

NEW BRUNSWICK ENERGY & UTILITIES BOARD

IN THE MATTER OF an Application dated May 1, 2008 by New
Brunswick System Operator (NBSO) for the approval of changes
to the Open Access Transmission Tariff

held at the Delta Hotel, Saint John, New Brunswick on October
28th 2008

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8 BEFORE: Raymond Gorman, Q.C. - Chairman

9 Cyril Johnston - Vice-Chairman

10 Yvon Normandeau - Member

11 Donald Barnett - Member

12 Roger McKenzie - Member

13 NB Energy and Utilities Board - Counsel - Ms. Ellen Desmond

14 - Staff - Doug Goss

15 - John Lawton

16 Secretary of the Board: Ms. Lorraine Légère

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19 CHAIRMAN: Good morning, everyone. I will start by taking

20 the appearances. New Brunswick System Operator?

21 MR. KENNY: Robert Kenny with Kevin Roherty, Mr. Chair.

22 CHAIRMAN: Thank you, Mr. Kenny. Bayside Power still isn't

23 here today. Integrys?

24 MR. MACDOUGALL: David MacDougall for Integrys Energy

25 Services, Mr. Chair. And I'm joined by Mr. Howard who

26 should be here momentarily.

27 CHAIRMAN: Thank you, Mr. MacDougall. NB Power Distribution

28 and Customer Service Corporation?

29 MR. MORRISON: Good morning, Mr. Chairman and New Brunswick

30 Power Generation Corporation. Terrence Morrison. And

31 with me is John Furey, in-house counsel NB Power and

32 Nicole Poirier.

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CHAIRMAN: And Mr. Morrison, are you also appearing for NB
Power Generation Corporation?

MR. MORRISON: Yes, I am, sir. Thank you.

CHAIRMAN: Thank you. Northern Maine Independent System
Administrator?

MR. BELCHER: Ken Belcher, Northern Maine ISA.

CHAIRMAN: Thank you, Mr. Belcher. And Nova Scotia Power
System Operator and Oxbow-Sherman had indicated they
wouldn't be here. Public Intervenor?

MR. THERIAULT: Good morning, Mr. Chairman. Daniel
Theriault. And I'm joined this morning by Robert
O'Rourke.

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

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

CHAIRMAN: Thank you, Ms. Desmond. Any preliminary matters?

MR. KENNY: Mr. Chair, there was an undertaking yesterday as
to the list of market participants that has been prepared.
And Mr. Roherty will distribute that.

CHAIRMAN: Thank you. Assuming there is no objection from
any parties that will be marked as exhibit A-19.

Any other preliminary matters?

MR. KENNY: Yesterday when we terminated the hearing there

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was a list of items of the Public Intervenor to assist the witnesses asked that this information be looked at and be prepared overnight to assist in the questioning.

And that will be here momentarily. I assume that is just for questioning. That is not an exhibit. But the final copy will be here momentarily.

CHAIRMAN: And Mr. Theriault, is that correct? This is just information as an aide to your cross-examination as opposed to something you wish to tender as an exhibit?

MR. THERIAULT: Well, depending on the document or the information that is in it, because I haven't seen it yet, and depending on what the witness can say, I may ask that it be included as an exhibit.

CHAIRMAN: Okay. Obviously we will need to wait till we see the document. Are you able to commence your cross-examination without that document? Or do we need to wait for that?

MR. THERIAULT: I would like to wait. Because it is the next area, one of the next areas I intend to focus on, so --

MR. KENNY: Yes. We have it, Mr. Chair.

CHAIRMAN: Okay. Mr. Theriault, I think that I will mark these documents for identification. And perhaps you could tell me which -- what order you intend to deal with them,

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so that perhaps we will get them in the correct order?

MR. THERIAULT: Mr. Chairman, the first one that I will deal with is the Staffing Numbers Over Time.

CHAIRMAN: Okay. So NBSO Staffing Numbers Over Time will become number 1 for identification.

MR. THERIAULT: And the next one would be the NBSO Consulting Budget.

CHAIRMAN: All right. NBSO Consulting Budget 2008-09 will be number 2 for identification.

And by default I guess the NBSO Travel and Training Budget 2008-09 will become number 3 for identification.

MR. MACDOUGALL: Mr. Chair, while those are being passed out maybe I could just ask. There was an undertaking response yesterday which was A-18. We would like to do a few follow-up questions coming out of that undertaking at some period in the remainder of the hearing, if that is appropriate.

CHAIRMAN: Okay. Mr. MacDougall, I think that is appropriate.

MR. MACDOUGALL: Thank you.

CHAIRMAN: It appears that everybody has those documents.

Anybody that doesn't?

All right. Mr. Theriault, proceed.

MR. THERIAULT: Thank you, Mr. Chairman.

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CROSS-EXAMINATION BY MR. THERIAULT:

Q.377 - Good morning, panel. This morning I would like to begin by getting some clarification on terminology.

And Ms. West, since you are the Controller for NBSO I will direct these questions to you.

MS. WEST: Yes.

Q.378 - Does the term "Schedule 1 Revenue Requirement" mean the cost of providing Schedule 1 service less any miscellaneous revenues?

I can repeat the question, Ms. West, if you would like.

MS. WEST: Yes. Could you please repeat the question?

Q.379 - Certainly. Does the term "Schedule 1 Revenue Requirement" mean the cost of providing Schedule 1 service less any miscellaneous revenues?

MS. WEST: Yes. On a projected basis for the year.

Q.380 - And does "Schedule 1 cost of service" mean the same thing as "Schedule 1 Revenue Requirement"?

MS. WEST: Yes, if it is netted out with the miscellaneous revenues.

Q.381 - Now were there any changes to any part of the revenue requirement from the original filing in May 1st to the clarification filing in July?

MS. WEST: No. There were no changes in those two --

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between those two dates.

Q.382 - Now is Schedule 1 revenue generated by taking the rate for a given service under Schedule 1 and multiplying by the usage of that service and then summing for all of the services under Schedule 1?

And I can repeat that if you would like me to. Is Schedule 1 revenue generated by taking the rate for a given service under Schedule 1 and multiplying by the usage of that service and then summing for all of the services under Schedule 1?

Is that how you calculate total revenue for Schedule 1?

MS. WEST: Yes. Revenue is usage times the rate, the tariff rate.

Q.383 - Is Schedule 2 revenue generated by taking the rate for a given service under Schedule 2 and multiplying by the usage of that service and then summing for all of the services under Schedule 2?

MS. WEST: Yes. It is again usage times rate.

MR. THERIAULT: Thank you. Now I would like to examine some of the revenue requirement items associated with Schedule 1 service. And again in order to facilitate discussion and keep from turning the binders around, a copy of Schedule 1 revenue requirement has been taken from the

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clarification of tariff change document.

And I will ask Mr. O'Rourke to hand that out at this time,
Mr. Chairman.

MR. PORTER: Mr. Theriault, for those of us that are
following in our exhibit binders, could you provide the
reference please?

MR. THERIAULT: Yes. It is Table 3.

MR. PORTER: I believe that is exhibit A-5?

Q.384 - Now Ms. West, is Table 3 that I have just handed out
the revenue requirement for Schedule 1 service?

MS. WEST: No. It has to be netted of the miscellaneous
revenue.

Q.385 - And how much would that be for the full test year?

MS. WEST: That is in Table 1. And again that's in exhibit
A-5.

Q.386 - Of which schedule?

MS. WEST: Table 1.

CHAIRMAN: Sorry. I wonder if you could give us the
reference in A-5 where we would find that?

MS. WEST: Sorry. A-5 under the tab "Revised Rates and
Charges", Table 1 revised. And page 10. And it would be
lines 25 and 26, a total of 857,000.

Q.387 - If I look at that, is not the -- under the final
number at the bottom column 9,133,000, is that not the

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2 cost of service?

3 MS. WEST: Yes, it is.

4 MR. THERIAULT: Thank you. Now I'm going to have a few more

5 questions relating to that table I just handed out, Table

6 3 I believe it is. But right now I want to start with

7 labour and benefits.

8 And Mr. Chairman, just for direction of the Board I will

9 be looking at four aspects of this expense item, hiring

10 practices, salary escalations, total labour cost increases

11 and any support for the claim of increased work load.

12 And I would like to first deal with the hiring practices.

13 And that is leading us into the document which has been

14 marked for identification number 1.

15 Q.388 - Now, panel, the document that is marked for

16 identification number 1, that is a form that I handed to

17 you yesterday at the close of our hearings?

18 MR. MARSHALL: Yes.

19 Q.389 - And that document, the numbers in there have been

20 inserted by the panel?

21 MR. MARSHALL: Yes.

22 Q.390 - Okay. Thank you.

23 And with respect to the secondments from Transco, what

24 process is followed in order to secure the secondments?

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That is, who initiates the request? And how is the request handled?

MR. MARSHALL: Essentially all of the parties that were operating or working at the control centre in September of 2004 discontinued working in October of 2004 and were all included in the secondment agreement.

And then over time as some parties retired then other parties were put into their place. And their jobs were filled. So some of those jobs were filled in the manner that they were looked at in the past, if it was a System Operator job. And there were a couple of those that were done in April of 2005.

The process at that time was the similar process that existed prior to that, that you would go out into the field and look for transmission parties that -- where they were electronic technicians or others, whether relay technicians or different parties that had some experience and knowledge that were interested in going to the control centre.

There was a job bid on that and interview process in order to hire those parties. And that was done jointly by Transco and NBSO staff in terms of reviewing those and deciding on who would get the job.

Q.391 - So those parties came from the NB Power group of

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companies?

MR. MARSHALL: They came from the NB Power group of companies.

Q.392 - Now Ms. West, from whom does a Transco seconded employee receive his or her paycheque?

MS. WEST: NB Power.

Q.393 - And who controls the compensation package including salary levels, salary increases and fringe benefits for seconded Transco employees?

MR. MARSHALL: The vast majority of those seconded employees are union members in the Transmission Local of IBEW. And their benefits, salary and everything are according to the union agreement.

Q.394 - So it is through Transco?

MR. MARSHALL: Through Transco, yes.

Q.395 - Now I would like to quote you, and if you want to pull it up by all means do, from exhibit A-7 which is entitled "Briefing Notes, System Operator Structure" which I believe is taken from one of the DBR reports prepared in 2005?

CHAIRMAN: Just give me one second.

MR. PORTER: We have that exhibit now.

Q.396 - Okay. Thank you. And before I get to that I would just like to go back to very quickly document marked

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number 1 for identification.

And under the Full Time Direct Hires in '07, '08 I notice the number has increased from the previous year by two. And what positions were they? And where did they come from? Where did the employees come from?

MR. MARSHALL: The -- you can -- the two employee change from '06, '07 to '07, '08, the direct hire employees changed from seven to nine. Those two employees came from the Department of Energy.

Q.397 - And were these positions advertised?

MR. MARSHALL: No.

Q.398 - And what are the positions?

MR. MARSHALL: One position is in the compliance area with the compulsory nature of reliability compliance standards through NERC and the increased activity and requirements to deal with those mandatory standards. We hired one party out of the Department of Energy who had some background in electrical inspections and monitoring and understood and had followed the work related to the federal and provincial territorial committees that were doing the negotiations across Canada with NERC in terms of how those mandatory standards would be brought into Canada.

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2 So we didn't feel it was a job that should be advertised
3 when we had somebody that was fully qualified and
4 interested in the position. So we just hired him.

5 The second position there is we had the opportunity to
6 hire the Assistant Deputy Minister of Energy and bring him
7 in as a Vice-president dealing with intergovernmental
8 affairs, regional activities and coordination.

9 Because the increased workload of the System Operator to
10 deal with the object of coordinating planning of the
11 integrated electricity system is not just looking at New
12 Brunswick. It is looking across the whole region and
13 interacting on that basis.

