming back to us and

indicating that they are having trouble signing up customers because the price is too high.

At that stage -- that is one of the indicators, only one, that maybe we have to do something with the rate and make a rate adjustment.

Q.219 - Well thank you, Mr. Maclure, because you have just answered my next question. And that was, what role would you envision marketers having in making this determination, and you have done that. Thank you. You said one and only one of the factors. What else?

MR. MACLURE: I think some of our ongoing research, I mean we will continue, as Mr. Harrington pointed out, to looking at what is happening out in the marketplace. There may be issues that in terms of it may not be price, it may be where we are looking at building our distribution plant, which again to some extent may come back to price but we may not be taking the best areas. One would hope that certainly we will. But I think the primary one is -- that we are going to find is price. People will not have the economic incentive to choose.

Obviously it is also a new product and a new area. There may be some initial hurdles to overcome in terms of initial customer resistance and we may end up deciding that the price is there but the resistance is that customers don't like the idea of natural gas. We will

have to develop a methodology of overcoming some levels of resistance, working again probably with the marketing community.

MR. MACDOUGALL: And, Mr. Chair, just to follow-up on that too, Mr. Thompson will be on the next panel. He is the person in charge of some of the marketing issues. So we have tried to put the people who have helped develop the market behind the rate and the rates on one panel, so maybe we should just keep that in mind. That is what those people will be dealing with, so you will know, Mr. Stewart, some of these issues may be for these gentlemen - - we should have Mr. Dugay who developed the rates and Mr. Thompson has some other input as well -- deal with those types of issues.

MR. STEWART: And I am happy with that, Mr. Chair, to the extent that the other panel is more appropriate, we will deal with it in that fashion.

But there is one element of this I would like to ask you some questions about. And that is -- perhaps -- maybe the other panel is best suited -- in terms of the mechanism, how this is going to work, I mean physically what will happen, assuming you have come to the conclusion that you need to reduce your general service rate by 20 percent, that is what I want to know, is that better left to the next panel?

MR. MACLURE: Well we can try. I am on both panels, so --

Q.220 - All right.

MR. MACLURE: It will just keep the other panel on for less time.

Q.221 - That's right. All right then, enlighten me, Mr.

Maclure, how will it work?

MR. MACLURE: Again, I think that what happens is that we are in the formative stage of this, but currently the view that I would have and the methodology of working, we would assess the market. We would make the determination that we did in fact need a price reduction, as Mr. Marois pointed out, we believe that it has to be sustained, it is not a blip, so we have to believe that we have got a sustained need to reduce the price.

Our expectation is to look at where we think we have to go in terms of a reduction in the implementation of the rate rider. We would two weeks before the start of the month, because we have a view of this having an effective date at the start of a billing cycle, so two weeks prior to the start of the month --

Q.222 - That is maybe the first sort of threshold of where we are.

MR. MACLURE: Yes. We would submit to the Board a -- send to the Board our indication that we would be wanting to lower the price.

Q.223 - Okay. So give me sort of a hypothetical example to make it easier for me to understand. Say you decide that as of June 1 you would like to reduce the price at a given class or classes, you know, you have done this analysis --

MR. MACLURE: Yes.

Q.224 - -- you have come to that conclusion. I am sorry if I am interrupting you but I just want to make sure I have it clear. So by the middle of May you would be sending something to the Board?

MR. MACLURE: Yes.

Q.225 - What is that? What would you be sending and how would that work, or how do you propose that would work?

MR. MACLURE: Basically I would expect that it would simply be a letter that would be going to the Board indicating our belief that we need to -- that we need to reduce rates to continue to attract market, with rider A attached which would indicate the -- basically at that stage it would be -- I would imagine it would be an amendment to rider A because rider A would be initially filed as -- if we were to approve this today, it would be filed with a bunch of zeroes in it as a unit rate adjustment. So that you would file an amendment to rider A which would then have for example -- let's say that in the small general service class we felt that we needed a two cent per cubic litre reduction at that point in time on January 1st, so we

would end up submitting rider A with two cents per cubic litre. It would have an effective date of January 1st. December 15th, or prior to December 15th it would be submitted to the Board and effective on January 1st we would implement that rate reduction and it would show up on a customer's bill as a credit on their bill.

Q.226 - Do you perceive the role having -- excuse me, the Board having an adjudicative role on these --

MR. MACLURE: That wasn't our proposal.

Q.227 - So the proposal is that you simply notify the Board rather than ask their permission?

MR. MACLURE: Yes. Our belief was is that in this case again, because what we are trying to do is manage the marketplace and get market rates into place as quickly as possible, get customers attached, that it would simply be an informal notification kind of process. And I think that our -- certainly because what it is doing is reducing our revenues, we have certainly incentive to manage the relationship between revenues and customer attachment.

Q.228 - Okay. And just so I am clear, now what you are asking for in this proceeding is you are asking for the Board to notionally set the target rates that are being -- that are set out in the schedule. You are asking for a one-time special ability to adjust those target rates come October, maybe, if you want to. And you are asking the Board for

the ability to in essence unilaterally reduce the rates throughout the fiscal year if your analysis -- if you feel, based on your analysis, that such a reduction is warranted?

MR. MACLURE: That is basically correct.

Q.229 - Okay.

MR. MACLURE: I think maybe just going back to one thing maybe to clarify a point on the resetting the target rates, the one time resetting. One of the reasons it's the one time is we are viewing this on an ongoing basis as setting the target rates very close to the start of our fiscal year, when the market knowledge that we have will be much more closely aligned to the start of the fiscal year. That is what we would see as happening on an ongoing basis beyond year one.

Now of course in this very first year and for the first rate case, we are in front of the Board much earlier for an application for approval to get the target rates set than we would expect to be on an ongoing basis.

So on an ongoing basis we would expect that rates would in fact be set probably in -- let's say in September for implementation in October, as opposed to rates being set now in April for implementation in October, which is what is happening this year, which is the reason we are asking for the one-time adjustment come September of this

year.

Q.230 - Who else gets notice of your intention to lower your rate via the revenue adjustment rate rider other than the Board?

MR. MACLURE: I guess we would ultimately advise the marketing community. We believe that we are going to continue to have -- need to have a very close relationship with the gas marketing community. So notification would be there. Whether it was a formalized notification we haven't made that determination.

Q.231 - When would customers be notified?

MR. MACLURE: At the time in which a rate change would go into effect.

Q.232 - And how would you notify them?

A. To the extent that we would do it in normal fashion, I imagine that we might -- I don't know that we have thought it all through but probably we would do a bill insert, if we felt it was necessary to advise them that the rates had been reduced. Remembering that this is only a reduction.

So my experience with customers and customer response to reductions in their costs is such that they generally don't complain about reductions but they do often complain about increases.

Q.233 - Right. Except to the extent that they may have to pay for those reductions eight years out. But I agree with

you, I don't think I have ever complained about somebody lowering my bill for anything, I dare say.

I just want to clarify one thing you just said earlier because in some places in your evidence I wasn't sure and then some places it seemed clear, but just so I have it straight in my own mind. This -- your -- the ability that you are asking for to unilaterally reduce your rates from the target rate, is it limited to reductions?

MR. MACLURE: Yes. Within the fiscal year this application, the rate rider, is limited to reductions within the fiscal year, which is one of the reasons we say that we are not going to just manage blips in the market. We have to feel it is sustained before we will lower rates.

Q.234 - And will a given reduction remain in place for the remainder of the fiscal year?

MR. MACLURE: It will unless there is a further reduction.

And again the reductions are imposed on a postage stamp basis so that once we reduce them they are reduced to all customers in that class that have already been attached.

Q.235 - Right. But there will be reductions entirely across the class for the remainder of the fiscal year --

MR. MACLURE: Until there is a need for another reduction.

Q.236 - Right.

MR. MACLURE: And at the end of the fiscal year --

Q.237 - There may be more than one reduction, I guess, that is

the point --

MR. MACLURE: Yes.

Q.238 - -- I was trying to spit out.

MR. MACLURE: Yes.

Q.239 - Are you going to put any upper limit on the scope of the adjustment or the number of adjustments in the year?

MR. MACLURE: We haven't put any specific upper limit on it.

I would look at it and I would doubt that we would want to be going back more than every couple of months or every quarter.

I wouldn't see this as something that would end up happening monthly, as an example, simply because I think that it would be a little bit confusing to the marketplace. But I think it could be sustained on a quarterly basis.

Q.240 - So you may be adjusting your rates, albeit downward, I understand that --

MR. MACLURE: Yes.

Q.241 - -- as frequently as on a quarterly basis.

MR. MACLURE: Mmmmm. We haven't thought yet, Mr. Stewart, about the kind of level of communication that we would have with customers clearly up front, even at the start of the process, which would advise them of this particular feature.

Q.242 - Well how are you going to deal with the situation

where I am a customer and I am thinking about converting to natural gas, but I do it in January where you rates are the target rates. And so I have to buy expensive gas for the first two or three years -- or first two or three months, but if over the first two quarters you reduce it and the guy across the street just starts buying gas at the lower rate.

MR. MACLURE: Oh, but you have still saved from the first two or three months relative to your other competition. So you would still be better off.

Q.243 - Yes, but I have still had to lay out the dough to buy a new gas furnace, haven't I?

MR. MACLURE: Yes. I mean -- but -- I mean, the customer still has had though an economic advantage by having made that economic decision at the time to make that conversion based on the economics at that point in time at those costs, and later on the advantage has even become greater.

Q.244 - But what I don't understand there is I thought these reductions were to account for the situation where there wasn't an economic advantage in the first instance and then you had to reduce them.

MR. MACLURE: Well a sufficient economic advantage, and all customers are -- all customers are different. We have gone and we have said -- looked at the market and we have said that we felt that we would be able to achieve the

kind of market penetration that we wanted to with about a 30 percent price advantage relative to fuel oil.