14 So again we had a very talented, capable individual that
15 was interested in the position. So we hired him.

16 Q.399 - Thank you. Now I would move on to exhibit A-7, Mr.
17 Chairman, panel.

18 And the quote I'm going to take you is taken from page 2,
19 paragraph 3. And it states as follows.

20 "This agreement provided that the transmitter shall
21 operate the control transmission facilities as directed by
22 the SO. In fact for MBPT to operate it must rely on
23 seconded employees to operate the transmission system
24 because the majority of the system is remotely operated
25 from the ECC. The operating agreement makes no provision

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2 for such an arrangement. However the current practice of the
3 parties is exactly this arrangement. The seconded
4 employees are wearing two hats and would appear to have
5 two masters in performing these duties. This arrangement
6 appears to place the seconded employees in an untenable
7 situation."

8 Now my question is is this practice still in effect today?

9 MR. MARSHALL: For the employees that are inside the control
10 room doing switching functions on the system, yes.

11 Q.400 - And why, based on the DBR report?

12 MR. MARSHALL: Why? Because the government has yet to make
13 a policy, final policy position on the structure of the
14 industry and the relationship of NBSO to NB Power.
15 We were created as a temporary organization under a
16 temporary structure in 2004 and continue to operate under
17 that temporary structure.

18 Q.401 - Is that contained in your legislative mandate?

19 MR. MARSHALL: Is what?

20 Q.402 - The temporary nature that you are talking about?

21 MR. MARSHALL: It's not written into the Electricity Act as
22 a temporary nature. But the structure of the -- the
23 arrangement of having only five permanent employees,
24 direct hire employees go to the control centre and have

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all of the others under a seconded contract was a temporary arrangement until such time as there was a decision made as to what happened to Transco.

Because there is another portion of the Electricity Act where Transco was to become completely independent from NB Power after one year of proclamation. And that particular clause in the Electricity Act was never proclaimed.

And so essentially the policy position of government related to exactly what the structure Transco will take relative to NB Power and NBSO. It continues in limbo to this day. We operate under the arrangement that we were given at the time.

Q.403 - And were you ordered by government to do that?

MR. MARSHALL: Well, we -- I don't know if we were ordered by government to do it. The fact is under the Electricity Act there were only four people transferred under the Act to the System Operator. And all of the others are under secondment contract.

So the Act essentially says there are four of you that are going to transfer under these transfer orders. There was provision in the Act for up to two years after proclamation that additional parties could be transferred.

And they were not.

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2 So what we have done is we have taken actions where it was
3 possible and the need to hire new people under direction
4 from our Board of Directors. We have gone outside and
5 hired people as direct employees rather than procure them
6 under the secondment agreement.

7 Q.404 - Now I want to take a second quote from the same
8 exhibit and page number. And the reference is to
9 paragraph 4. And the quote is as follows.

10 "The SO is to be responsible to indemnify MBPT for any
11 damages, excluding consequential damages, caused by the
12 seconded employees in the course of his/her performance
13 under the agreement for the secondment of employees.

14 Therefore because the SO supervises the seconded
15 employees, the SO is not only financially responsible for
16 damages to the transmission system as a result of it
17 directing the operation, but for any damages caused by the
18 seconded employees operating the transmission system as
19 well."

20 Now could I interpret this comment as essentially
21 concluding that the NBSO enjoys double liability first for
22 directing operations and second for directed seconded
23 Transco employees who operate the transmission system?

24 MR. MARSHALL: I don't know. I'm not an insurance expert.
25 I really can't answer that.

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2 Q.405 - Is this issue still in effect today?

3 MR. MARSHALL: I believe -- if that's a clause taken right
4 out of the secondment agreement -- this document was
5 written by DBR Enterprises. So it's their opinion
6 obviously.

7 But that's the situation. And the agreement has not been
8 changed. So I expect that their opinion would continue to
9 hold that position.

10 Q.406 - Now my third and final quote is from paragraph 5 as

11 follows. "The SO Board of Directors has directed the SO
12 management staff to implement an independent operation for
13 the SO by March 31st, 2006. To implement an independent
14 operation requires that the SO become the direct employers
15 of the seconded staff, take responsibility for the
16 operation of the NBPT transmission system and separate its
17 accounting personnel and administrative computer
18 applications from the NB Power companies." End of quote.

19 Now is the NBSO direct employer of all seconded staff?

20 MR. MARSHALL: No.

21 Q.407 - And given the issues raised by the DBR report, why
22 not?

23 MR. MARSHALL: Because although that was the direction of
24 our Board of Directors and we actively worked on that to
25 determine potential cost issues that had to be addressed,

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we as yet have not been able to convince government, and that's the Department of Energy and NB Power, that this should be done and exactly how it should be done.

Q.408 - So I assume from that that the government directs you?

MR. MARSHALL: The issue is not to direct us. The issue is that the government direct NB Power to negotiate fairly to do the deal.

Q.409 - Now what did the NBSO Board of Directors mean by take responsibility for the operation of the NBPT transmission system? Would it mean to actually operate the system?

MR. MARSHALL: I believe that's what it means, yes.

Q.410 - And would operating the transmission system be a normal activity for a system operator?

MR. MARSHALL: It depends. There are different structures in the industry and so whereas the actual market operator, system operator, is an RTO, they may in actual fact operate. In some instances the actual operation being the actual switching of breakers in and out, the final control actions on the system, are still conducted by the transmission companies.

For example, ISO New England. ISO New England operates the market and directs the operation of the transmission systems in New England. They have operating -- sub-operating control centres. Central Maine

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has a centre for Maine. NU has a centre for Connecticut. So there are different operating centres throughout New England. ISO New England issues directions to them and then they follow those directions. So the actual physical operation is conducted by a separate entity. And that same situation exists in Ontario.

Now in New Brunswick, because we are a fairly small system, the decision was taken on advice of the market design committee and the government looked at this to say initially it doesn't make sense in New Brunswick to set up two completely separate control centres for the purpose of implementing this market. The policy was a controlled and deliberate move for a market to evolve. Hence the arrangement that we -- NBSO directs the system but the issue is it should all be done in the one control centre.

Just one more point. In British Columbia the BCTC actually operate the system. So they are not the owners of the assets. The owners of the assets are still British Columbia Power -- B.C. Hydro -- British Columbia Hydro Power Corporation. But BCTC, that's the British Columbia Transmission Corporation, are the independent system operator and market operator and they actually operate the system. They do the switching but they don't own the assets.

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So the arrangements differ in different jurisdictions.

Q.411 - And NBSO is currently operating the transmission system?

MR. MARSHALL: We currently are operating the transmission system right up to the point that, as DBR Enterprises said here, that the current practice that a seconded employee were to act. So the actual power system operator at the middle desk in the control room, when he actually goes to switching, he has a bit of a schizophrenic situation where he is making the decision of what should be done, but then when he carries it out he has a fiduciary responsibility back to the transmission owner that what he is doing is reasonable.

Q.412 - Okay. Now have the accounting computer applications been separated from the NB Power companies?

MS. WEST: Yes. We have our own accounting system now.

Q.413 - And have the personnel computer applications been separated from the NB Power companies?

MS. WEST: Just some of the services.

Q.414 - By some of the services, what are you referring to?

MS. WEST: We receive our payroll services from NB Power, but our personnel records and everything for the people at energy control centre are of course at the energy control centre.

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Q.415 - So I guess it would be the personnel records are with you and payroll is with NB Power?

MS. WEST: Payroll is with NB Power, correct.

Q.416 - And have the administrative computer applications been separated from the NB Power companies?

MR. MARSHALL: All of our computer systems at the control centre are -- we purchase the computer services for NB Power but all of the data and all of the e-mail, all of the operation in the control centre is fire-walled off separate from NB Power systems.

Q.417 - And how long has it been so fire-walled?

MR. MARSHALL: About a year to a year-and-a-half.

Q.418 - Okay.

MR. MARSHALL: And I should add that's the total of computer systems at NBSO at the control centre are fire-walled from NB Power. Prior to that the market management systems and all market data and Oasis data in operating the market and the transmission system in terms of the transactional value, that has always been fire-walled off from NB Power from day one.

Q.419 - Now I would like to take a look at salary escalations.

In your response to NB EUB IR-2 dated July 14th, 2008 -- and I'm sorry, Mr. Chairman, the exhibit number escapes me right now -- you provided a work sheet that detailed over

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time the number of employees at the NBSO, their salary increases, as well as the projection of new employees and the salary costs associated with these new employees.

It's exhibit A-4. At this point --

CHAIRMAN: Perhaps you could give us the reference to that IR again.

MR. THERIAULT: Sure. NB EUB IR-2. And it's the attached work sheets.

CHAIRMAN: Thank you.

MR. THERIAULT: At this point, Mr. Chairman, I have some documents that I would like to hand out as an aide for cross-examination, and these are data contained -- from the data contained in the response, and I have prepared two tables that I will be using as an aide, and I would ask Mr. O'Rourke to hand this out at this time.

The first of these tables -- well I will wait until the document is handed out.

CHAIRMAN: Mr. Theriault, I will mark these for identification. Do you want to deal with the union or non-union positions first?

MR. THERIAULT: Union.

CHAIRMAN: All right. So the union positions -- NBSO salary increases over time union positions will become number 4 for identification. NBSO salary increases over time

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non-union positions will be number 5 for identification.

Q.420 - Now, Panel, the first of these tables show salary increases over time for the current union positions, positions that are forecast to exist at the end of the fiscal year '08, '09. The second table shows salary increases for non-union, for example management positions, that currently exist and are expected to exist at the end of the fiscal year '09.

Now I believe Mr. Marshall has already stated it, but I just want to confirm it, that it's IBEW that represents the unionized employees listed in your response --

MR. MARSHALL: Yes.

Q.421 - -- in NB EUB IR-2?

MR. MARSHALL: That's correct.

Q.422 - Now I guess, Ms. West, since you have the financial background, with respect to the first of these tables entitled "NBSO salary increases over time union positions", which the Board just marked ID number 4, and subject to check, would you agree that the average annual percentage increase in salary for union positions ranges from three to eight percent?

MS. WEST: Yes. Subject to check.

Q.423 - Thank you. And would you agree again, Ms. West, that the majority of the listed union positions received an

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average annual percentage increase of three percent?

MS. WEST: Yes. As listed in the response to EUB IR-2, it's 2.5, 3.5, three percent. It's listed for the various years, yes.

Q.424 - So we can conclude from that for those positions which average annual increases exceeds three percent some form of salary adjustment was made?

MS. WEST: There were salary re-evaluations done for some positions, correct.

Q.425 - Now what was the process and the basis of the salary adjustment for energy coordinators?

MR. MARSHALL: The salaries for energy coordinators are as defined in the union agreement, and all of the adjustments would have been done consistent with the response to NB EUB IR-2 that Ms. West just referred to. Each year there was an adjustment in the union contract. That's the adjustment that applied.

The fact that you look at those positions and you get -- you get a number across the range that is different than three percent is because of the fact that some individuals just moved into that position and the normal process to proceed through staffing, as a number of them retired back in 2004 -- 2005, at the end of March, 2005, there were some parties that moved from system operator to

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co-ordinator and then they would have had some incremental steps through that process.

So part of the increase was experience adjustment within the union agreement in addition to the actual two-and-a-half, or three percent in the agreement for the position.

Q.426 - So this is all driven by the union contract?

MR. MARSHALL: Yes.

Q.427 - And what was the process and the basis of the salary adjustment for the PSOs? Is it the same answer?

MR. MARSHALL: Same.

Q.428 - And what was the process and basis of the salary adjustment for settlement specialist? Same answer?

MR. MARSHALL: Yes.

Q.429 - And what was the process and basis of the salary adjustments for the regulatory affairs and administration?

MR. MARSHALL: That particular position was a change in job functions. So there was an individual that was in a different classification, then moved out of that to go over and take on this regulatory affairs, HR support and administration support as a different job.

So there was a movement out of one range to another, which is the same as I say for the energy coordinators or the PSOs. Actually came from one job to another and then

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2 went ahead. That's why the number is different than three
3 percent.

4 Q.430 - And who ultimately made the determination?

5 MR. MARSHALL: Ultimately?

6 Q.431 - Was it part of the contract as the other --

7 MR. MARSHALL: Ultimately I guess the determination was made
8 by me.

9 Q.432 - Okay. And why was this increase so high in comparison
10 with other union positions?

11 MR. MARSHALL: I just explained that. Because it's not the
12 same job. Maybe it's a little misleading here. That job
13 didn't exist back in January '05, and that particular
14 individual was working in forecasting and scheduling as an
15 administration support person, and then moved out of that
16 over into this position. So his classification changed.
17 He went from a lower salary scale to a higher salary
18 scale. So it was a promotion in terms of filling that
19 need. And his responsibilities and skills required for
20 that also increased. So the salary is commensurate with
21 the requirements for that job.

22 Q.433 - That would be in your judgment as President and CEO?

23 MR. MARSHALL: That's correct.

24 Q.434 - Now let's turn to the non-union positions and the
25 second set of tables that I have had marked for ID as

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number 5. And, Ms. West, again subject to check, would you agree that the average annual percentage increase in salary for non-union positions ranges from 2.75 percent to 14.25 percent?

MS. WEST: Yes. Subject to check.

Q.435 - And would you agree that the Director of power systems operations received an annual -- or received an average annual increase of 14.25 percent?

MS. WEST: Yes. Again subject to check.

Q.436 - And how was this increase determined?

MR. MARSHALL: The Director -- I'm just looking at the dates here. I believe in February '05 the classification was a Director one level job at NB Power, although the title was a manager of -- they were still under the old titles as seconded employees in the control centre. And we were in the process of re-organizing all of the seconded employees plus the direct hires to make more efficient utilization of all of the people. So that salary was a manager level salary but paid at a Director one level. And with the increased responsibilities of taking on with the system operator that job was adjusted, and it was agreed that it would be adjusted to a Director two level at that point in time. So it was adjusted to a Director two level, I believe

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2 effective April 1st of 2005. And it then just recently, okay,
3 this last year was re-evaluated and adjusted to a Director
4 three level.

5 And so that salary range is consistent with industry
6 standards for that level or work and is essentially under
7 the NB Power pay system as a Director three.

8 Q.437 - Did you benchmark this positions?

9 MR. MARSHALL: We did not specifically benchmark it. We
10 looked at it in terms of what are the responsibilities and
11 the requirements in the industry, and it went through --
12 not only did it get reviewed by senior management at NBSO,
13 it was also reviewed by NB Power HR relative to the other
14 NB Power jobs in industry and accepted that it was a
15 Director three job.

16 Q.438 - So the answer is no, you didn't benchmark it?

17 MR. MARSHALL: Well through the NB Power process the Haye
18 Management structure and the Haye Management system
19 benchmarks different jobs across the industry, provides a
20 range. So it was not directly benchmarked but was
21 indirectly benchmarked against that system.

22 Q.439 - And I'm just going by memory here. Did you not in
23 response to some IRs I believe from the Board staff say
24 that the positions were not benchmarked?

25 MR. MARSHALL: As I said, we did not directly --

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2 Q.440 - Sorry. From Integrys. It was an IR from Integrys.

3 Sorry. Do you recall?

4 MR. MARSHALL: I believe the question there was have we

5 benchmarked our salaries against other equivalent

6 organizations. We have not benchmarked specific salaries,

7 although we have reviewed overall average costs of

8 different system operators and our overall costs, and done

9 comparisons to say what are our overall costs in relation

10 to others. We have done that. We have not taken specific

11 salaried jobs and benchmarked them.

12 Q.441 - Okay. That was my question. And would you agree that

13 the Director of power systems engineering received an

14 annual -- or an average annual increase of 14.25 percent?

15 MR. MARSHALL: Subject to check.

16 Q.442 - And how was this increase determined, in the same way

17 as the previous question?

18 MR. MARSHALL: Exactly the same way, yes.

19 Q.443 - And again was this salary benchmarked?

20 MR. MARSHALL: Ditto.

21 Q.444 - And would you agree that the Director of settlement

22 and market development received an annual -- an average

23 annual increase of 14.25 percent?

24 MR. MARSHALL: Yes. Subject to check.

25 Q.445 - And was this increase determined in the same method by

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2 your previous answer?

3 MR. MARSHALL: No. It was -- well I guess it was done
4 internally at NBSO because that position is a direct hire
5 position. And so we evaluated it. But again we looked at
6 the salary and say for the job function and the
7 responsibility, how does it stack up against these other
8 jobs in the industry. And in that sense it was put at a
9 Director three level consistent with the others.

10 Q.446 - Now did you benchmark this salary -- this salaried
11 position?

12 MR. MARSHALL: As I said, no, we did not benchmark specific
13 salaries. They are -- it was benchmarked essentially
14 against NB Power salary structures which through Haye
15 Management are done across the industry. So indirectly it
16 was tied to that. But we did not do a specific benchmark
17 analysis.

18 Q.447 - And I don't know, Mr. Marshall, if you want to answer
19 this or leave this one to Ms. West, but would you agree
20 that the President received an average annual increase of
21 10.75 percent?

22 MS. WEST: Yes. Subject to check.

23 Q.448 - Okay. And how was this increase determined?

24 MR. MARSHALL: By negotiation with the Board of Directors.

25 Q.449 - And was this salaried position benchmarked?

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2 MR. MARSHALL: Yes. It was specifically evaluated by Haye
3 Management for the job description relative to the
4 industry in a report back to the board.

5 Q.450 - Is the President's position automatically on the Board
6 of Directors under the system?

7 MR. MARSHALL: No, the President's position is not on the
8 board.

9 Q.451 - Now I would like to look at the overall increase in
10 labour and benefits for the schedule 1 revenue
11 requirement. And I would refer you to the copy of the
12 schedule 1 revenue requirement which is a document which
13 was previously passed out as number 3 I believe in the
14 clarification of tariff changes -- or sorry -- it's
15 entitled "Table 3". It's in the clarification of tariff
16 changes, I believe, Mr. Porter, if you can help me out
17 again. You did the last time.

18 MR. MARSHALL: It's exhibit A-5.

19 Q.452 - Revised rates and charges, page 14.

20 MR. MARSHALL: Page 14, table 3.

21 Q.453 - Now, Ms. West, subject to check, would you agree that
22 labour and benefit costs will have increased by 28 percent
23 from '05, '06 to proposed '08, '09?

24 MS. WEST: Yes. Subject to check.

25 Q.454 - And again, Ms. West, subject to check, would you agree

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2 that this represents an average annual percentage increase of
3 8.75 percent over this three year period?

4 MS. WEST: Yes. Again subject to check.

5 Q.455 - Now as I read the evidence I understand that NBSO's
6 explanation for this rate of increase revolves around two
7 factors. First, salary increases and adjustments, and
8 second, a change in the number of employees at the NBSO?
9 We have already looked at --

10 MR. MARSHALL: Yes. Plus evaluation of positions.

11 Q.456 - And we have already looked at the salary increases and
12 adjustments. Now I would like to look at the change in
13 number of employees at the NBSO. Was there -- one second,
14 Mr. Chairman.

15 Now was there any analysis to support the need for these
16 new employees as set out in the document which has been
17 marked number 1 for identification this morning, the
18 direct hires?

19 MR. MARSHALL: The -- it would go through the budget process
20 in terms of the expected work load and the tasks that had
21 to be undertaken and the need for people to conduct the
22 work.

23 Q.457 - So that would be the total analysis that would have
24 been conducted?

25 MR. MARSHALL: Basically, yes.

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2 Q.458 - And was there a competition for these positions?

3 MR. MARSHALL: For some of them.

4 Q.459 - Which ones?

5 MR. MARSHALL: As I said earlier, replacement of seconded
6 employees in the control room, those jobs went through an
7 internal competition NB Power to get there. So the power
8 system operators, the energy coordinators, the -- and
9 certainly the new President to replace my position went
10 through an extensive competition evaluation process.

11 Q.460 - Aside from your replacement was there any competition
12 outside external to NB Power for these positions?

13 MR. MARSHALL: No. For the direct hire employees that
14 increased the number from five currently up to ten, they
15 were -- they were hired directly without a competition.

16 Q.461 - Now does the NBSO propose to add any new employees for
17 the forecast years '08/'09 and '09/'10?

18 MR. MARSHALL: My understanding is we are not at that stage
19 yet. The budget process has just started and those
20 discussions are ongoing. But I'm not really party to
21 that. So maybe Mr. Porter should answer.

22 MR. PORTER: I guess before speaking specifically to the
23 upcoming year I would like to elaborate on Mr. Marshall's
24 comment about the -- his response to the question about
25 analysis performed to identify the need for employees that

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have been added.

And Mr. Marshall may be a bit modest in that certainly we all understand with the province moving forward with the energy hub model, the high potential for additional generation on the system, be it wind, be it nuclear, be it biomass, if you look at our public website and the list of system impact studies that have been requested, and the backlog of such requests, if you look at the new activities that have been undertaken in the area of compliance, and we have spoken about that already, and one of the hires was to address that need which has arisen since the black-out in 2003, something that couldn't have been contemplated when -- we wouldn't have known what the final outcome of that black-out would be. But certainly one consequence of that was the mandatory compliance standards, the much more rigorous monitoring and enforcement of reliability requirements.

And certainly that's an area, along with the expectation of new generation, those two areas have led to a much greater need for work, a much greater work load on our staff and leading to the need for increased staffing levels. And we know with the energy hub and with regional discussions on integrating renewables, the interaction with the governments in Nova Scotia, Quebec, New England,

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it's becoming a much more critical aspect of what we do.

So I think Mr. Marshall may have been saying there wasn't -- there was no consultant hired to do the analysis for the need for new staff, there may not be a paper on it, but I think in all of us in the industry would readily have been able to undertake the analysis to say that more staffing is required.

So, Mr. Theriault, a similar process would be undertaken for the upcoming year for us to look at what is going on in the industry, how well we are able to meet our mandate, what we see coming up in the future. And we certainly still have a backlog with respect to system impact studies. We have project proponents. There was an article in the paper this morning about Lepreau II. We have various project proponents that would like to better understand our market, they would like to have an evaluation of what it would take to connect to our system.

There is a huge list of topics within our industry that we need to play an important role in resolving.

Q.462 - Thank you. Now I guess I will ask the question, did the -- looking at document marked for identification number 1, from '07/'08 to '08/'09 I see there was an additional full-time direct hire, one position.

MR. MARSHALL: Yes.

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2 Q.463 - Okay. And again was that done by competition external
3 to NB Power?

4 MR. MARSHALL: No. It was another employee from Department
5 of Energy that was available that has extensive background
6 and experience in the energy business, and very
7 significant analytical capabilities, and fit in very well
8 with a lot of the increased activities that Mr. Porter
9 just outlined. So he was hired directly and put in Mr.
10 Porter's group.

11 Q.464 - Okay. Now am I correct that the basic explanation as
12 to why new employees might be added to the NBSO appears to
13 be that over the course of the NBSO's existence the
14 organization has evolved from its initial temporary make-
15 up in order to fulfil its complete role in the regional
16 electric power industry?

17 MR. PORTER: Yes, that is correct, and I would like to
18 further elaborate on the example that when this
19 organization was set up we had few, if any, requests for
20 system impact studies in the queue. Since that time
21 roughly a dozen I think have been completed and there is
22 another dozen waiting in queue, and each one of these
23 studies takes weeks to perform.

24 So there are a variety of -- it's not just a matter of
25 growing into that role that would have been contemplated

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2 in 2003, 2004. It's also taking on additional obligations
3 that were not foreseen at that time and many of which
4 could not have been foreseen.

5 Q.465 - You have evolved from your initial temporary make-up
6 in order to fulfil your complete role in the regional
7 electric power industry?