That does not mean that there are not customers out there that will convert for 20 percent. It also doesn't mean that there aren't customers who will come along and look for 35 percent.

So customers are a range of customers, so that there will be customers out there that say -- that will say, I will convert for 20 percent. We have customers out there that are saying, I want gas now.

Q.245 - So I understand exactly what you are requesting from the Board, you are requesting -- and tell me if I am characterizing it properly -- you are requesting for the duration of -- I mean today you are requesting that Enbridge Gas New Brunswick for the duration of the development period, however long that is, that throughout the course of the fiscal year you have the unilateral right to reduce your rates as you see fit?

MR. MACLURE: Yes.

MR. PLECKAITIS: Just to be clear that we clarify that. You are referring to the development period. Every year the company will come forward with a target rate and once that rate is approved by the Board we would have the ability for that period, for that fiscal year, to reduce the rate at our own discretion.

Q.246 - Yes. Sorry. I understood that, if it wasn't clear to everyone else, that is what I intended. Mr. Marois, in page 2 of your -- I guess it's answer 3 of your pre-filed evidence, you set out I think in a summary fashion what it is that you are asking for in this hearing, I mean you being Enbridge Gas New Brunswick -- sorry, it's page 2 of 8 --

MR. MAROIS: Yes, okay, I have that.

Q.247 - Okay.

CHAIRMAN: Where are we?

MR. STEWART: Sorry. Page 2 of 8 of exhibit A.

MR. MAROIS: 2 of 28.

MR. STEWART: 2 of 28, I'm sorry. Actually, I am sorry, I just omitted to ask one thing from the target rate production we were talking about, and I just looked down at my notes and it occurred to me, I don't know, maybe, Mr. Maclure, you can better answer this question. But -- and I appreciate your good faith comment that, you know, you intend to have communication with the marketers and you will have ongoing discussion with the marketers. In fact maybe the marketers who are coming to you asking you to reduce your rates to help them achieve selling gas, I understand that.

But other than your own internal analysis, do you foresee or suggest there would be any formal consultation

method prior to seeking a reduction in your target rate, any consultative process with the Board or other members of the public or the industry?

MR. PLECKAITIS: I think your comment formal is one that I would say no, we do not envision a formal process. Having said that, anyone that is in the business of marketing any product, if it does not consider the viewpoints, issues of all of its distribution channels, whether those be marketers, and the impact that a price adjustment would have on its customers, I think would be foolish.

So clearly we would intend to seek the input of marketers and obviously understand the impact of a price adjustment on customers before we would go ahead and make an adjustment. But we do not intend to go forward to the Board or formally request the input of all marketers to any price change.

Q.248 - Sorry. I didn't say all marketers, I said anyone, customers, marketers.

MR. PLECKAITIS: We will get input from those parties but we will not do it in a formal fashion.

MR. MAROIS: And just to complement that, I view the notice we will give to the Board at least two weeks before as a formal process. It's going to be done each time.

Q.249 - Right, but you are not intending to consult the Board, you are just letting them know in effect what you are

doing?

MR. MAROIS: No, but the two weeks should give opportunity for the Board to raise any concerns that it could have.

Q.250 - So then the Board -- in that two week period, if the Board thought, no, I don't think you should be reducing from your target rates this month, it's only a blip for example, it's only a blip, you guys maintain your course, the Board would be then free to say no to your rate reduction?

MR. PLECKAITIS: That is not what we are proposing. We are seeking that the Board would in fact approve in this rate case our recommended process which would just be an advisory process to the Board. Having said that, if the Board has concerns about anything we are doing at any time, the Board has the right to call us before them and ask us to provide some clarification or issues.

And again I want to make sure that we are not just doing this arbitrarily. The objective here is to be able to move into the marketplace and make adjustments quickly and effectively without having an onerous regulatory process in front of us. It is no different than our competitors in the oil industry do not have to go before a party of regulators or a party of customers to seek an adjustment in their pricing.

Q.251 - Well with respect, sir, I am not suggesting that you

have an onerous regulatory process. I am just asking you, are you going to ask the Board's permission before you --

MR. PLECKAITIS: I think I have answered the question.

Q.252 - -- do or are you just going to tell them what you are doing?

MR. PLECKAITIS: I think I have answered the question.

Q.253 - Okay. Which are you going to do, ask their permission or tell them what you are doing?

MR. PLECKAITIS: I stated earlier that the intention was to provide the information, not to seek the Board's approval.

Q.254 - All right. Back to page 2 of 28 of your pre-filed evidence, and you have got two or three -- answer 3, you know, the company is requesting the Board and you have three or four bullets on page 2 and page 3. The last item is, approve a regulatory framework that will facilitate the development of a market for natural gas in the province, and I assume that your review of the regulatory framework that will do so is this so-called light handed regulation, is that correct?

MR. MAROIS: It's broader than that. It is all the components of our proposal, so it includes the pricing flexibility, the deferral accounts, the -- et cetera.

Q.255 - Okay. But you have identified this one -- and I appreciate those are the bullets that are above --

MR. MAROIS: Well this is like a summary bullet.

Q.256 - Okay. Fair enough. And included in this regulatory framework, as we discussed I think on some of these issues already, is a review mechanism, or lack thereof, of a certain nature with the Public Utilities Board, is that correct?

MR. MAROIS: The review mechanism? Yes.

Q.257 - Yes. The so-called light handed regulation?

MR. MAROIS: Yes, where we clearly state what we will provide as the minimum information to the Board --

Q.258 - Right.

MR. MAROIS: -- on an annual basis and during the year.

Q.259 - All right. Well let's talk about that, because with the greatest respect, I am not sure it is entirely clear.

At least it wasn't entirely clear for me and maybe it is because I am a newcomer to all of this, but --

CHAIRMAN: Mr. Stewart, this could be a good time for a break. So why don't we take ten minutes right now.

(Recess)

CHAIRMAN: I would ask counsel overnight tonight to take a peak at the Board's exhibit list and if we have missed any correspondence, let me know in the morning and perhaps bring along a copy of it, introduce it as an exhibit.

During the break some of the Commissioners indicated to me at times they were having difficulty in hearing some of the witnesses. So I would ask those of you in the

audience to keep your conversations to a dull roar.

Okay. Mr. Stewart.

MR. STEWART: Thank you, Mr. Chairman.

Q.260 - I believe where we were is I was asking you with respect to your request for a regulatory framework that will facilitate the development of a market for natural gas in the province. And we were coming around to how that translated, or at least a portion of that, that translates into your request for so-called light handed regulation.

And I guess I understand the concept of light handed regulation, I assume you mean -- to use your turn of phrase, you like to avoid -- well quite frankly full blown hearings like this one. I think that is the term you used, full blown hearings, and having to answer all kinds of questions from lawyers like me.

But what I don't quite understand is where we are in the spectrum, because there is no regulation and then there is, to use your turn of phrase, full blown hearing regulation. And what I am trying to understand is where you -- where in that spectrum your request lies.

And I think maybe the first place to try to help me determine that is for you to tell me exactly -- or at least as best you can at this point, exactly what you intend to file with the Board or what mechanisms you

intend to use for doing some of the various things we talked about. Setting your target rates, confirm your deferral accounts, seeking approval of your charges for service charges and your target rate reductions.

And I know you have talked about annual filings here and there, but I am wondering if you can kind of bring that altogether with me so I understand what your proposal is going forward over the next four or five years?

MR. MAROIS: I will try.

Q.261 - Please.

MR. MAROIS: Maybe before I start and bring you to any specific exhibit, we did address the light handed regulation in numerous sections of our proposal and I would like to give you maybe just some references. I don't want to go to these right now but maybe when we read the transcripts it could be helpful.

In our application there is section 4-K, in exhibit A there is pages 16 to 19, there are the clarification questions during the request for proposal process number 24 and 84, there is the actual proposal and response to the request for a proposal, section 4.1.3.8 on page 9, there is information request from Board staff number 17, there is information request from the Province 3 and 9, there is information request from Irving number 10.

So I think -- I just want to -- because like I said,

we addressed that issue in numerous circumstances.

Q.262 - And to be honest, Mr. Marois, that is part of the reason why I am asking the question, because it is sort of all over the place, to be honest.

MR. MAROIS: Well I will bring you to exhibit A, we are already in exhibit A, on page 18, and this is consistent with my opening remarks that I made today. The only thing missing here is the information we would be providing to the Board during the year when we adjust the target rates downwards.

So what we are proposing is prior to a fiscal period, in here at the time it was assumed to be from October 1 to September 30th, we would really be presenting information that would underpin the target rates we are proposing for the upcoming fiscal period. So in effect, we would be submitting our projected revenue requirement, cost of service in aggregate and the supporting material that justify those amounts.

So in other words, the budget for the upcoming year that underpins the target rates. Naturally we would submit the proposed target rates themselves and any supporting material, and also --

Q.263 - Mr. Marois, sorry, can I cut you off for a second --

MR. MAROIS: Sure. Sure.

Q.264 - -- because that is one of my first questions is, what

supporting material?

A. Well I don't have samples with me today of exhibits or actual information we would submit, but it would be to our best interest to submit all information that is required by the Board to render an order on our target rates. And the intention here is to submit this to the Board in advance, the Board might ask any clarification question it can have and we would provide additional information if our report is not complete. And the way I look at it is it might take one or two iterations to get it right, but once the Board has asked for a certain type of information and if they indicate that that's what they require on an ongoing basis we would include it in the next year.

So like I say, it is hard for me to start drawing exactly what the exhibit would look like, but there is going to be sufficient information in there to allow the Board to fully understand our projected revenue requirement and target rates.

Q.265 - Financial statements?