8 MR. MARSHALL: We are in the process of evolving. I
9 wouldn't say that we are ready yet to fulfil the complete
10 role in the regional market.

11 MR. PORTER: And to add to that, I wouldn't anticipate the
12 requirements are going to stop evolving either.

13 MR. THERIAULT: Just one moment, please, Mr. Chairman. I'm
14 just wondering if this might be an appropriate time to
15 take the morning break or if you want to keep going.

16 CHAIRMAN: No. That would be fine. And we need about --
17 there is another matter the Board needs to attend to. So
18 we need about 20 minutes. So we will take a 20-minute
19 break now.

20 (Recess - 10:47 a.m. - 11:05 a.m.)

21 CHAIRMAN: Anytime you are ready, Mr. Theriault.

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

23 Q.466 - I would like to refer the panel and the Board and the
24 other parties to exhibit A-1, tab 4, page 8.

25 CHAIRMAN: I'm sorry. I will have to ask you to repeat

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2 that. It is A-1.

3 MR. THERIAULT: Tab 4.

4 CHAIRMAN: Is that the --

5 MR. THERIAULT: Pink tab.

6 CHAIRMAN: -- colored tab?

7 MR. THERIAULT: Yes, pink tab, purple, pink.

8 CHAIRMAN: And at page 8?

9 MR. THERIAULT: Yes.

10 Q.467 - Now panel, I'm going to read a quote from your

11 evidence starting at line 1. "Over the course of NBSO's
12 existence the organization has evolved from its initial
13 temporary makeup in order to fulfil its complete role in
14 the regional electric power industry."

15 Now I just want to be clear. And I think my question
16 before the break related to that this was an explanation
17 as to why new employees might be added to the NBSO?

18 MR. PORTER: Yes. The addition of -- that would help
19 explain the addition of employees and the reevaluation of
20 some positions.

21 Q.468 - And I just want to clarify something. Because I know
22 it was mentioned by Mr. Marshall two or three times this
23 morning, I believe.

24 It says here in your evidence "Over the course of NBSO's
25 existence the organization has evolved from its

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2 temporary makeup in order to fulfil its complete role in the
3 electric power industry."

4 So that evolution has occurred?

5 MR. MARSHALL: It has -- I guess you look at that -- my view
6 is that it still has some distance to go. But there has
7 been a significant change from where we were as an infant
8 organization in October 2004 to where the organization has
9 got to today. And as Mr. Porter explained, a number of
10 things have gone on.

11 Now the industry -- our role in the industry is laid out
12 in the Electricity Act. And those objects in the
13 Electricity Act basically define the responsibilities. To
14 say that the staffing today and the capabilities today are
15 sufficient to fulfil that complete role, okay, I don't
16 think you can say that.

17 The industry itself -- we are at a point in time in this
18 industry where there are significant challenges and
19 changes that are taking place. And so to deal with that,
20 that may require additional people and activities in the
21 future.

22 And at this point in time we have evolved to the point
23 where we are fulfilling a role of the coordinating studies
24 and development of a system and doing a lot of the system
25 impact studies, you know, on our own, whereas initially

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they were all farmed out to NB Transco and they were very small.

So there has been a big movement forward. To say that we are staffed to fulfil a complete role on a go-forward basis, that's still open for the evolution of the industry.

MR. PORTER: And I might add to that. And how that is fulfilled I think will become part of the annual review of the NBSO's revenue requirement under our proposal for an annual application to this Board for a review of the revenue requirement.

So the opportunity at that time for affected parties, the public and this Board to weigh in on those decisions.

Q.469 - Just so I'm clear though, part of your evidence that I read to you is accurate?

MR. PORTER: As I read that -- reread that sentence, it says that we have evolved. And that is correct. We have evolved. And it's for the purpose of more completely fulfilling the role in the regional electric power industry.

And I think what Mr. Marshall said, and I would agree, is that we can't say at any point in time that we have 100 percent reached that stage.

Q.470 - So are you disputing your evidence? Or are you adding

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to it, contradicting it? I just want to be clear.

MR. PORTER: I'm interpreting that sentence which to me says we have evolved from our initial temporary makeup. That's a fact which is in the evidence here.

I do not read that as saying that we have fulfilled the complete role in the regional electric power industry.

That was one of the goals of the evolution. But it does not say that we have reached that stage.

Q.471 - So this explanation that we just discussed, would this explanation assume or imply that the NBSO is busier in terms of Schedule 1 services?

MR. PORTER: Yes.

Q.472 - And is there any evidence on the record to support that?

MR. MARSHALL: Yes. I think there is evidence on the record to support that. The wind integration studies that NBSO has conducted in 2005 and '6, the wind studies this year, the coordination in the region with Nova Scotia and New England, all of the documents on adequacy and reliability that were previously jointly shared by NB Power and Nova Scotia Power that NBSO has taken on completely of all the NPCC reports.

I think there is evidence on the record that we have been taking on more and doing more work.

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2 Q.473 - Okay. My question though was with respect
3 specifically to Schedule 1 services?

4 MR. MARSHALL: They are all covered in Schedule 1.

5 Q.474 - So if I understand your answer, the explanation hinges
6 around other activities such as research analysis, report
7 development, participation in organizations and things
8 like that?

9 MR. MARSHALL: Yes. And other development of systems for
10 the market, improved processes, the original information
11 systems evolving into the best -- this is not my quote.
12 It is others that have said to us that the best energy
13 conference in Atlantic Canada that we put on in order to
14 educate and provide information on to the market and the
15 participants and those interested in the market as part of
16 our object to promote, you know, an efficient electricity
17 market.

18 I think there are a number of other activities. Now as
19 far as Schedule 1, we recover Schedule 1 costs -- or
20 Schedule 1 costs recover all of the budget and costs of
21 the N.B. System Operator.

22 Now you could put those activities under forecasting and
23 scheduling, right, to understand where the market is
24 going, what potential is going to happen.

25 Q.475 - Do you track hours that your employees spend on these

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Schedule 1 activities?

MR. MARSHALL: We track every hour that everybody works and gets paid for. And it all goes into the total cost of the labour and budget.

And when it's all added up it's the data on Table 3 less the miscellaneous revenues that gives the revenue requirement that you need for Schedule 1.

Q.476 - Now I would like to move on to Board costs. I noticed in the evidence that they have gone up by more than 100 percent from '05, '06 to '08, '09.

And while they are relatively a small portion of the NBSO total Schedule 1 costs, I think it would be useful to get some information on these costs.

So I'm wondering if you could tell me how Board costs are incurred. Is it a flat rate per year? Is it a per diem? Is it a mix of both?

MS. WEST: I believe that was answered in an IR. I can dig that out for you if you would like. They are paid a salary plus a per diem plus their travel cost.

Q.477 - And why have these costs increased at the rate they have?

MR. MARSHALL: Well, to start with, in the first year there were only three Board members appointed by the government. And then a year and a half ago or last year, sometime last

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2 year they appointed two additional members. So the Board went
3 from three to five.

4 Plus -- again this was a nascent Board. Initially getting
5 involved, there has been a lot of activity since we joined
6 the ISO RTO Council. They have participated in the Board
7 conferences for the IRC, which is a conference organized
8 by the Council specifically for members of boards of
9 directors of ISO's and RTO's.

10 So in the last two years that's part of increased travel
11 and cost associated with that. So it's a combination of
12 increased activity, particularly learning activity on
13 behalf of the Board in participation in conferences and
14 workshops, plus an increase in Board members from three to
15 five.

16 Q.478 - Okay. And maybe you can tell me why -- I'm just
17 looking here -- why the costs are forecasted to be less in
18 '08, '09 than they were in '07, '08?

19 MS. WEST: And our budget was just based on salaries per
20 diem and a set amount of travel dollars. And that can
21 change from year to year. And actuals to budget could
22 vary as well.

23 Q.479 - Now I would like to look at IT and infrastructure,
24 these costs. And just so we are clear I'm looking at
25 Table 3, the Schedule 1 cost of service.

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2 The IT and infrastructure costs have been relatively
3 stable from '05, '06 to forecast '08, '09. However, they
4 are forecast to increase rather sharply over the period of
5 '09, '10 to '10, '11.

6 And the first of these IT and infrastructure expenses is
7 the energy control centre. Who owns the energy control
8 centre?

9 MS. WEST: It is an NB Power Transmission asset.

10 Q.480 - So is this payment in lieu of rent?

11 MS. WEST: It's a lease agreement that includes
12 depreciation, amortization and finance cost.

13 MR. MARSHALL: And I might add to that the reason for the
14 increase in '09, '10 from the current and past years is
15 the new SCADA system, that's Supervisory Control and Data
16 Access System.

17 And I believe we answered a question or two on that
18 yesterday from Mr. MacDougall.

19 Q.481 - And I have got a couple for you as well.

20 MR. MARSHALL: So essentially that cost would be
21 capitalized. It is going to be completed next year. It
22 gets capitalized in that year.

23 And then we end up paying the depreciation, finances,
24 financing cost on that increased addition to the energy
25 control centre as an asset. That's the reason for the

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2 increase.

3 Q.482 - Ms. West, you have mentioned lease agreement. There

4 is no formalized lease agreement?

5 MS. WEST: That is correct.

6 Q.483 - And I'm looking -- the payment forecast to double.

7 This payment forecast is to double the '09, '10 to the

8 '10, '11 period.

9 Could you explain why?

10 MS. WEST: Mr. Marshall just explained that.

11 Q.484 - Is that the total answer?

12 MS. WEST: It is, yes. Capital additions explained in the

13 increase.

14 Q.485 - And how long has the NBSO occupied the ECC?

15 MS. WEST: Since October 2004.

16 Q.486 - And why do you not have a rental or lease agreement

17 with the building's owner?

18 MS. WEST: I believe that was answered yesterday. Now we

19 are working towards a lease agreement.

20 Q.487 - Okay. And first of all I want to apologize. One of

21 the unfortunate things of going towards the end is there

22 are questions that have been asked and I will reask them.

23 I am just curious why it would take so long to negotiate a

24 lease agreement with Transco?

25 MR. PORTER: As we discussed before, there are a large

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number of activities that we are involved with, and we talked about those activities based on priorities and we certainly have an arrangement whereby we have the use of the building, we have an arrangement whereby, you know, the appropriate payments are arranged. So it just has not been the top priority to bring it to through to completion.

Q.488 - Why is the NBSO being charged building O&M if you don't own and apparently don't lease the building?

MR. MARSHALL: The energy control centre line item is strictly capital cost adjustment on the building. So as Ms. West said, it's depreciation, finance costs, that's it. And it's our share of that. Because NB Power distribution customer service also occupy the building and they pay a share of that. Then -- but it's no different than renting an apartment. You may rent the apartment but you still need heat and lights and you may need to get a carpet cleaned from time to time. And there are other expenses over and above the rent you would pay on an apartment. So that's -- we are responsible for the O&M costs of the building. And we have got a lot of detail on that if you want to know exactly what it is, but it's --

MS. WEST: The biggest items there would be property tax

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2 which is around 110,000 and the electricity bill, heat and
3 lights, are 150,000 a year.

4 Q.489 - My question wasn't what the amounts were. I agree.

5 They are there, I can see them. I'm saying -- my question
6 was why is the NBSO being charged building O&M if you
7 don't own or apparently lease? I understand the charges
8 and I understand what makes up the charges. I am just
9 asking why, if you don't own or lease?

10 MR. MARSHALL: As I said, you can look at the energy control
11 centre costs as the -- that's the rent to have access to
12 the building to use it. But just as in any other building
13 space the actual internal paint and modifications and done
14 -- are the responsibility of the tenant.

15 Q.490 - So in essence what you are doing is you are paying
16 rent but there is no written agreement?

17 MS. WEST: There is no lease agreement, no.

18 Q.491 - Now I would like to talk a little bit about service
19 agreements that the NBSO has with NB Power. First of all,
20 I would like to know what service agreements you have with
21 NB Power and for what services?

22 MR. MARSHALL: I draw your attention to exhibit A-4,
23 response to the EUB IR-4, page 31. If you have that, in
24 response to a question from the Board staff to identify
25 services covered by agreements and an explanation, you can

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see there in the response that the services covered in the agreement are PC management, application hosting, HR services, payroll benefits, compensation, et cetera, and telecom services.

And along with that response the actual -- a copy of the services agreement was attached, and I believe along with the secondment agreement.

Q.492 - Okay. And that's the total bundle then.

MR. MARSHALL: Yes.

Q.493 - And which of the NB Power group of companies do you have service agreements with? Obviously Transco. Any other --

MR. MARSHALL: We have only with Transco.

Q.494 - And were these service agreements tendered?

MR. MARSHALL: No.

Q.495 - And why are the amounts for the service agreements forecast to be constant over the forecast period '08/'09 to '10/'11?

MS. WEST: I didn't have any information on which to base a change on because we get budget information each year from Transco, and it's based on the number of people that we have. So it can change when we actually do the budget.

Q.496 - Okay. Thank you. Now I believe one of the suggestions in the DBR report was for NBSO to be an

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2 independent -- in order for NBSO to be an independent

3 operation that it needed to separate its accounting,

4 personnel and administrative computer applications from

5 the NB Power group of companies. And has that -- has the

6 NBSO done that? I know we had a discussion on accounting

7 I think earlier.

8 MS. WEST: Yes. And we do have our own accounting system.

9 Q.497 - And that would apply with -- and the personnel, you

10 have your own personnel records, if I recall correctly?

11 MS. WEST: Yes.

12 Q.498 - And the administrative computer applications? I'm

13 sorry, I --

14 MR. MARSHALL: On the computer we did a lot of analysis with

15 DBR looking at, you know, what it may cost to completely

16 separate the systems, and in the end it looked like we

17 were getting the best arrangement we could through the

18 current agreement. So what was done is we took additional

19 steps to isolate all of our data and information from

20 NBSO, to isolate that from the NB Power systems, including

21 setting up a separate mail partition in the e-mail server,

22 things like that.

23 Q.499 - If -- my question is if these items have been

24 separated why is NBSO still making payments to NB Power?

25 MR. MARSHALL: Because NB Power maintains that system and

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2 provides those -- the computer services and systems, but the
3 actual operation of those systems in terms of the data
4 that is in them from our operation are isolated --
5 separate fire-walled from NB Power.

6 So in our view -- you know -- I just want to clarify this
7 word independent, okay. I don't think there is any doubt
8 whatsoever. NBSO is an independent entity and operates
9 independently from NB Power. We don't take any direction
10 from NB Power Board of Directors or any of NB Power
11 employees or others. They are a customer and they are
12 treated just like any other customer. We buy some
13 services from them because it is efficient and reasonable
14 to do so.

15 Q.500 - And my job here today -- and I understand that, but my
16 job here today is to question those services. So if we
17 can stick to the questions I'm sure we can get through
18 this quite a bit quicker.

19 I would like to talk a little bit about computer software.

20 Are any of the costs associated with computer software
21 actually payments to Transco for software owned by Transco
22 but used by the NBSO?

23 MR. MARSHALL: I'm sorry. Would you just repeat that?

24 Q.501 - Sure. Are any of the costs associated with computer
25 software actually payments to Transco for software owned

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by Transco but used by NBSO?

MR. MARSHALL: Yes. The plant information system and the software driver behind the SCADA system are owned by NB Power but we have access to them and we operate them. From an operating viewpoint on the system those systems are fire-walled apart from NB Power.

Q.502 - Do you have any knowledge if Transco reports the revenue received from the NBSO for the SCADA as income that would otherwise reduce its revenue requirement?

MR. MARSHALL: Would you repeat that?

Q.503 - Sure. Do you know if Transco reports the revenue received from the NBSO for the SCADA as income that would otherwise reduce its revenue requirement? I'm just asking if you know?

MR. MARSHALL: I have no knowledge.

MR. PORTER: And I just add to that that certainly with respect to the revenue requirement that was used to drive the current rates used by NB Power Transmission and with respect to the use of their assets, that the SCADA system was not included in that because it was included in the Schedule 1 revenue requirement.

Q.504 - Now I'm going to refer the panel to the document that was marked number 2 for identification which is the NBSO consulting budget '08/'09. As I look at document marked 2

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2 for identification, I would just like you to confirm that all
3 but the top document with -- I think PWC is Price
4 Waterhouse Coopers, that's the only one that has been
5 tendered and the other ones haven't been, if I read that
6 correctly?

7 MS. WEST: In terms of formal tender, yes, that would be
8 correct. There was a request for a proposal for the
9 financial statements preparation.

10 MR. MARSHALL: But just to add to that, in terms of a formal
11 tendering process, that one went through that. For some
12 of the others, the compensation review, the recruitment of
13 the new President and CEO and indirectly the IRC market
14 committee reports, those were -- those went through a bid
15 -- you know -- a solicited bid process, evaluation of
16 different parties.

17 Q.505 - But it wasn't tendered in the formal sense?

18 MR. MARSHALL: That's correct. It was not a public tender
19 put out through newspaper advertising open to the industry
20 to bid.

21 MR. THERIAULT: Now, Mr. Chairman, Panel members, I'm going
22 to move to the document that has been marked number 3 for
23 identification. And just for the record I guess, these
24 three forms that have been marked 1, 2 and 3 for
25 identification, I know I think I asked the question with

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2 respect to the first one but I don't think I did with 2 and 3,

3 but these forms -- I provided you with the blank form and

4 the information was filled in by the Panel over last night

5 I guess?

6 MS. WEST: Yes, that is correct.

7 Q.506 - Okay. Do you have a written policy on travel and

8 training?

9 MR. MARSHALL: Yes, we have a travel policy.

10 Q.507 - Has it been filed with the Board or as part of this

11 application?

12 MR. MARSHALL: Not that I am aware of.

13 Q.508 - Now again I'm going to refer you back to table 3,

14 schedule 1, cost of service. And I would like to discuss

15 a bit about the contingency amount in the schedule 1

16 revenue requirement. And did you have a contingency

17 amount in the previous budgets, Ms. West?

18 MS. WEST: No, there was not a contingency in previous

19 budgets.

20 Q.509 - And what is the dollar difference between the

21 contingency amount in the '08/'09 forecast revenue

22 requirement and the retained surplus that existed prior to

23 clarification of changes filing -- tariff changes filing -

24 - sorry?

25 MR. MARSHALL: Would you repeat that, please?

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2 Q.510 - Sure. What is the dollar difference between the
3 contingency amount in the '08/'09 forecast revenue
4 requirement and the retained surplus that existed prior to
5 clarification of tariff changes filing?

6 MR. MARSHALL: I guess the difference is zero because they
7 are both \$300,000.

8 Q.511 - So in effect you are substituting a contingency amount
9 of \$300,000 for a maximum retained surplus amount of
10 \$300,000?

11 MR. MARSHALL: They are two different things.

12 Q.512 - I understand that. But the question is I'm simply
13 saying you are simply substituting a contingency amount of
14 300,000 for a maximum retained surplus amount of 300,000.

15 Even though they are two separate things the dollar items
16 are being transferred?

17 MR. MARSHALL: Well in the original application May 1st the
18 revenue requirement for Schedule 1 has in it a contingency
19 of 300,000 based on experience of what has gone on in the
20 last few years, that there should be some adjustment over
21 and above the budgeted costs. And the -- in that
22 application there was also provision that the retained
23 surplus of 300 would continue. So one didn't replace the
24 other. They were two separate items and they were both to
25 be included in the original application.

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What has happened since, since we got to the settlement agreement, as part of the settlement agreement it was agreed from the market participants party to that that our revenue requirement on a go forward basis would included \$300,000 contingency. Those parties agreed to support that but still subject to this Board approval, and we would eliminate the retained surplus account and do monthly settlements on all of the services as we discussed earlier.

So there was no intention or any desire that one replace the other. It just so happened that those are the numbers.

Q.513 - It just so happened that they were the same numbers?

MR. MARSHALL: Yes.

Q.514 - Now in your original rate case filing on May 1st, and I think you touched on it a bit, you submitted a series of risk mitigation proposals for the Board's consideration.

MR. MARSHALL: Yes.

Q.515 - Do you intend to seek EUB approval for all of these proposals? I just want to be clear.

MR. MARSHALL: At this point in time no. We have asked for approval of the settlement of services on a monthly cost basis where the rates are based on the formula of usage and revenue requirement and settled month by month. So

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there is -- that is the risk mitigation strategy that is in this application at this point in time in the clarification document, that's what we are asking the Board to approve.

Q.516 - And so that would be the risk the original proposals were intended to overcome?

MR. MARSHALL: Yes.

Q.517 - Now I'm going to move into some questions about schedule 2, and for the Board's knowledge and probably delight they will be considerably shorter than my questions with respect to schedule 1, so -- although they still will take -- the end is in sight I guess is what I am saying.

First of all, could you tell us what services are provided under Schedule 2?

MR. PORTER: The services supplied under Schedule 2 is reactive supply and voltage control which primarily is provided from Generation.

Q.518 - And these are mandatory services?

MR. PORTER: Yes. As we indicated yesterday, Schedule 2, along with Schedule 1, are services that are automatically provided in conjunction with any -- at the point to point or network transmission service.

Q.519 - And who among the market participants would provide

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these services?

MR. PORTER: Market participants having generators connected to the transmission system that have executed the appropriate ancillary service agreement with us, and of course to be able to -- before they could execute that agreement they would have to be able to prove that they can provide these services.

Q.520 - And who would they be? Can you list them off?

MR. PORTER: At this point --

Q.521 - You gave me a list of market participants earlier, so I am just --

MR. PORTER: At this point in time there are three such market participants. One would be NB Power Generation, the second would be NB Power Nuclear Company and the third would be the Coleson Cove Generation Corporation.

Q.522 - And what is the role of the NBSO, if you could briefly describe the role of the NBSO with respect to the provision of Schedule 2 services?

MR. PORTER: As the party responsible to direct the operation of the power system, inherent with that we have an obligation to maintain appropriate voltage levels on the system, and given that the transmission system in and of itself is not fully able to perform that function, it's necessary that we make these arrangements, have these

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contracts in place with generation suppliers, and to ensure that they are providing the services as required and to dispatch them as required.

Q.523 - Now I believe in exhibit A-1, if I can find it here, the -- sorry -- the clarification change document which is A-4 I believe -- expenses and projections --

MR. PORTER: A-5 I think.

Q.524 - It's A-5. Sorry. The revenue and expense projections for Schedule 2 were provided in that document. I guess it was also provided in the original application. And there is a table 4 -- table 4 on page -

MR. PORTER: 17.

Q.525 - Table 4, that is what I intend to focus on. Now who receives the Schedule 2 revenue?

MR. PORTER: In this table these are revenues to NBSO, and to explain that more fully, we would collect through the Schedule 2 in the tariff from all transmission customers that are using the system, and then we have an expense because we have a contract with -- contracts with these three suppliers whereby we make monthly payments to those suppliers.

Q.526 - And so I can -- who incurs the Schedule 2 expenses then? That would be NBSO?

MR. PORTER: Yes. Shown on this table the expenses incurred

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2 by NBSO as a consequence of us being invoiced by the suppliers
3 of the services.

4 Q.527 - Now when there is a surplus how is it handled and who
5 receives it?

6 MR. PORTER: To date it has been handled through application
7 to this Board, and we certainly have discussed already the
8 arrangement with respect to the -- under the settlement
9 agreement what the proposal would be.

10 Q.528 - And when there is a deficit how is it handled and who
11 pays it out?

12 MR. PORTER: Again, you know, up to this point Schedule 1
13 and Schedule 2, surpluses or deficits, along with the
14 capacity based ancillary services, have been netted out
15 and settlements addressed through application to this
16 Board.