MR. MAROIS: Not necessarily financial statements because with my own experiences -- well maybe the actuals and that would be at the end of the fiscal period. But from a prospective basis financial statements are typically not filed with Boards. What is filed is a revenue requirement calculation, rate base information and other supporting

material. But financial statements -- prospective or proforma financial statements are typically not filed.

Q.266 - Okay. So you are not going to file financial statement --

MR. MAROIS: Proforma.

Q.267 - -- proforma?

MR. MAROIS: We are at the beginning of the year here.

Q.268 - I understand that, but what other kinds of things do you envision you might file?

MR. MAROIS: At the beginning of the year?

Q.269 - Yes. For example you say part of the fiscal period, you know, information to the Board about proposed target rates.

MR. MAROIS: That would include like the information required to justify our projected revenue requirement, so that would include a customer forecast, volumetric forecast. And like I say we would put together a package which we hope is complete but if it's not complete the Board will certainly require more information.

Q.270 - The information with respect to your projected year-end deferrals --

MR. MAROIS: Yes.

Q.271 - -- is that only the difference between your revenue requirement and your forecasted revenue?

MR. MAROIS: Yes, the same as is the case here. That's the

only one we can -- you can forecast.

Q.272 - Because you are not going to give any projections or estimates as to any of the other amounts that might go in the deferral account?

MR. MAROIS: Because we can't. By definition that is the reason why we need those accounts, but that would be -- you are asking me to talk here about what we would be submitting prior to a fiscal period. But at the end of the fiscal period we would provide information on the actual deferral accounts, exactly what went in them.

Q.273 - What else?

MR. MAROIS: Pardon?

A. What else, if anything?

MR. MAROIS: Well, I think, what's there is a high level summary of what we will be providing. They will be supported by various schedules which I can't really talk to to date, because they haven't been prepared. Like I say, I think it's realistic to assume that we might take one or two iteration to get it fully right. But it's going to be a dialogue between us and the Board.

Q.274 - So am I correct in understanding that the scheme that your -- the mechanism. Maybe scheme has a bigger connotation, I don't mean to suggest that. But the mechanism you are proposing is that you make two annual filings with the Board. One just prior to the fiscal

period and one at the end of the fiscal period?

MR. MAROIS: Yes.

Q.275 - And you will provide projected revenue requirement cost of service and you say in aggregate?

MR. MAROIS: Yes.

Q.276 - What does in aggregate mean? Does that mean you will provide a breakdown of how those amounts are calculated or just the totals?

A. No. No. But our intention is not to file a cost of service study to demonstrate -- to breakdown the cost of service by rate class. Because we believe in a greenfield operation. A cost allocation study has limited value.

Q.277 - So there is no cost of service study?

A. That's not our intention, no.

Q.278 - All right. So it will just be your total cost of service numbers?

MR. MAROIS: In aggregate. Because that serves as the cap to set our target rates.

Q.279 - And are you going to provide the study upon which you based your forecast?

MR. MAROIS: The study on which we based our forecast. Can you clarify that, please?

Q.280 - Well you are going to project your revenue requirement. You are going to project, I assume, your revenue?

MR. MAROIS: Yes.

Q.281 - All right. Are you going to provide the Board with what study you have done to come up with that?

MR. MAROIS: You mean how we have determined the residual component of the target rates?

Q.282 - Yes. Like, for example, I assume revenue is a function of volume or a through-put. So are you going to provide the Board with how you arrived at your projected through-put for the next year?

MR. MAROIS: Well we would have -- we will submit a customer addition forecast. And from the customer addition forecast will flow our volumatic forecast.

Q.283 - Okay. Are you going to provide any information on how you arrived at that forecast, or just the forecast?

MR. MAROIS: Well, we would -- like I said we would provide information as required to make certain that the forecast is understood.

MR. MACDOUGALL: Mr. Chairman, maybe if I could just interject. I think we understand that Mr. Stewart believes that there may not be enough information being filed. I think these questions have been asked and answered quite a bit now. We can get into every element and go through each one of these points as to what may or may not be filed. I believe the company's evidence is clear that on those items they will be filing with the

Board at that time what they think is appropriate. We can continue with this on all of these items, but I believe the point may be made.

CHAIRMAN: Mr. Stewart, you go ahead and ask the question you want.

Q.284 - Thank you. Short of these two annual filings, and I suppose we have already heard about sending the Board a copy of your rate rider if you reduce your target rates throughout the year. Is it your intention to file anything else with the Board during the development period?

MR. MAROIS: Well this deals with the rates --

Q.285 - Sorry, I should have added the -- I meant with respect to your rate -- rate methodology. I mean, quite frankly, the items that you have -- that's why I was going back to page 2, you know, those items you have identified there. Your capital structure, your return on equity, your rate methodology. Your charges for customer services. Your deferral accounts. So on those matters do you intend or is your proposal that for the course of the development period you just have these two filings with the Board on an annual basis?

MR. PLECKAITIS: That's what Mr. Marois said. And I guess I would reiterate to a point that we have made earlier. Is, first of all, there is uncertainly that still exists into

going out into the development period that that's the nature of the business that we are in.

There may be times that we may be required because of market needs to propose, for example, new services that would require us to provide that information to the Board.

So those are the sort of unknowns that at this stage we can't predict to what type of information we may need to file to the Board.

And as Mr. Marois indicated, it is very much our intention that we have an ongoing dialogue with the Board.

And if the Board seeks to and requests that we provide either the information that Mr. Marois has outlined either in a modified form or with more detail, that we would endeavour to do that. And we would have that ongoing process. So I don't think that anyone has said that that's all the information we intend to file. It's the basis -- the basic information we intend to file. And we will provide more as need -- as the needs arise.

Q.286 - My question is what are you asking the Board to do here? I appreciate that you are going to do whatever the Board tells you to do. And as new things come up you will file on these issues. But I'm trying to get a handle on - - you are asking the Board to approve a method of regulation going forward, and to establish your rates and your rate making methodology going forward throughout the

course of the development period. And I think you are right. The question was asked and answered to the extent that the information going to the Board will be these two files. And at least in your proposal nothing else.

MR. PLECKAITIS: That's correct. The basic proposal is as outlined in the discussion we just had.

Q.287 - All right. So what role do you see for your customers in this rate making process?

MR. PLECKAITIS: Well our customers, first of all, the first line of communication would be with ourselves. We see them as our customers. We would work directly with them. We would get input from them in terms of how the industry is developing. What they like or dislike about the services that we are offering.

For example, one of things that I think is of concern to a lot of customers is an understanding on how natural gas services will be provided. Who will provide them. How do they -- how do they bundle together in a simple fashion, the distribution rate with the commodity rate, with the backstopping rate, et cetera. How does that - how does that work?

We obviously will be very sensitive to understanding the customer's perspective on that. We will get it directly from customers through surveys and through individual discussions with customers. But we will also

get it through input from other marketers and other channel allies that will be dealing with those customers.

So the customer is fundamental to all of this. Because without the customer accepting our product in a positive way, we don't have a business.

Q.288 - I will accept your proposition the customer is fundamental. And I appreciate your comment is made in good faith. My question was what role does the customer have in this formal rate making process that you are proposing for the course of the development period?

MR. PLECKAITIS: The customer's input is provided through us into the rates that we design and the structures and mechanisms and services we provide to customers. We do those. We provide those services. We design the rates with the customer's needs foremost in mind.

Q.289 - Once these -- so the answer is no formal involvement in the rate making process going forward?

MR. PLECKAITIS: If you are asking does the customer intervene in a rate case? I'm not sure what your question is.

Q.290 - Well I'm asking you do you envision a role -- I'm sorry. I have asked the question three times now and I'm not so sure I got an answer.

I'm asking, you said that you are going to have a rate making mechanism based on two annual filings a year. And

I assume that you don't want full-blown rate hearings every year. I understand that. I'm asking for you -- where in that twice a year paper filing with the Board is there a role for your customers? Or where is that role in your proposal?

MR. PLECKAITIS: First of all, from a formal perspective, and subject to the lawyers telling me different, the customer directly has the ability, I assume, to write and to intervene and to seek direction or guidance from the Public Utilities Board as an intervener.

Q.291 - Okay. But if there is no hearing, what are they going to intervene in?

MR. PLECKAITIS: Well, I would presume that the regulator will be sensitive to customer issues that are brought to their attention. They will want to hear from the utility if there is an issue raised by a customer as to how do we -- how do we respond to that particular customer issue. How we respond and do we intend to respond to it in a certain fashion. I would expect that the Board would on an ongoing basis be very interested in hearing that and hearing how we are resolving those. My --

Q.292 - So if a customer complains --

MR. PLECKAITIS: Can I finish? Can I finish?

Q.293 - Well if the customer complains --

MR. PLECKAITIS: Can I finish the answer to that question?

Q.294 - -- then they will have access to your process?

MR. PLECKAITIS: If I can finish the answer to my question.

It is my experience dealing with the utility that the first objective of the utility will be the first line of dealing with its customers and to address those issues. So they do not have to make -- so the customer doesn't feel that their only redress to a concern is through the regulator. So again, I would still state that the formal -- and from a non-legal sense, the formal way that the customer is heard in the regulatory process is through ourselves, the regulated utility.

Q.295 - Do you oppose including in your mechanism something which would allow the public access or comment on -- the easy one is setting your target rates on an annual basis.

All right. You are setting your target rates on an annual basis. My understanding of your proposal is you make these -- you file your paper with the Board. There is no formal hearing. Is that correct?

MR. PLECKAITIS: That's correct.

Q.296 - And the Board approves your target rate and you go forward charging the target rate. Does Enbridge oppose in that mechanism an avenue -- a formal avenue to allow the public the ability to provide comments, not complaint based comments, but comment on the proposed target rates?

MR. PLECKAITIS: Nothing precludes a customer from first of

all commenting to us, or commenting formally to the Board on suggested changes to the way the utility is operating.