17 Q.529 - Okay. Now are any of the --

18 MR. MARSHALL: Mr. Theriault, I just refer you to exhibit A-
19 4. This is in response -- addition to --

20 Q.530 - You are going to refer me to the Settlement Agreement?

21 MR. MARSHALL: No.

22 Q.531 - Okay. Sorry.

23 MR. MARSHALL: I am going to just -- in addition to the
24 response that Mr. Porter just provided related to
25 surpluses and how they are handled, I think we canvassed

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this a lot yesterday, I just want to refer you and the Board back to A-4, PUB Interrogatory IR-10, on page 63, which breaks out the history of the surpluses and deficits from schedule 1 and schedule 2 and CBAS, and then a total -- what is the net effect of them all, and how we actually settled them, how much was rebated, how much went into the account year over year. I think the questions you are getting at can most be addressed if we actually look at that table.

Q.532 - Thank you. Now are any NBSO paid personnel involved in the management of Schedule 2 services?

MR. PORTER: Could you repeat the question, please?

Q.533 - Are any NBSO paid personnel involved in the management of Schedule 2 services?

MR. PORTER: With respect to the management to a certain -- one aspect of the management I can interpret that as including the dispatches. As I indicated earlier, if we need more of this service from a particular generator and need to contact the generator to request that increase, it would be one of our employees paid by NBSO that would make that contact with the generator.

MR. MARSHALL: And that would fall under the Schedule 1, the control aspect of Schedule 1 of controlling the system, and dispatching to generator. So in order to control the

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system you need to do all the analysis to make sure voltages are going to be within specified reliability requirements that are issued by NPCC and NERC. We have to operate and control the system within that range.

So that type of management of the Schedule 2 service in order to make sure you meet all those voltage criteria is covered off in labour in Schedule 1.

The Schedule 2 service is strictly a payment to a third party that we contract with in order to provide the ability for us to control their facilities.

Q.534 - Now I would like to take a look at Schedules 3, 5 and 6 if I could. And as we found out I guess yesterday and through the evidence these are known as capacity based ancillary services or CBAS. What services are provided under Schedule 3?

MR. PORTER: Schedule 3 includes two sub-services, if you will, 3(a) which is regulation and 3(b) which is load following.

Q.535 - And who is the primary provider of Schedule 3 services?

MR. PORTER: The primary provider -- certainly these services theoretically can be provided by generators or loads. To date on our system the primary provider is NB Power Generation. On occasion I believe we have had

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secondary or maybe even a third supplier, but the primary provider is NB Power Generation.

Q.536 - And what services are provided under Schedule 5?

MR. PORTER: Under Schedule 5 is the spinning reserve service.

Q.537 - And who is the primary provider of Schedule 5 services?

MR. PORTER: NB Power Generation.

Q.538 - And what services are provided under Schedule 6?

MR. PORTER: A supplemental reserve.

Q.539 - Same question. Who is the primary provider of schedule 6 services?

MR. PORTER: Same answer.

MR. MARSHALL: Except to add to that that the contracts that NBSO has for provision of services that we sell, okay, those contracts essentially are with NB Power Generation.

There are many parties out there that self-provide some of those services.

So when they self-provide them -- and certainly the ten minute and 30 minute reserves are being self-provided by WP Integrys, actually Northern Maine provide some of their own services, Summerside and Maritime Electric self-provide some of those services.

And it's important for the Board to understand that

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2 when they self-provide the service it doesn't mean that they

3 simply provide the service and it's for them alone. It

4 means that they have the capacity that is capable to

5 provide the service and they give it to NBSO who then

6 controls it for the greater good of the whole system.

7 Okay.

8 So in that sense there is more than NB Power Generation

9 that provides these services. It's just that the actual

10 contracted money flow for sale of services is essentially

11 with contracts to NB Power Generation.

12 Q.540 - So you jumped into my next question, which market

13 participants can self-supply any and/or all of these

14 services?

15 MR. MARSHALL: Yes. There would be Summerside, Maritime

16 Electric, Integrys.

17 Q.541 - That's fine. Is there a limit on self-supply?

18 MR. MARSHALL: Currently there is a limit of ten percent.

19 Q.542 - And who imposed this limit?

20 MR. MARSHALL: The -- I guess it was the previous Board.

21 The Public Utilities Board.

22 Q.543 - And can you tell me in their original decision do you

23 know why the Public Utilities Board imposed a hard cap on

24 self-supply?

25 MR. MARSHALL: No, we don't know why. We asked for an

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explanation but didn't get it.

Q.544 - Okay. So there was nothing that you are aware of in any of their decisions?

MR. PORTER: No. I read the decision in an attempt to answer that question. I did not see the answer to your question in the Board's decision.

Q.545 - And in this application what is the principal reason why NBSO is proposing to change the limit on self-supply?

MR. PORTER: Well sort of one aspect would be the fact that this overall review of how the capacity based ancillary services are managed, driven by the ongoing surplus in those -- with respect to those services. And it was certainly identified that one contributing factor to the large volume of the surplus was the restriction upon NB Power Distribution preventing them from self-supplying beyond 90 percent of their obligation. And so there was a case of an undesirable and an unnecessary consequence. So we would like to have the flexibility as the independent system operator to make decisions, you know, within a reasonable range, as to what the appropriate cap on self-supply should be, if any.

Q.546 - Okay. Now has the NBSO provided any documentation as part of this application to support the removal of the hard cap on self-supply and its replacement with a range?

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2 MR. PORTER: I believe the evidence states that we seek
3 flexibility so that we can respond to change in market
4 conditions and on a more timely basis have the appropriate
5 cap in place at any given time.

6 Q.547 - And who would administer this range?

7 MR. PORTER: NBSO would administer this range and the
8 proposed approach would be that we would only change that
9 range after a review of our proposed range with the market
10 advisory committee.

11 Q.548 - And with whom did the NBSO consult when making the
12 determination to apply for the removal of the hard cap on
13 self-supply?

14 MR. PORTER: The market advisory committee. And that is
15 certainly explained in greater detail in the strawman
16 model that explains a large number of issues that
17 contributed to the surplus, and also provides a summary of
18 the market advisory committee's feedback received. That's
19 a document that we took to the market advisory committee
20 as a model for them to examine. They made at least one
21 suggestion. We revised the document before it was filed
22 with this Board.

23 Q.549 - Thank you. Which market participant currently is most
24 affected by the limit on self-supply?

25 MR. PORTER: NB Power Distribution and Customer Services.

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2 Q.550 - And could this market participant supply 100 percent
3 of its CBAS service needs?

4 MR. PORTER: To the best of my knowledge they would have the
5 contractual ability to meet 100 percent of their needs?

6 Q.551 - And in the last fiscal period can you tell me how much
7 did this market participant pay to procure CBAS services
8 that it could have supplied itself?

9 MR. PORTER: I don't have the number off the top of my head.

10 We would respond to that -- or give that in response to
11 an interrogatory, if you just want to give us a moment.

12 While we were looking at that, the same information would
13 have been included in the NBSO letter to the EUB putting
14 forward a proposal for the treatment of the surplus, the
15 letter of last -- I believe it was last fall.

16 MR. THERIAULT: Mr. Chairman, I have maybe aside from a few
17 questions here I would say about ten minutes of
18 questioning, and so I'm just wondering -- I would like the
19 opportunity though before I conclude my questioning to
20 review my notes just to make sure I covered everything.
21 So I am just wondering if we took a break now for lunch, I
22 could review my notes over the lunch hour and come back
23 and probably conclude within ten to 15 minutes.

24 CHAIRMAN: All right. We will break now and come back at
25 1:15.

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

MR. THERIAULT: Sorry, Mr. Chairman. The good news is I don't think I will even be 10 minutes.

Q.552 - So I guess we left off the last question was in the last fiscal period how much did this market participant, which would be DISCO, pay to procure CBAS services that it could have supplied itself?

MR. PORTER: Yes, that's correct. Mr. Chairman, we have tracked down that response relative to the interrogatory. It's in A-14, exhibit A-14, on page 10, and the document is a response -- it's a clarification to tariff changes, responses to interrogatories, and it's response to an interrogatory from the Public Intervenor, IR-5. And his question at that time was, in the last fiscal year what were the charges levied against those market participants that had the capacity to self-supply 100 percent of their needs and were purchasing CBAS services under the fixed cap. And on the next page, page 11, there is a table that shows for each of the market participants that made payment to NBSO for these services what their payments were for each of the five capacity based ancillary services in the fiscal year '07/'08. So as we had indicated before the break, the relevant market

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2 participant is NB Power Customer Service and Distribution and
3 their total payment for these services in that fiscal year
4 was 3.184 million dollars.

5 Q.553 - And in the last fiscal period how much was the CBAS
6 surplus?

7 MR. PORTER: In 2007/2008 fiscal year the CBAS surplus was
8 3,255,000.

9 Q.554 - If there were new entrants into the market and the
10 NBSO had determined that the cap on self-supply should be
11 set at 100 percent, how much market to supply CBAS
12 services would be available to these new entrants?

13 MR. PORTER: Mr. Chairman, we responded to that question
14 again under exhibit A-14, Public Intervenor IR-5, question
15 number -- or sub-question number 3. I would read from
16 that response.

17 The procurement would be -- there would be no procurement
18 if the cap were at -- pardon me. We have some market
19 participants that do not -- are not able to self-supply
20 and buy under the tariff, so relative to those
21 requirements we procure under the services -- under the --
22 we procure from market participants, and those
23 procurements could be from the new entrant or not,
24 depending on what suppliers were the least expensive.

25 Q.555 - Again, my question was if there were new entrants into

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the market and the NBSO had determined that the cap on self-supply should be set at 100 percent, how much market supply -- how much market to supply CBAS services would be available to these new entrants?

MR. PORTER: Mr. Chairman, I need clarification. This is a new entrant with respect to a new provider of the service?

Q.556 - Yes.

MR. PORTER: Mr. Chairman, as I indicated, even when we allow 100 percent self-supply there are some market participants that do not choose to self-supply 100 percent, so some procurement is required, and with respect to that procurement there is opportunity for a new entrant to participate.

In addition, if we felt it would be appropriate to increase the demand for -- or increase our procurement quantities, under the proposal we could revise the cap down from 100 percent to a level that we felt would lead to the appropriate amount of competitive procurement.

Q.557 - But again my question is how much market to supply CBAS services would be available to these new entrants under those conditions?

MR. PORTER: 100 percent of the competitive procurement.

Q.558 - And how much would that be?

MR. PORTER: Mr. Chairman, in 2007/2008 fiscal year, putting

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2 aside the NB Power Customer Services Distribution purchases,
3 other market participants purchased about 1.7 million
4 dollars -- 1.6, 1.7 million dollars worth of capacity
5 based ancillary services from NBSO. So those are services
6 that we had to procure from market participants.

7 Q.559 - And would that be the case if the cap on self-supply
8 were set at 100 percent?

9 MR. PORTER: In that fiscal year the cap on self-supply for
10 those other market participants was 100 percent. So the
11 answer is yes.

12 Q.560 - Now I would just like to finish off with a few
13 questions on the Settlement Agreement, and then I can
14 thankfully say we are done.

15 Now did the Settlement Agreement arise out of a series of
16 technical conferences over the past year or so?

17 MR. MARSHALL: Yes. Beginning in January. There was a
18 technical conference in January, there were market
19 advisory committee meetings in -- at least in March, I
20 think February, March. Another technical conference the
21 22nd of May, I believe it was.

22 Q.561 - Now these technical conferences, they were set up to
23 deal with the CBAS surplus?

24 MR. MARSHALL: Yes.

25 Q.562 - And originally was the focus of these conferences on

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2 how to allocate the CBAS surplus?