And I presume if those comments were passed on to the Board, the Board would need to determine what it wanted to do with those comments. It may choose to pass those comments on to us, and get our feedback as to whether we view the customer's point of view as being valid or invalid, and how we might propose to address it.

At that time once we respond, it would be the Board's determination of what further it wished to do with it.

Q.297 - As a customer how will I know that you are seeking to change your target rates before the Board under your proposal?

MR. PLECKAITIS: We -- I don't think we have discussed the process internally. It's possible that we -- that we might issue a notice in our bill. Bill inserts in advance to tell the customers that we are seeking a target rate adjustment for the following year.

It's possible that we might put a notice in the newspapers. We haven't really contemplated exactly how we would do that.

Q.298 - And if I am a customer and I get a notice in my bill, my Enbridge bill, your customer 45 days from now we are applying to raise your rates, or lower you rates, raise your -- change your rates, how do I have the ability to

assess that and to comment on that under your proposal?

MR. PLECKAITIS: Well you can comment to us as the utility.

First of all that would be one of the areas.

Q.299 - Okay.

MR. PLECKAITIS: And ultimately our --

Q.300 - But how do I know what -- I don't know on what basis or how my rate is being changed?

MR. PLECKAITIS: That's right.

Q.301 - So how can I comment?

MR. PLECKAITIS: Well, you can comment to us, because as the utility if we don't satisfy you as a customer that the rate we are charging is a fair and competitive rate, we are not going to have you as a customer for very long.

Q.302 - That's not quite so. Because if I have just converted my house and bought a new gas furnace and a new gas stove and a new gas everything, and you are the only gas distributor in town, I don't have any place to go, do I?

MR. PLECKAITIS: That's true. But as a customer if we dissatisfy you as a customer, I assume unless you are an unusual customer, which may be possible, that we are going to be dissatisfying other customers as well. And if the general view of customers is that we are not treating customers fairly. That we are adjusting rates arbitrarily. That our rates are no longer competitive to what was perceived to be our offering when that customer

originally converted, there is going to be a general view that gas is a bad thing. And we are not going to end up achieving the customer targets that we are seeking, which from a shareholder perspective is the wrong thing to do.

Q.303 - And wouldn't it be better off to avoid all of that by saying, for example, in my bill, Dear Customer, We are applying to change your rates. If you are really interested or concerned about how or why we are doing that, go down at the Public Utilities Board or give them a call at this 1-800 number and satisfy yourself whether you like it or not and tell them what you think about it?

MR. PLECKAITIS: Well I indicated that we have not concluded exactly how we might do that. We may put a notice in the bill advising customers that we are proposing on doing that. That the proposal is before -- will be filed before the regulator. And if you have comments, you can either call us directly or call the Board directly.

I don't want to presume right now what is the most appropriate course of action. What I'm trying to suggest, because you, through your line of questioning continually seem to suggest that there needs to be a thorough regulator review process of everything we do, that we are just starting up the business. And to enter into this thing to the point where we would have that type of regulator process on an ongoing basis would be

counterproductive to what we are trying to achieve.

Q.304 - See, with respect, Mr. Pleckaitis, I'm not suggesting at all that there be thorough complete full-blown hearing process. All I'm suggesting is that there be some mechanism to allow your customers to comment on these issues that affect them?

MR. PLECKAITIS: I think I have -- you know, it's not quite, with respect, what your questioning implies. I have suggested that our number one concern will be the customer. And I said to you that we intend to take our customers' views very much to heart. Because if we don't do that, we won't be in business. You were the one that kept saying but what about the formal process.

Q.305 - In your evidence there is a reference to an alternate dispute resolution mechanism that might be used if with some of these annual filings on some of these issues like deferral accounts, or target rates, or service charges might be used. Can you explain to me what that would be and how that might work?

A. There is -- there is different regulatory mechanisms for trying to simplify and streamline the regulatory process. One mechanism is one, I think, that we already have in place in this province and through the working group where the Board has instructed the working group to try to resolve differences and come up with a consensus

viewpoint on how the utility will operate. That is a mechanism that is an efficient mechanism.

There is, you know, there is other mechanisms that can be -- you know, that can happen in hearings. For example, if parties say, such as a marketer is concerned about the way a proposed target rate and a mechanism for perhaps implementing that target rate the -- rather than having a formal hearing, it's possible again that the -- that the interested parties could sit around with the utility and attempt to reach a compromise that would be acceptable to all parties.

Q.306 - Does your -- your request for light handed regulation during the development period, does that include a specific -- what is the right word -- exclusion of formal oral hearings?

MR. PLECKAITIS: No, it does not.

Q.307 - Does it include a specific exclusion of any particular mechanism, like paper hearings, oral hearings, electronic hearings, written submissions, anything of that nature?

A. No, it does not. The intention -- at the end of the day the Board has the final discretion, from my perspective. What we are clearly asking the Board, and what we believe the Province in terms of policy accepted when they accepted our proposal was a regime that generically is characterized as light handed regulation,

particularly during the development period of the natural gas industry. It seemed -- it seems from our perspective to be prudent. And based on the fact that the Province accepted that, the Province, from a policy perspective, also seemed to think that it was an appropriate way of going forward.

Q.308 - But it's not the Province's decision, it is this Board's decision, correct?

MR. PLECKAITIS: That's correct.

Q.309 - Could I refer you please to your response to Province of New Brunswick information request to you or interrogatory 2H?

CHAIRMAN: As in Henry?

MR. STEWART: As in Henry, Mr. Chairman.

Q.310 - It is page 3 of 4 in the response.

CHAIRMAN: I have lost you completely, frankly. H in my binder on interrogatories is Union of New Brunswick Indians.

MR. STEWART: No. I'm sorry. It is Province -- it is exhibit F, schedule 2, Province of New Brunswick. They broke them down to 2A, B, C, D. So it is 2H.

CHAIRMAN: I must say just for the future, if you have a publication that is 40 pages long or something or other and a response to an interrogatory, why it would be useful if there was some method of saying, this is the end of the

interrogatory.

MR. STEWART: Point taken, Mr. Chairman.

CHAIRMAN: Go ahead.

Q.311 - Gentlemen, this information request, as I understand it, is -- in essence the Province of New Brunswick asked you how are you suggesting your light handed regulatory framework would work if, heaven forbid, during the development period the gas market does not develop in the way we all hope it will.

And in response to that you indicated that the regulatory framework would not necessarily need to change, and that you have a couple of potential proposals.

One is that revenues generated for the provision of gas-supplied services may need to be regulated in the absence of competition.

Can you explain to me what you mean by that? I don't understand.

MR. PLECKAITIS: One of the concerns that we have entering the natural gas market in the province is the lack of any existing infrastructure to market natural gas commodity and other services to customers.

As you I'm sure appreciate right now, the utility is prevented from retailing natural gas itself directly. And the legislation is designed with the anticipation that marketers basically provide that service.

In the event that the market doesn't develop and we see that customers are not getting sufficient service or competition from the commodity perspective, we have left ourselves open, the opportunity to come back to the regulator to request that in fact we may ourselves have to offer commodities -- a commodity service to customers.

Q.312 - Ourselves being Enbridge Gas New Brunswick, the utility?

MR. PLECKAITIS: That's correct.

Q.313 - Okay. And are you suggesting that in such an eventuality that you wouldn't need to depart from light handed regulation, if you created a bundled utility?

MR. PLECKAITIS: I'm saying that we don't know -- we don't necessarily believe that it would require a departure. Certainly the request to move in that direction would require us to get approval from the regulator and perhaps from the government as well.

Q.314 - And at the very least, the determination of that issue as to whether the utility could sell the commodity would not be handled by a paper submission.

You wouldn't anticipate that that would be handled in a paper submission, like setting target rates or something like that?

MR. PLECKAITIS: Probably not. But again it would be up to the Board to determine what would be the appropriate

course.

Q.315 - Okay. And if you were changing to your role to actually offer the commodity for sale, what -- how would you propose that work, I guess is what I'm trying to say, in broad strokes?

MR. PLECKAITIS: Well, the situation that I envision -- again it's obviously a hypothetical one -- but would be one where customers are telling us that there is insufficient suppliers of commodity.

There could also -- that information could also be provided to us by channel partners for example. Companies that install gas equipment to customer's homes might say --

Q.316 - This is an Enbridge affiliated company?

MR. PLECKAITIS: No, no. This could be Dick's Heating, provides a service where they will go in and change out a customer's oil furnace and put in a gas furnace.

And they may say to us listen, we have a customer that is willing to convert to natural gas. We have your distribution rights. But unfortunately we are unable to get competitive pricing to bring to that customer for the commodity service that goes along with it.

Now in the event that we cannot attract sufficient marketers to provide that commodity service in a competitive fashion, one alternative available to us is

for the utility to provide that as -- not as a supplier of last resort service but as an alternate service that the customers may choose to enter into.

And again my understanding of -- if we decided that that was an appropriate direction to go in because of the lack of competition, my understanding is that it would require a legislative change.

So we would likely have to work with both the regulator and the government to facilitate the change in the legislation required.

Q.317 - Right. So not only would it not be light handed regulation, it would require a formal regulation change?

MR. PLECKAITIS: Well, I think the reason we are at maybe cross-purposes here, I'm suggesting that the entire process of regulating the utility be -- after that decision has been made, would not necessarily require a redefinition of light handed regulation.

The process of having that material changed to the legislation by itself is a significant event, which my understanding would require a legislative change.

Q.318 - You go on in your response, as an alternate proposal in the circumstance, EGNB suggests it be allowed to cooperate with an affiliate in an "unencumbered fashion".

Can you explain to me what you meant by that?

MR. PLECKAITIS: Another possible course of action would

be

for us to work with an affiliate. In other words not prevent Enbridge, because of the fact that Enbridge has an affiliate from providing any type of leads to that company or preventing us from working for that company, so that company could attract customers.