3 MR. MARSHALL: The conferences were initiated by the Board
4 in response to a letter that NBSO wrote to the Board. In
5 that letter we had proposed how we wanted to do the rebate
6 and asked for the Board's approval. Here is how we want
7 to do the rebate, we have got this much, here is how we
8 want to do -- spend it out. The Board then I guess opened
9 it up for participants to make some comments, and the
10 Board ordered that a technical conference be held.

11 Q.563 - So the answer is yes?

12 MR. MARSHALL: Yes.

13 Q.564 - And then did the focus then move on to how to reduce,
14 if not eliminate, future CBAS surpluses, and is this not
15 what the strawman model was about?

16 MR. MARSHALL: Yes. I think the Board were concerned not --
17 because it was raised during the technical conference that
18 it wasn't just a matter of settling '06/'07. There was
19 also an accruing amount during the year that we were in,
20 '07/'08, and so there was an issue of how do you settle
21 that, as well as the previous year.

22 And the Board was interested in how do we get to a
23 methodology where we can do this on an ongoing basis that
24 is acceptable without needing to go through this every
25 year.

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2 So all of that prompted a lot more additional negotiation
3 and discussion and development of the strawman model which
4 led eventually to the Settlement Agreement.

5 Q.565 - Okay. And I think, Mr. Marshall, and I apologize if I
6 asked this but I feel like I have been up here for ten
7 years, so I can only imagine how you feel, so -- can you
8 confirm that the strawman model was filed as part of the
9 NBSO rate application of May 1st, the original? I believe
10 it was. I think we had that discussion either this
11 morning or yesterday.

12 MR. PORTER: Yes, it was. It was submitted and it's in
13 exhibit A-1.

14 Q.566 - And in the May 1st application was there any attempt
15 to link the strawman model with a new methodology to deal
16 with Schedules 1 and 2?

17 MR. PORTER: Within that filing, exhibit A-1, there is
18 reference to alternative risk mitigation mechanisms of the
19 nature that were discussed at these work shops.

20 Q.567 - But was there any attempt to link the strawman model
21 directly with a new methodology to deal with Schedules 1
22 and 2 in that application?

23 MR. PORTER: No. No. The strawman model is pertaining to
24 Schedules 3, 5 and 6, not 1 and 2.

25 MR. THERIAULT: Thank you very much, Mr. Chairman. That's

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2 all the questions I have.

3 MR. MARSHALL: Just to add, at that point in time --

4 MR. THERIAULT: Maybe not.

5 MR. MARSHALL: -- it was restricted to 3, 5 and 6, and not 1
6 and 2. It got linked to 1 and 2 in the clarification
7 document.

8 MR. THERIAULT: Yes. Thank you.

9 CHAIRMAN: Thank you, Mr. Theriault. Before we move to
10 Board counsel, I think Mr. MacDougall had some questions
11 with respect to exhibit A-18.

12 CROSS-EXAMINATION BY MR. MACDOUGALL:

13 Q.568 - Thank you, Mr. Chair. Thank you, Panel. If we could
14 look at exhibit A-18, your response to undertaking number
15 1, and if we could look at the third page in. So there is
16 the cover page and then a page that has table 1 on it and
17 then a page that has table 2 and 3. So if we could be on
18 the page that has tables 2 and 3.

19 MR. MARSHALL: Yes. The title on that page, "2005 Maritimes
20 Interim Review of Resource Adequacy"?

21 Q.569 - Correct.

22 MR. MARSHALL: I have it.

23 Q.570 - And under table 3 there is a paragraph and starting in
24 the second sentence it states, "In 2006 and 2007 the NBSO
25 sub area does not require external interconnection support

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2 to meet the NPCC reliability criterion. In 2008 and 2009 the
3 NBSO sub area requires external interconnection support of
4 160 megawatts and 340 megawatts respectively. These
5 requirements are primarily due to the planned 18 month
6 outage for Point Lepreau". Correct?

7 MR. MARSHALL: That's correct.

8 Q.571 - Now could you confirm that the NMISA's capacity
9 obligation for the balancing area is approximately five
10 percent?

11 MR. MARSHALL: Just -- which percentage are we talking
12 about? Just clarify that question again, please?

13 Q.572 - Sure. For the overall capacity obligations of the
14 balancing area, Northern Maine, New Brunswick and PEI,
15 that Northern Maine's capacity obligation is approximately
16 five percent?

17 MR. MARSHALL: I guess so, yes.

18 Q.573 - Subject to check

19 MR. MARSHALL: Subject to check. The capacity obligation is
20 based on load ratio share of the load in the region. So
21 they are about five percent of the load. So they carry
22 about five percent of the obligation.

23 Q.574 - Correct. That's exactly what I'm -- that's exactly
24 the point that I am discussing. Okay. So the capacity
25 obligation for the balancing area that is applicable to

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Northern Maine would be approximately five percent.

Can Northern Maine therefore, starting April 1, 2009, claim 17 megawatts less of capacity obligation by relying on the tie, and the 17 -- the two tie lines -- and the 17 megawatts I'm coming up with is taking five percent of the 340 megawatts that you state in this document requires external interconnection support?

MR. MARSHALL: No.

Q.575 - And can you explain why that is the case?

MR. MARSHALL: As I said yesterday, the capacity obligation for Northern Maine under the market rules is a capacity obligation by capability period to meet their load plus their share of all of the operating reserves for spinning ten minute and 30 minute reserves. That's the requirement in the market rules. This amount of interconnection support relates to the projected requirement for New Brunswick only from 2005 looking forward to meet the NPCC criteria of one year in ten. Now when we get to this current year that we are in, and we are going into this winter with Lepreau not available, NB Power Distribution and Customer Service has had to go out and contract for additional capacity and resources to meet the market rules which are to have enough in place to meet all of their capacity obligation

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for this winter.

So there is no freeing-up of that capacity obligation other than as I said yesterday the 100 megawatts of NPCC reserve sharing which has been provided, and Northern Maine gets its share of that 100 megawatts as does New Brunswick.

Q.576 - Well, Mr. Marshall, that's the point I want to follow up with then, and there you were talking about I think the distribution corporation going out and acquiring what was required. So they went out and my understanding is they would have acquired certain capacity from Hydro Quebec I think is at least one of the suppliers, if not the supplier that they have got an arrangement with, to take account of Lepreau being down, correct?

MR. MARSHALL: That's my understanding. I haven't seen the detailed list, but the scheduling people in the -- outside the control room go through all of that and verify that they meet the rules, they have all of the contracts in place to meet the requirements.

Q.577 - Okay. But they went out and acquired that and paid a certain amount of dollars for it presumably, or agreed to pay a certain amount of dollars to have that capacity available?

MR. MARSHALL: I would assume so.

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Q.578 - And if they not even the NMISA but even if DISCO was allowed to rely on tie requirement for a portion of that?

MR. MARSHALL: They are not.

Q.579 - And why are they not? Why does the NBSO not take account of tie requirement as a cost-free method of reducing capacity obligation when there is now 1000 megawatts of capacity, 300 megawatts firm from south to north, and two tie lines without a single contingency? Why isn't that thought of as a method to reduce the costs for the balancing area and the customers in the balancing area.

MR. MARSHALL: Because it is NPCC and NERC criteria that for to meet reliability of supply by balancing area, okay, you have to have those capacity resources to fulfil that reliability obligation contracted into the area. You cannot just rely on inter-ties to say that it's there. NPCC criteria allows you to utilize inter-ties only on the long-term forward calculation of what the system reliability might be. When you actually get there you have to have that amount of resources contracted and physically in the ground and under the control of the system operator of that area. Now to that extent we have an agreement for 100 megawatts of reserve sharing across the whole NPCC region

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with the exception of Quebec. So we share in activation and reserve and provision of reserve with Ontario, New York and New England, and under that arrangement we are allowed to credit 100 megawatts of capacity. That we do. And that has been passed on to customers to share in the benefit of that. But there is no opportunity under NPCC rules for us to do more. That's it.

MR. MACDOUGALL: Thank you, Mr. Marshall. Thank you, Mr. Chair. Those are my questions.

CHAIRMAN: Thank you, Mr. MacDougall. I wonder if Mr. Belcher or Mr. Morrison wish to ask any questions on exhibit 18. Mr. Morrison?

MR. MORRISON: No, sir.

CHAIRMAN: Mr. Belcher?

MR. BELCHER: No, sir.

CHAIRMAN: All right. I guess we are now down to Ms. Desmond.

MS. DESMOND: Thank you, Mr. Chair. We will just take a minute to move our materials forward.

CHAIRMAN: Sure. Any time you are ready, Ms. Desmond.

CROSS-EXAMINATION BY MS. DESMOND:

Q.580 - Thank you, Mr. Chair. Good afternoon, Panel. Just to begin, I understand that under the OATT there are ten schedules of service, is that correct?

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MR. PORTER: Yes, that is correct.

Q.581 - And this application doesn't deal with 7, 8 or 4.

Those schedules are not part of this application?

MR. PORTER: Yes, that is correct.

Q.582 - And 9 and 10 are not part of this application either?

MR. PORTER: That is correct.

Q.583 - So we are going to focus then just on the ones that

are part of your materials. And one of the opening

comments I think made by your counsel was that the intent

of the application is to essentially ensure that the

revenues for each schedule cover the costs for each

service, is that correct?

MR. PORTER: Yes, that is correct.

Q.584 - So we would like to focus first on Schedule 1, and

just to get an understanding of what the miscellaneous

revenues are. I know there has been some reference to

miscellaneous revenues. And if you could maybe have a

look at A-5, page 10 of that document. It's the revised

rates and charges tab.

MR. PORTER: Yes, we have that.

Q.585 - And then in addition to that I think under A-1, tab 5,

there is some explanation of miscellaneous revenues, if

you want to have a look at that material as well.

CHAIRMAN: Which of the tab 5s in A-1?

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MS. DESMOND: I believe it's the coloured tab 5, section A.

CHAIRMAN: Thank you.

Q.586 - And then I believe in that section there are a number of page 1's. It's page 1 of 4.

MR. PORTER: Yes, we have that. That's the Schedule 2.2 miscellaneous revenues?

Q.587 - Yes.

MR. PORTER: Okay.

Q.588 - And in that schedule in particular could you just identify essentially what those services are, the scheduled balancing service, connection studies, the Oasis and the reliability coordinator. What is part of those entries? What does that include?

MR. PORTER: Starting off with the scheduled balancing service, that's a service whereby we, through software, do an automatic balancing of supply and demand on energy schedules, energy capacity schedules, for market participants. And in this particular arrangement we have in place it's with respect to the schedules for standard offer service in New Brunswick. And that's the service that is available to others as well, but to date there is that one party that is purchasing that service under a contractual arrangement.

With respect to connection studies, the connection

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studies, I think we have mentioned them before, can be system impact studies or facility studies, and where we are involved it's primarily the facility -- or system impact studies whereby an entity would like to connect either a load or a generator to the transmission system or perhaps make a reservation for transmission service through New Brunswick.

And we would undertake to perform a technical study to determine the capability of the existing system to provide that service and if it was deemed that it was not capable the study results would give some indication as to the nature of the upgrade that would be required to the transmission system in order to be able to provide the service.

So those are paid for -- and in accordance with the tariff the cost of those studies are paid to us by the proponent.

And as you can see in some cases we are actually contracting out the work to perform those studies to others. So in those cases there would be an offsetting expense paid out to others and in some cases just offsetting our own staff expenses.

OASIS is the open access same time information system. We have one of those with respect to the New Brunswick tariff and the costs of that are rolled into the Schedule

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2 1 tariff. But this line item is with respect to OASIS

3 software and the operation of an OASIS site, so a

4 reservation site, on behalf of Nova Scotia Power. So

5 that's revenue coming to NBSO from Nova Scotia Power for

6 us to -- to having built and to operate and maintain that

7 reservation system.