Q.319 - So in other words remove all the other rules which are in place with respect to -- like for example now, now you are perfectly free to establish and operate a marketing affiliate if you chose.

I mean, we had a big debate about that last hearing, about whether you can use the logo. So you are in a position to do that now. What -- subject to certain rules and Board orders about how you are allowed to do that.

Does "unencumbered fashion" mean you would suggest going forward with the removal of those rules?

MR. PLECKAITIS: No. I'm not suggesting that. I mean, the way I understand it the rules are in place that would prevent the utility from discriminating against other marketers to the benefit of its affiliate. And I would see -- I would see no reason to change those rules.

You are attempting to get me to try to project into the future what circumstances -- how the circumstances might be different in the future with this lack of competition and what we might do.

I think that if we were to propose any changing to

those existing rules, we would make it at the time that we were proposing to make the changes to -- or recommended changes to the legislation. But I don't see doing that.

The whole purpose here was to try to articulate a situation where we need to do something to increase the competition in the marketplace.

And we have expressed two possible ways that that could happen. One is the utility offering the commodity services themselves. Another one is through an affiliate.

But there are no immediate plans to bring the affiliate into New Brunswick to begin offering commodity services.

Q.320 - What threshold would you be considering here before you would turn to one of these two options? How uncompetitive would the market have to be?

MR. PLECKAITIS: Well, I think if we only had one marketer for example, I think that would be a significant concern to us. And we would have to look at on a market segment by market segment basis.

So for example, from what I see right now, there seems to be sufficient competition that will be gained or operating within the larger customer segments.

So I'm not concerned that there will be adequate competition to commercial and business customers, other than the small commercial customers and the residential

customer.

At this particular time the only company that I'm aware of that has actively indicated that they will be pursuing that market is Irving Oil.

And, you know, obviously we continue to have concerns today because of Irving Oil being in the position where it is the provider of service to those customers that are oil customers that we intend to convert to natural gas.

And I think -- or from an Irving Oil perspective my concern would be, you know, they win one way, they lose the other way. The question is what is their true motivation? So if there was only one marketer in the residential sector, that being Irving Oil, I would be concerned.

And we would be seeking to address that through some means, either by attracting other marketers, independent marketers to come into the business, up to doing some of the things that we spoke about in this interrogatory.

Q.321 - So if there was only one marketer, say Irving Oil, you might seek to be able to deal with a marketing affiliate in an unencumbered basis?

MR. PLECKAITIS: I think I already answered the question, that I see the rules that have currently been established through the marketers' hearing that govern the relationship between the utility and its affiliate as

being fair rules and reasonable rules.

In the hypothetical situation I described, that we were really concerned that there was a need to bring our affiliate into the marketplace. You know, there may be some other requirements that we may request.

But again obviously those would not be done behind closed doors. They would be done in an open forum, certainly if there was legislative requirement, changes.

And I would expect if there were any changes to the marketers' code of conduct, it would be done in a public forum in front of the Public Utilities Board.

Q.322 - Do you have any concerns about how potential marketers might view your position in this regard, in terms of whether it is worth entering the market if it is not sufficiently competitive, the utility is going to seek to compete against me?

MR. PLECKAITIS: The intention of the utility is not to compete against the marketers. The -- I personally, and the company I believe, is supportive of the unbundled market that the government legislation created.

However, we stated in our proposal and we are restating here that the -- getting to that end state may require the utility's involvement in different ways, but not to the point where it in some way undermines the development of the marketplace to stand alone in itself on

a competitive basis.

Therefore my preference would be to attract other marketers, not just potentially the affiliate marketers but other marketers rather than providing that service from within the utility.

Q.323 - But you won't -- today you want to keep that option open. You are not going to preclude --

MR. PLECKAITIS: Yes.

Q.324 - -- that? All right. A couple of questions on this issue of reconstituting Enbridge Gas New Brunswick as a limited partnership. And actually it has come up already. We were talking about changing your fiscal year.

In your evidence you say work is under way to reconstitute EGNB as a limited partnership. When will that occur? Or has it been finally determined that that will occur?

MR. LUISON: We have created the limited partnership vehicle. And those documents were released to potential investors the last week of March. So we are proceeding on that basis as we speak.

Q.325 - Okay. Is there any -- will it require a change in your franchise agreement or an assignment of your franchise agreement?

MR. LUISON: The general partner in the limited partnership is Enbridge Gas New Brunswick Inc. And it was Enbridge

Gas New Brunswick Inc. that was awarded the franchise.

But that said, counsel advises me that we will have to file for some changes in that regard.

Q.326 - Will that matter come before this Board?

MR. LUISON: I think that's a question for counsel. I'm not sure where that gets addressed.

MR. MACDOUGALL: It is in the Act, that is the case. And we have answered an IR to that effect already.

Q.327 - And is it fair to say that this reconstituting as a limited partnership is because as I understand your response is to your information request, it is driven in large measure because there are tax advantages for doing it that way?

MR. LUISON: Yes.

Q.328 - And I have already professed that I am no accountant, so you will bear with me, but my understanding is that if Enbridge Gas New Brunswick is a corporation it can -- its taxable income, for lack of a better word, is established sort of on -- I guess on an annual basis and if there are losses there are some tax rules which allow you to carry those losses forward in the next proceeding few years. We talked about that in terms of reducing your deficiency in projected year 1, 2 and 3, is that correct?

MR. LUISON: Yes.

Q.329 - Okay. But a corporation or a business corporation

like Enbridge Gas New Brunswick Inc. as it currently exists can only take advantage of those -- or the tax advantage of those losses to the extent that it has income, is that correct?

MR. LUISON: Yes.

Q.330 - Or to the extent that it has taxable income, profits as it were, is that correct?

MR. LUISON: Right, yes.

Q.331 - And as we have talked about at some length here today, the likelihood is that Enbridge Gas New Brunswick at least during the development period will have revenues which fall well short of its revenue requirement or short of its revenue requirement, is that correct?

MR. LUISON: Yes.

Q.332 - So it will have business losses --

MR. LUISON: Yes.

Q.333 - -- projected likely forward through the duration of the development period?

MR. LUISON: By virtue of the fact that we are accumulating amounts and this is a deferral account, by definition it means we are not collecting as much revenue as we need to keep us whole.

Q.334 - Right on. That is why I think I can talk about this even though I am not an accountant because even I can understand that. And those amounts will be sort of -- be

captured over in a deferral account and as we talked about earlier at some point when the scales tip the other way, they will be brought back into your expenses and you will pay them off, is that correct?

MR. LUISON: Yes.

Q.335 - All right. But if Enbridge Gas New Brunswick is

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MR. LUISON: Yes. The partnership by definition isn't a taxable entity, so those will flow to the investors.

Q.336 - Right. And to the extent that -- for example my law partnership, the various partners pay their income tax,

they have a certain amount of the expenses and the revenue allocated to them, and based on my personal circumstances I pay taxes or don't, depending on how I am, is that right?

MR. LUISON: Yes.

Q.337 - Okay. So if I -- as a partner if I have business income -- like let's say for example let's use myself, if I have a vegetable stand that is profitable but I have losses from my law partnership income, I can use those losses to offset my other business gain, can I not?

MR. LUISON: Generally speaking that's true. I am not a tax

expert but generally that's the way it works as I understand it.

Q.338 - Right. And that will equally be true for the partners in the Enbridge limited partnership?

MR. LUISON: Yes. They will be able to use those losses to offset --

Q.339 - To help reduce the taxes the various member partners might otherwise have to be able to pay?

MR. LUISON: Yes.

Q.340 - And therefore have tax savings?

MR. LUISON: Yes.

Q.341 - But those losses still are accruing in the deferral account and will be paid in full by the ratepayers eventually, isn't that correct?

MR. MAROIS: Maybe before we get too far in this line of questioning I should just correct one thing that you have alluded to, is it's not because the company is accruing an amount in the deferral account that it's incurring a loss --

Q.342 - Oh, I understand that.

MR. MAROIS: -- because we have filed an exhibit, and it's exhibit E, schedule 81, at the request of the Board, which shows Board staff and which shows the taxable income. And I don't know if anybody would want to look at that exhibit, but on line 22 there are no years where the

taxable income is negative. So the company even though it is not recovering its full cost of service is not necessarily incurring a loss, and especially not necessarily in terms of taxation. So I just wanted to correct -- maybe it doesn't change your line of questioning but I just felt it was important to restate the facts.

Q.343 - All right. But if the Enbridge Gas New Brunswick entity limited partnership has losses, the member partners can use that to offset their taxable income, that's right.

I think I asked that question already and you told me yes. So those tax savings that the member partners get in that scenario, are they in any way used to reduce the deferral account or taken into account in your rate setting mechanism?

MR. LUISON: I think the simplest way to address this issue and maybe bring some -- hopefully some insight into this issue, is that the limited partnership arrangement as we have put it in place -- there is no doubt we have put it in place because we think it is a more attractive arrangement to investors. We have stated from day one that we are interested in having participation from investors from the province and we have put in place a vehicle that we think makes this opportunity somewhat more attractive and hopefully will attract participation by

investors from the province.

All of that being said, what is accruing to investors ultimately is what comes out of the limited partnership, part of which will be attributable to what happens with the utility and part of which won't. There are other things that happen within the limited partnership arrangement that have nothing to do with the utility.

We have proposed from the utility perspective this be treated as if it were a corporation because that allows us to isolate the utility on the fairest basis and not complicate or bring into consideration other things that have nothing to do with the operations of the utility.

So we are proposing a tax arrangement here that keeps -- that treats customers fairly in that there is nothing else clouding the issue but strictly the operations of the utility.

Q.344 - My question is simply this. To the extent there are any, will the tax savings that the member partners have or achieve be in any way reflected in the operation, rate setting or deferral accounts of Enbridge Gas New Brunswick?

MR. LUISON: I think what I have just said is that there are no issues relating to the investors per se that impinge upon the treatment of taxes within the utility.

Q.345 - All right.

MR. MAROIS: I think the way to look at it is maybe here in New Brunswick it is a bit different because we are just starting up, but in other jurisdictions that this has occurred and typically the distributor in other jurisdictions it's been a corporation and sometimes it's been transferred into a partnership. What those jurisdictions have done is continued to deem income taxes under -- assuming that the utility continued as a corporation, so that keeps the customer whole, the customer is not worse off or better off as it was before the change into a partnership. This is the principle that has been adopted in Quebec for example for Gas Metropolitan, it's the exact same situation as here.

And I think deemed taxes is quite common because in many jurisdictions when you have a utility that carries on both regulated and non regulated activities the Board in those jurisdictions adopt a deemed capital structure. Well as soon as you have a deemed capital structure you have deemed income taxes because the interest is deemed, the interest is a regulatory interest. So the notion of deemed taxes is not something new and almost the identical concept has been approved in Quebec for Gas Metropolitan.

Q.346 - Right. But in those other -- in Gas Metropolitan you will agree with me is a well established utility operating within traditional parameters?

MR. MAROIS: Well honestly I don't see what it has to do here because here we have demonstrated for example the tax advantage we would get, the tax shield we would get from the start-up costs, the customers will benefit from that. If Enbridge Gas New Brunswick is a corporation or a partnership that won't change anything.

Q.347 - But the partners will get tax savings potentially.

MR. MAROIS: Remember that the corporate tax rate is higher -- the personal tax rate is higher than the corporate tax rate. So if you look at it just from a tax rate perspective, it will be more expensive if you look at it from an individual point of view.

Q.348 - Right, but the partners don't have to be individuals, do they?

MR. MAROIS: No.

MR. LUISON: There are certainly partners that aren't individuals and there are others that are, but again it is irrelevant for these purposes. When we prepared the proposal last year we prepared it on the basis that this was a corporation. We have updated the filing to some extent and appraised the Board that we are going to a limited partnership arrangement but that it has done nothing in terms of affecting the tax treatment with respect to what will be included in the utility. The customers are being treated fairly.

Q.349 - Have you provided the Board with any comparison of tax treatment in terms of how it might work if it is considered a limited partnership and how it might work if it is considered a corporation?

MR. LUISON: We are only proposing that it be treated as if it was a corporation. We have no ability to know the taxable position of any potential investor and frankly we don't care, that is their own arrangements, and we will treat the utility on a stand alone basis, on a fair basis.

Q.350 - And your utility might be most attractive to an investor who potentially had some taxable -- tax liabilities they want to reduce?

MR. LUISON: That's up for an individual investor to consider.

MR. STEWART: Mr. Chairman, those are my questions for this panel. Thank you.

CHAIRMAN: We will take an eight minute recess.

(Recess)

CHAIRMAN: It is my understanding that Sempra has no questions?

MR. ZED: Not of this panel, Mr. Chairman. That is correct.

CHAIRMAN: My apologies, Mr. Zed, I put Sempra in the one on in my filing system the wrong way. That is your B, guess. Exhibit B something or other. Do you mind if I leave you there? Good.

MR. ZED: No, not at all, Mr. Chairman.

CHAIRMAN: There are two other Intervenors left and then Board. And probably we will start tomorrow morning with Board.

Have counsel for the remaining two intervenors decided who is going first? I mean I stood out there and thought about admissions to the Bar and age and all that sort of thing. And I thought I am not going to do that.

Who wishes to go first?

MS. ABOUCHAR: Mr. Chair, I am going to go first.

CHAIRMAN: All right. Would you like to come up to the front table then, Ms. Abouchar.

CROSS-EXAMINATION BY MS. ABOUCHAR:

Q.351 - Mr. Chair, just a comment before I begin. Oh, I am sorry. I will be brief. I just have a few very short questions for this panel.

My first question deals with the representation of the Union of New Brunswick Indians.

Mr. Pleckaitis, would you agree that the UNBI represents the majority of aboriginal people living on reserves in New Brunswick?

MR. PLECKAITIS: Yes, I do.

Q.352 - In the Enbridge Gas New Brunswick response to the UNBI interrogatory 9, it is stated that the company, Enbridge Gas New Brunswick is committed to work closely

with First

Nations to help ensure that the direct and indirect benefits of natural gas flow to Aboriginal people.

In the response to the UNBI's fifth interrogatory, you mention that ongoing discussions with UNBI regarding an agreement are taking place.

Is it your intention to enter an agreement with the Union of New Brunswick Indians to provide significant benefits to First Nations People?

MR. PLECKAITIS: We are working with UNBI representatives to enter into a protocol or an agreement as to how we will ensure that benefits are maximized to Union -- New Brunswick Indian constituents.

Q.353 - And Mr. Pleckaitis, would you -- would these benefits be significant benefits -- in terms of significant, I guess I mean would they be meaningful long term benefits for the community?

MR. PLECKAITIS: Yes, I believe they are.

Q.354 - And Mr. Pleckaitis, would you agree with the principle that the cost for negotiating and implementing that type of an agreement that provides benefits to First Nation should be included in the rate base?

MR. PLECKAITIS: Reasonable cost, yes.

Q.355 - Well my question was --

MR. PLECKAITIS: I added the word reasonable.

Q.356 - No, I understand that. Lawyers love the word

reasonable. But my question was whether -- so in your view then, are there certain costs that would be appropriate and others that would not be appropriate?

MR. PLECKAITIS: Yes.

Q.357 - And can you -- on what basis do you make that judgment?

MR. PLECKAITIS: Well it's a judgmental one, obviously. And maybe for the information of the Board, we have been having ongoing discussions with both the Union of New Brunswick Indians, but also with another significant representative group, the Mawiw, over the last I think four months thereabouts. And I generally believe those discussions have proceeded positively, though more slowly than I think both sides would have hoped.

Throughout the process, we have been careful to ensure that we don't over promise and under deliver in terms of what it is we can do.

We have indicated that in order to be -- in order to maximize the benefits of the natural gas industry that we are party to, it requires both ourselves, but also the First Nations groups to work together. Both groups -- both groups need to belly up to the bar, so to speak, to ensure that the benefits are realized.

And, you know, there are certain things that one party might ask for, First Nations or Mawiw that we would

consider to be excessive in terms of the cost in relation to the benefit that's derived.

Q.358 - Let me clarify my question then. Would you agree that the agreed cost for negotiating and implementing the agreement -- the cost that you agreed between the two -- the two groups should be included in the rate base?

MR. PLECKAITIS: Yes.

MS. ABOUCHAR: Those are my questions.

CHAIRMAN: Thank you. Mr. Holbrook. Marico. You haven't lost my interrogs. have you?

MR. HOLBROOK: I have not.

CHAIRMAN: Oh, good.

CROSS-EXAMINATION BY MR. HOLBROOK:

MR. HOLBROOK: Holding it for safekeeping just in case.

Good afternoon, Mr. Chairman and members of the Board, I am Dennis Holbrook representing Marico Oil & Gas. Good afternoon also to the members of the Enbridge panel of witnesses.

I think I will state at the outset that given the lateness of the hour, I want to reassure the group here that I may take a few more moments than the Indians, but I have definitely targeted less time than Irving utilized today.

And I guess that probably sort of sets the tone for what I would like to address with the panel.

- cross by Mr. Holbrook - 202 -Targets are important in the sense of indication of where you intend to go or at least would like to go. Where you actually go with that obviously is affected by a number of factors and there have been a number questions today in that regard.

My client's concern relates to again what has been discussed at great length today, the development period and specifically what to anticipate both during the development period and then post development period.

Perhaps just to give you a point of reference, if you go to the testimony on page 9, there a couple of statements in there I would just like to ask you some questions about. This is exhibit A. And I will just address this to the panel and leave it to whoever would like to address it back.

There is a statement in there, in other words faced with having to develop low market-based rates for certain classes of customers in order to compete, EGNB would pursue adopting market-based rates for other classes that recover more of a classes cost of service.

I have listened intently to a lengthy review that Irving conducted which I think will help shorten significantly my questions. But I do need some clarification perhaps in terms of what exactly was intended by that statement.

MR. MAROIS: I can take a crack at it. Well, the quote you have just read I think has to be put in context. And the context is the beginning of that quote.

What we have indicated is that target rates will be capped at cost of service. So cost of service represents a ceiling or a cap but on an aggregate basis.

So in other words if you take all the rates, multiply by the volumes for each rate class in aggregate, that will not exceed the company's cost of service.

But it is not impossible, in any given year, that the rates for a given class exceed that class' cost of service.

And one of the reasons why we are proposing to cap the rates on an aggregate basis is during the development period a cost allocation study has limited value. Because the assets you are putting in the ground are there for the long term. And you have very limited customers. So trying to determine the cost for each class is really not appropriate.

So at the end of the day, as long as the target rates are competitive compared to alternate fuels, it is possible that the rates may exceed that class' cost of service.

Q.359 - Stated differently, is that to indicate that if one class of customer, for whatever reason -- maybe it is

because they have already incurred a significant investment and facilities and therefore don't have the same options to swing back and forth to an alternate fuel, that that customer would be less capable of avoiding the system and therefore would be more susceptible to a higher cost of service effectively being picked up by that customer class?

MR. MAROIS: No. I think it has nothing to do with -- if I understand your question correctly, it has nothing to do with the investment the customer has to make in order to use natural gas.

If you look at the way we set our target rates, they are market-based rates. And our target is to have those rates represent a certain percentage advantage compared to the closest alternate fuel.

So if you look at the residential market for an example, what we are saying is we will try to keep our target rates at approximately 30 percent less than heating oil.

But that being said, it is not impossible that even with a 30 percent price advantage, it is possible that our target rates may be higher than our cost of service for that rate class.

Q.360 - Okay.

MR. MAROIS: Because the price advantage is so big vis-a-

vis

the alternate fuel. So it's our cost of service.

Q.361 - Well, let me go on to another question then. And perhaps we can get a little bit more firmness on this point.

You also have a statement in there, just further down again on that same page, to the effect that "It is important to recognize that the company has limited ability to influence overall delivery cost." And then it goes on from there.

MR. MAROIS: You want to understand what we are saying there? Well --

Q.362 - I think it relates to what we are talking about here.

MR. MAROIS: The way we set our target rates is we are trying to aim -- I will use the residential market as the example. When I say we are trying to aim at a 30 percent advantage vis-a-vis heating oil, that's at the burner tip.

So as you know, the gas -- the ultimate burner tip gas price has numerous components. So we see ourselves as the residue when we do this exercise. But there is a limit to how much we can squeeze out of the residual.

So it's -- and we were asked this question by I believe the Province, would we go as far as for example having a negative rate to try to maintain let's say the 30 percent?

And the answer is no. We have a limit to how much we

can absorb. Because we are just one of the components. So that's why it's so important.

That's why we made the statement, that it's important that we operate in a competitive market to make certain that some of the elements such as the commodity is really set at market prices.

Q.363 - When you make the statement that it is important to recognize that you have limited ability to control the delivery cost, that is probably a fair statement.

What you are pointing out, as I understand it, is you are one component among the various components that go into the delivery cost. Is that a fair characterization?

MR. MAROIS: Yes.

Q.364 - Would it be equally true that the supplier would also be able to make that same statement, as a practical matter, that they ultimately don't control the delivery cost either?

MR. MAROIS: Yes. And that highlights the fact that we all need to work together to make certain this market works, that everybody has to put their elbow on the wheel.

Q.365 - Part of what I'm trying to address with you now, the questions both on the earlier quoted statement and then the statement we are dealing with right now, is that we are dealing with ultimately a market in a netback concept. And you are adjusting rates, as I understand it, from

time

to time to reflect your assessment of what that market may be.

But a concern that I'm trying to bring to your attention here is the question of ultimately what factor goes into how you determine how much of that market you acquire as opposed to how much the supplier may be allowed to achieve as a return.

In other words ultimately there is a total delivered cost. And I appreciate that one form of competition is the alternate fuel.

But the other question, as I understand it, is what component does Enbridge take out of the package from time to time? And what is left to the supplier?

MR. MAROIS: I'm not 100 percent certain that I understand your question. But the way I see this is all the players in the natural gas industry have to be seen as partners.

And we all have the same goal at the end of the day. Naturally each one would like to increase -- maximize their margin. But there is no margin to be made if you don't have any customers.

So hopefully we will be discussing on a regular basis with marketers, with other service providers to ensure that everybody is bringing to the table optimal prices so that we do get the customers.

MR. PLECKAITIS: If I can elaborate on that as well. And it

gets to the competition issue that I was asked about two counsels ago.

In rough numbers, percentages, our distribution cost is approximately 50 percent of the burner tip price. So in rough numbers let's assume that the burner tip price was 40 cents per cubic meter. Our distribution price is 20 cents per cubic meter.

The concern we would have in a noncompetitive market - - and this is the one that I think you are asking but Rock is trying to -- or Mr. Marois is trying to address in terms of we need to be watching the market very carefully as -- if there was only one supplier into the market for the commodity portion, potentially that supplier could sit back, and in the event that we say don't maintain the 30 percent price advantage that we are seeking at the burner tip, wait for the utility to simply drop its price to the distribution portion, with no objective to sort of sharing the objective of building the market.

And in a situation where there was -- and potentially where that single supplier was motivated perhaps -- and I'm using without any disrespect intended to Irving Oil, but I was trying to use that as a tangible example -- where Irving Oil potentially could sit back and -- they already have the oil customers.

In theory they are making profit from those oil

customers. There is no immediate incentive for them for example to undercut or be really tight on their margin of the commodity price. Because they still have those customers as oil customers.

So using that as an example however, if there is other companies in the business of providing the commodity, their objective is to attract customers.

And they will generally do whatever is necessary to the point -- up to the point of losing money, of attracting those customers, including reducing their price and their margin to ensure that customers are attached.

It's that type of environment that we want to create, to ensure that everybody has -- takes a stake in developing the marketplace. That's true in terms of the marketers in the business. It's also true in terms of the commodity suppliers.

As we have expressed to Marico on numerous occasions, we like the idea of having gas on gas competition, gas competing from Sable Island competing with indigenous gas in New Brunswick or even gas coming up potentially from the United States. The more competition there is, the lower the price of the gas is, the better it is to us and ultimately to the end use customer.

Q.366 - Right. I think what you fairly observed is that it cuts both ways. The concern that Enbridge would have

about a single supplier trying to cut into what you would otherwise reasonably expect as your margins could equally be a concern of a supplier if you had a dominant situation with the distributor in a manner that the supplier was somewhat captive. So I mean I think that is a fair observation, that it can cut both ways.

While we are on the subject of competition, there is another statement in there that --

MR. PLECKAITIS: Could I just --

MR. HOLBROOK: Go ahead.

MR. PLECKAITIS: One slight I think variation to the situation you have described from the one I have described. Right now the producers and the marketers are not regulated.

In the situation we have as a distributor is that we are regulated. And so there is a rectifying or correcting force where there is a single supplier, as you have termed it.

The way that the regulatory construct is established is in the absence of competition, the regulator is a surrogate for competition to ensure that fair prices are charged, fair and reasonable.

Q.367 - Fair enough. I think that in a circumstance where rates are actually set, that is a fair observation.

But in a circumstance where you are allowed extensive

flexibility in terms of target rates versus rates that you ultimately are allowed to flex to, would you not agree at least that there is more potential there, particularly in this early developmental stage, for potential manipulation?

I realize -- I'm not suggesting that is your intent.

MR. PLECKAITIS: Well, again what I'm suggesting -- I understand your position is as a supplier, would Marico be disadvantaged by -- somehow by this use of target rates and the structure we are proposing?

I would say no. Because first of all every year the Board has the right to approve or disprove our target rates.

Number two is our ability to adjust rates is only downwards from that. So if we reduce our transmission rates, our target rates, in theory it proves the ability of your product to get to market.

Q.368 - Okay. I would concede that with the exception that in a circumstance where you have the ability to collect the shortfall in deferral accounts and subsequently bill that, if I -- and this is the hypothetical that I'm concerned about -- if I extend significant dollars out to build, through drilling programs and gathering systems, facilities based upon an expectation of a certain rate treatment from Enbridge, then I have a question about the

immediate as well as a question about what happens after the developmental period. Maybe you can address that?

MR. PLECKAITIS: Well, I guess it's a question that wasn't -
- didn't specifically come up in the earlier cross examination.

But I think it's important that the Board understand that, from an investor's perspective or shareholder's perspective, we were absolutely incented to minimize the size of that deferral account.

The last thing we wanted to do is see that deferral account grow. And the reason is it's risk. The more -- the larger that pool of money is sitting there in a deferral account, the higher the risk and the discomfort we have as a company and our investors have on whether that amount will ever be recovered.

So I haven't directly answered your question other than to say that we are also incented to minimize the size of that deferral account, purely from the point of view of risk.

Q.369 - And I can appreciate the risk element of that. But is it fair to observe that to a certain degree the developmental rate structure during the developmental period performed the role of a loss leader, that they are designed to compete with the alternate fuels and give the customer the incentive to incur what can be significant

conversion costs?

MR. PLECKAITIS: No. That is -- that is not correct. The target rates that we have established, we believe, are sustainable in the long term or the long run.

The price advantages that we have forecast, the 30 percent price advantage for example against home heating oil, the 50 to 60 percent price advantage that we see for example against propane in the home sector, are long-term sustainable price advantages that we believe natural gas will see.

So if you are suggesting that what we are doing is in fact subsidize -- putting in a subsidized rate with the objective that once customers switch we will simply increase the cost to a level where that 30 percent for example is not maintained, that's not correct.

The fact is the reason we have the deferral account is that we have very few customers in the initial years and very high investments in the initial years.

But long run, when the volumes increase, customer volumes increase. The unit fixed costs per customer also decrease, going in the opposite direction. And we can sustain that target rate in the long run.

Q.370 - Just ballpark, what do you anticipate right now the rate say for the large volume class to be the difference between your developmental rate as proposed and what the

actual rate would be if you were reflecting the true cost?

If you can say.

MR. PLECKAITIS: Well they are the same, are they not?

MR. HARRINGTON: Well let me answer.

Q.371 - Certainly.

MR. PLECKAITIS: Can we just talk off for a second?

Q.372 - Certainly.

(Off the record)

MR. HARRINGTON: I believe the question was where would our market based rates be compared to what the rates would be post development period.

And what we expect is that the rates beyond the development period would actually be less than those that we will be having in the development period.

As we move over to cost of service, and we are allocating cost to rate classes, we expect those rates to be less than those rates that would be directly competitive with the market prices of competitive fuel.

Q.373 - Your expectation is over time that you are going to, as Mr. Pleckaitis pointed out, Mr. Pleckaitis, that you will overcome the shortfall in terms of throughput now and then the initial fixed cost investment?

MR. HARRINGTON: Absolutely.

MR. MACLURE: We do have a graph that may be useful to pass around that basically shows how that relationship -- we

expect that relationship to work over time. It just shows how it -- how we expect the market base to be below cost of service.

MR. MACDOUGALL: Mr. Chair, if you would like to give that document, we can give it to the Board secretary and give it the next exhibit number.

CHAIRMAN: Mr. MacDougall, how would you describe that?

MR. MACDOUGALL: It would be deficiency deferral chart.

CHAIRMAN: That's A-12.

MR. MACDOUGALL: A-12, Mr. Chair?

CHAIRMAN: A-12.

MR. MACDOUGALL: Thank you.

MR. MACLURE: Yes, just for point of --

CHAIRMAN: Well by the time the hearing is over we will have this right down pat.

MR. MACLURE: Just I think what I will do is quickly try and describe what it is. Of course, you have years going across the bottom. Revenue going up on the -- across the side. The red line, the solid red line is the -- is a forecast -- forecast of the cost of service, with the deferral adjustments. The green line is the actual cost of service that we are forecasting. And then the dotted line is the market-based revenue, what would be produced by continuing to maintain the market-based proposal of the 30 percent to 15 percent and the five percent that is

underlined in the proposal.

So as you get beyond what is really out here, the eighth year, you begin to see that the cost of service is below market-based revenues that would be required. And including the deferral recovery, that is also below the market -- what would be achievable through their normal market-based revenue.

One other point, Mr. Holbrook, that may be of interest in terms of your earlier comment with respect to the captive customers and this being a kind of a lost leader kind of mechanism, one of the things particularly in the larger market sectors that we are going to need to encourage is customers who maintain dual fuel capability. And as a consequence of that, those customers certainly will never be captive, because they will always have the opportunity of going back to their alternate fuel. That's going to be an important aspect in this -- the development of this market for load balancing purposes.

One other aspect is a very significant part of the New Brunswick market is electric baseboard heating. And we do have an expectation that we will be able to attach some of that in less traditional form of conversion. Once attached that market also will likely maintain baseboard heaters and can always -- it's almost like having dual-fueled residential customers.

So there is certainly large segments of the market that will not be captive to natural gas on an ongoing basis.

Q.374 - Obviously, the concern about my cross-examination raising any surprise questions was fully anticipated. So I appreciate the chart.

The concern that I express, I should clarify it for you and give you a chance to respond, I appreciate that large volume customers very likely will be dual fuel. Obviously the smaller volume customers presumably will not.

But the unique perspective that my clients bring to the table as producers relate more to what is analogous, I suppose, to the customer who makes a significant investment in facilities on the expectation of services from the distributor, in this case Enbridge, if it elects to go through Enbridge's system and plans accordingly.

And so it is very much affected by both what are projected as rates and also what ultimately become the rates.

So in some ways, I would like your response on this, but in some ways from our perspective, we are more similar to that captive customer, albeit that we may be dealing with larger volumes than the small consumer who

doesn't have choices..

MR. PLECKAITIS: Mr. Holbrook, as I stated earlier, I think again there are mechanisms in place that would ensure that price abuse does not take place. Certainly, the Regulator being the primary means.

But in terms of your client's relative competitive position to other producers, Sable Island producers, for example, would be charged the same amount to access our distribution grid as your client would, from a point of view of distribution.

So there is not any form of discrimination. If prices increase for whatever reason to our distribution costs, they would increase equally for you, for your client, as they would for Sable Island.

So from a relative point of view, there would be no change in circumstances, which you are forecasting.

Q.375 - I appreciate that. I think from our perspective though, as you have heard us discuss often now, the economics may be different for the New Brunswick producer, as compared with the Sable Island producer, whose economics perhaps were already developed based upon anticipation of transportation through Maritimes Northeast and possibly to the south.

So I appreciate what you are saying as far as the fact that it applies equally. It still gets us back to the question about predictability for the economics under

which the wells are drilled.

It leads me to a question of have you given any thought to a concept of having a rate for indigenous production within the province, that might create some incentive for that gas supply to be developed within the province? And do you see any advantages to you of having indigenous gas supply?

MR. PLECKAITIS: First of all, do we see advantages of having competing gas supply? Yes, we do. And as you know, and we have had discussions with yourself and your clients in terms of coming up or seeing if we could come up with a mechanism that would allow us to help build a transportation facility to transport your gas from the production fields to our distribution grid.

Our position to date has been one that we had first of all not filed that with -- in this proceeding because at the time we prepared these rates, there really wasn't a customer that was actively pursuing such a rate.

You were the first customer that has come to us -- potential customer and said can we come up with a proposal that would allow us to transport your gas effectively to market.

Our position to date has been that we are trying to accomplish that. And as you know, we are working with your client to see if we can come to a -- a concept, a

project concept, and then an appropriate fee structure that meets both of our needs. Your client's needs and our needs.

We have taken the position in those discussions that we believe that it's important that the cost of providing that service be fairly reflected in the rates charged to your client. And to the degree that there are benefits to gas customers on our system, we are prepared to reflect those benefits in the cost structure that we would put forward to this Board for approval.

But that we are not in a position to -- if you want to call subsidize that transportation rate to the detriment of other gas users on our system.

Q.376 - Fair enough. I would clarify if there is any confusion on that point, I don't believe producers are looking for a subsidy, but they do believe that bring some unique value to the table. Particularly, with the opportunity to have a local supply source.

So to the extent that that can be factored in, then we believe that there should be proper incentive for an incentive rate.

Just you mentioned earlier that you referred to competition, and specifically the statement on page 9 was, Enbridge proposed regulatory framework implicitly assumes that there will be a competitive market for the supply of

natural gas. You have requested flexibility, as has been discussed at length here today to react to that market and to that competition.

I believe I heard earlier that you addressed competition both in the form of alternate fuel supply, as well as competition would also -- could come from indigenous production. Is that a fair statement?

MR. PLECKAITIS: Yes.

Q.377 - Could you elaborate in terms of what form that you see the competition that could take place in the form of competition from local producers?

MR. PLECKAITIS: Well I think it's -- if there are multiple producers trying to access the same market or similar markets, the tendency will be for those producers to come up with innovative pricing mechanisms and contractual arrangements that will attract customers to sign with them, as opposed to the competing producer.

The specifics of it, I don't -- I wouldn't know. All I know is my personal experience is the more suppliers there are in a market, the more attractive it is from a customer perspective. And from our perspective that's good. If we have competition amongst gas producers, it creates gas on gas competition, which reduces prices and increases contract and arrangement flexibility.

Q.378 - Right. That's a form of supply competition that you

allude to. There also, is there not, competition that local producers can present to the general franchisee in the form of proposing an alternate delivery service, if they aren't able to work out satisfactory arrangements with the general franchisee?

MR. PLECKAITIS: Well our position on that has been that we intend to service the customers within certain markets within New Brunswick. And we do not believe that is it appropriate, nor was it contemplated by the legislation to have a local producer franchise competing for the customers of the general franchisee.

MR. MAROIS: Maybe I can add that in our view, competition at the distribution level is not really competition, it's a waste of resources. Because by definition a distributor is a natural monopoly. And natural monopoly, as you probably all know, is when it's more advantageous to have only one party providing the service. So in our view that's not how we would define competition. And see if for you competition is having two sets of pipes underground, that for us is a waste of resources.

Q.379 - I think our view of competition is that there is an alternative. Do I correctly understand that it is Enbridge's position that the Act did not contemplate that producers would have the option to serve customers directly in the event that they were not able to work out

an arrangement satisfactory with the general franchisee?

MR. PLECKAITIS: Our interpretation on how the legislation was drafted, or the intent of the legislation, was that it was not intended to have competing distribution facilities. It was intended to allow a vehicle of getting local indigenous supply to market, but not competing for distribution grids.

Q.380 - Stated differently, is it your position that the producer only has the right to serve customers where the general franchisee is not interested in serving those customers?

CHAIRMAN: Mr. Holbrook, I'm going to jump in here. It sounded very much to me like examination that will ultimately someday occur when Marico applies to this Board and follows through on that hearing that we have talked --

Q.381 - Fair enough, Mr. Chairman. A question for you in regard to Maritimes Northeast. There has been some discussion today in regard to the potential of Enbridge picking up capacity on Maritimes Northeast. I didn't get a clear understanding, and perhaps I just didn't catch it today, in terms of how you would propose to recover the cost to the extent that you do contract for capacity on Maritimes Northeast.

And specially my question is, are you proposing to have a separate service that you would assess for parties

that are using that capacity, or would you propose to roll it into your general postage stamp service?

MR. MACDOUGALL: Mr. Chair, that certainly is an issue that was dealt with in the motion this morning.

Again, we are willing to allow a little bit of leeway to the extent the witnesses want to deal with it. But that one, I think, is a whole issue for another day.

CHAIRMAN: I don't know, Mr. Holbrook, if you got -- if you were here at the time that the discussion went on.

MR. HOLBROOK: I was. But what I thought took place was there was a discussion in regard to the logistics of how you might deal with the operational side of capacity that might be acquired.

What I'm curious about is simply if that capacity is acquired by Maritime Northeast, have they given any thought to how they would allocate those rates?

MR. PLECKAITIS: The cost of that arrangement with M & NP would be rolled into the cost of service.

Q.382 - The general cost of service for all your postage stamp rate? That's correct? So if I understand your statement, sir, what you are indicating is that if you contract for capacity on Maritime Northeast and I am using your system to deliver gas within the province, I will be allocated a portion of that cost of the capacity on Maritimes Northeast?

MR. PLECKAITIS: Well the intention is -- we have a choice in terms of how we build those facilities. We can build those facilities ourselves and roll it into cost of service, the laterals and the transfer stations. Or the alternative is to see if we can get M & NP to build it within their cost of a rate base. And if the economics prove more favourable from our customers' perspective for New Brunswick customers, we would go with the preferred route.

The negotiations to date with M & NP have been much longer than I had originally anticipated. But as of -- as of today the economics are much more attractive from a customer in New Brunswick to have M & NP build those facilities for us and basically us take a firm service arrangement on the M & NP system.

Q.383 - Thank you. I believe you answered my question. That is the extent of my questions. Thank you.

CHAIRMAN: Adjourn until tomorrow morning at 8:30.

(Adjourned)

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

Reporter