8 Lastly, reliability coordinator. NBSO is the reliability

9 coordinator for the Maritimes area. So that's not just

10 New Brunswick, it's also Prince Edward Island, Nova Scotia

11 and Northern Maine. The reliability coordinator function,

12 it's a defined function within the North American Electric

13 Reliability Council functional entity structure. And so

14 we -- because we perform those services for the region, we

15 seek reimbursement from Nova Scotia, Prince Edward Island

16 and Northern Maine for their pro rata share of the cost of

17 those services.

18 Q.589 - So those services then are completely separate from

19 the Schedule 1 services?

20 MR. PORTER: Yes, that is correct.

21 Q.590 - And is there authority for the NBSO to charge for

22 those services, and, if so, can you reference what

23 authority there is?

24 MR. MARSHALL: Yes. We have authority under the Electricity

25 Act to undertake other activities, and as such enter into

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agreements and charge for them. I don't have the specific reference but we have a copy of the Act here, we could dig it out.

Q.591 - That's fine. We just wanted to make sure sort of under what authority you were using to make those charges.

And the total I guess value of those is then what is referenced in A-5 at page 10. It's the 537,000, the four that you have just explained?

MR. MARSHALL: That's correct. And then there is the -- there is flow through revenue as well. There are two line items in miscellaneous here that had -- there is \$270,000 NPCC dues which NPCC bill us, we turn around and bill it to the transmitters in the region. So that that's a flow through revenue and cost to us. As well as for some of the connections -- there are also - - as Mr. Porter said, some of the costs in order to offset the revenues for the connection studies we actually contract back to NB Power Transco. They conduct some of the studies. And we are now doing more of that, but initially they were -- when we started out they were doing all of the studies.

Q.592 - And is it fair, Mr. Marshall, to say that the same staff that are doing the Schedule 1 services would also cover these services provided under miscellaneous

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2 revenues, and are those revenues used to reduce the costs for
3 schedule and service?

4 MR. MARSHALL: Yes and no. There are -- we actually have
5 contracted some additional supplementary resources to work
6 specifically on system impact studies. So their costs get
7 offset by the studies. But to the extent that regular
8 staff are working and doing system impact studies, then
9 the revenues that come in offsetting those costs reduce
10 the revenue requirement for Schedule 1.

11 Q.593 - Is it fair to characterize 2008/2009 as a transition
12 year?

13 MR. MARSHALL: Yes. Certainly under the clarification
14 document and the incorporation of the Settlement
15 Agreement, you know, into the application, the -- if the
16 Board approves all of that after 2008/'9 there would be no
17 need for any annual rebates of surplus from all of the
18 ancillary services. They would be done on a -- the CBAS
19 services would be done on a month by month basis.
20 But as we are half way through the year there is a need to
21 go from the old methodology to the new methodology. So in
22 that sense we consider this year a transition from the old
23 to the new.

24 Q.594 - And essentially you are asking the Board, Mr.

25 Marshall, then is to approve on a final basis the rates

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that were in effect on an interim basis?

MR. MARSHALL: Yes. We are asking for approval of the interim rates to continue for the rest of this year, and then that would be replaced by the methodology of approval of a revenue requirement on a go forward basis beginning next April.

Q.595 - Now I understand from the evidence you have provided in the last couple of days that it is your intent to recover the revenue requirement for Schedule 1 through a charging of a one/twelfth of the revenue each month -- the requirement each month to customers on a pro rata basis. So I think we have heard lots of explanation around that. But I would like to look at how this would actually work practically, sort of the nuts and bolts of how this process would roll out. And is it correct that you would require approval of the revenue requirement for Schedule 1 in advance of the start of your fiscal year?

MR. MARSHALL: Yes.

Q.596 - And for the SO then, when does your budget planning start for the following year?

MR. MARSHALL: It's in the fall period.

Q.597 - And when does your formal budget get approved?

MR. MARSHALL: Well under this proposal we would want that formal budget I guess approved by the Board of Directors

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of NBSO in January and be incorporated into a filing that would come to this Board in that time frame, by the end of January.

Q.598 - And in addition to the actual budget information, what documents is the NBSO proposing would be filed as part of this review of the revenue requirement?

MR. PORTER: We anticipate that the filings pertaining to the revenue 1 revenue requirement -- Schedule 1 revenue requirement, used in this proceeding, which is basically the budget, would be the standard form of the information to be filed.

So it would be -- in exhibit A-1 it would be the Table 3 to which we referred to a number of times today which breaks down the Schedule 1 cost of service summarized by cost category.

And then as the Board -- you know -- through this process and subsequent filings becomes familiar with those cost categories, it would simply be a matter of comparing changes from one year to the next. And obviously where any significant change was put forward there would an accompanying explanation of the change.

We might also add, just to make sure we are clear on the record -- response to an interrogatory, but with respect to having Board approval by the start of the

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fiscal year we recognize that there is some risk that the proceedings -- you know -- the decision may not be out prior to April 1st, and our proposal is that we would proceed with the new rates on April 1st, and if a decision came out subsequently there would be a true-up at that time, depending upon the decision made by this Board.

Q.599 - And I hope to ask you some questions about that, because we did have some concern about how the true-ups would actually work. But in future years for the filings would you include your estimate of the surplus or the deficit for Schedule 1 when you filed the proposed budget?

MR. PORTER: I think with respect to the surplus or deficit for the fiscal year that we will be in, so if it were filed in January -- yes, we would. Yes.

Q.600 - And what type of review process is the SO anticipating or would suggest to the Board in terms of how this revenue requirement would be approved?

MR. MARSHALL: I guess we are looking for as efficient a process as possible. And obviously we would make a filing, there would be an expanded Table 3 which would include in it the forecast of miscellaneous revenues. So it would have what all the costs are by those categories, the miscellaneous revenues to what the net revenue requirement number of what has to be collected under

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2 Schedule 1.

3 And I think in addition to that table there would be some
4 sub tables with more detailing in each of those categories
5 which we show here are the breakdown of the numbers in
6 those categories, and with that type of a filing to the
7 Board and to all through the market advisory committee and
8 all the participants, we see no reason why it shouldn't be
9 able to be done, you know, in a one day hearing or even a
10 paper hearing.

11 MR. PORTER: With precedents out there in other
12 jurisdictions where this -- because it's on an annual
13 basis it would become somewhat routine unless there is a
14 significant change in the requested revenue requirement,
15 and certainly if no party objected to it being done
16 through a paper hearing, then we believe that would be the
17 most efficient manner.

18 Q.601 - In the documents that you are describing would those
19 include an explanation of the budget versus your actual
20 results for the current year, and any reason for
21 variances?

22 MR. MARSHALL: Absolutely, yes.

23 Q.602 - Now as I understand the application, it's the intent
24 to include a contingency fund of approximately 300,000.
25 Can you describe for the Board the possible types of

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2 unexpected or unplanned costs that could occur where the NBSO
3 would intend to use or could use those contingency funds?

4 MR. MARSHALL: Well one example has already occurred this
5 year. The NBSO has been notified from Transco that there
6 is a charge against seconded employees that was not
7 assessed previously but that should have been, that their
8 share of the unfunded liability of the public service
9 Superannuation Act pension plan and that the cost of that
10 under the secondment agreement for this year is \$205,000.

11 That's an example of a contingency item that --

12 Q.603 - Is it your view then, Mr. Marshall, that those costs
13 would be reviewed by the Board in the example you just
14 provided? Would that cost be reviewed for prudence?

15 MR. MARSHALL: No. The Settlement Agreement proposes that
16 you would look at Table 3, the costs, you would look at
17 the miscellaneous revenues, come up with a number, add
18 \$300,000 to it, so that the revenue requirement would
19 include a \$300,000 line item for contingency. And that it
20 would be divided by 12 and collected over the year.
21 But that at the end of the year if that wasn't used up,
22 whatever the surplus is would get rebated back at the end
23 of that year. That is the proposal in the settlement
24 agreement.

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Q.604 - How though would the public be assured that that extra contingency was being spent in an appropriate fashion?

MR. MARSHALL: The actual operation for the year would come forward the following year with the application for the revenue requirement for the next year.

I mean NBSO is a not for profit and not for deficit corporation. So the bills have to be paid. The question would be in the following year the Board would certainly review and say, well just because that happened last year it's not automatically in the revenue requirement going forward. So there would be a review of it saying, yes, it had to be paid, but on a go forward basis next year this is the approved revenue requirement.

Q.605 - Mr. Marshall, what would happen if the Board didn't approve of how that contingency fund was used? Where would that money come from? Would there not be a deficit then to the SO?

MR. MARSHALL: If the 300,000 as a contingency is approved by the Board, and that is what is being asked, there is a need for some contingency in terms of most operations. So the Board would have approved the \$300,000 contingency. What they would then do is on a go forward basis they could adjust what the revenue requirement is for the following year. But that \$300,000, if it's spent, it's

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spent.

Now if more than \$300,000 was spent then there would be a deficit. And the Settlement Agreement suggests that NBSO would come to the Board and roll that deficit into its revenue requirement for the next year. And at that point in time the Board would say, well no, that's not good enough. We can cover the deficit but you have got to cut other things that are in the budget.

So they are going to approve a revenue requirement for that year, and you are going to have to live by it for that year.

Q.606 - Is it your intent, Mr. Marshall, to use the contingency then just for things that are not identified in the budget, and that items over which you have control you would not use the contingency fund for?

MR. MARSHALL: The proposal is not to -- is not to determine every activity that NBSO does and have an allotted amount of money for every activity, and say, oh, that one is out of whack, you can't do this, or you can't do that. We have a mandate under the Electricity Act to operate the system, to do it reliably, to interface with customers, to do a wide range of things. It is impossible to schedule and break down activity by activity exactly what they should cost and that you are bound to stay

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within them.

Some will be over, some will be under, okay. And the total is that you are going to have to live within that approved revenue requirement and that's what is going to get charged out to customers one/twelfth each month. So customers know exactly what they are going to have to pay and we know exactly the amount of revenue we are going to get. That's it.

Q.607 - Mr. Marshall, when you prepare a budget, isn't the intent then to have a sense of what your expenditures are going to be? And is it your evidence then that there is to be no limitations or requirements around how that contingency would be spent?

MR. PORTER: There is no intention that this -- one of the issues that we had and is identified in the risk document is this notion that the \$300,000 retained surplus could only be spent under certain conditions without a clear definition as to what those were.

The \$300,000 represents, you know, roughly a three percent forecast error in the budget. What we are asking is that we have this buffer built into the revenue requirement that we -- there could be things that come up, it could be a new activity that hadn't been anticipated or it could be an activity that we fully planned to do that

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2 cost more. So whatever combination of things. But we have
3 that buffer in place. That's certainly the intent.

4 Now to address the issue about well how -- what is the
5 level of assurance that the expenditures are prudent, and
6 certainly one of the things we have talked about
7 internally, it has not been laid out in terms of a policy,
8 but is that if we were to see, you know, an expansion of
9 costs or a new activity that was within our mandate that
10 we felt we had to undertake but that was going to push us
11 out, you know, above and beyond the \$300,000 potentially
12 into a deficit situation, that we would through the market
13 advisory committee, you know, seek feedback from those
14 parties or from the representatives of those parties that
15 would be paying the bill at the end of the day, and in
16 that way help provide a method of control over how that
17 money is spent.

18 Q.608 - Would it be your intent to use that contingency just
19 for Schedule 1 services? What about other schedules?

20 MR. MARSHALL: No. It's only for Schedule 1. The proposal
21 before the Board is that each service -- the costs and the
22 revenues from each service actually get aligned and
23 settled on a service by service basis.

24 MR. PORTER: To elaborate on that, on Schedules 3, 5 and 6
25 the proposal clearly is that the expenses get flowed

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2 through -- 100 percent through to the transmission customers
3 on a monthly basis. So there would be absolutely no
4 surplus or deficit on those.

5 With respect to Schedule 2 the expenses there are very
6 predictable because we know going into the year what the
7 contractual arrangements are for the procurement of those
8 services. So as Mr. Marshall said, there will be that
9 certainty there, and the costs will be contained within
10 the individual service.

11 Q.609 - I'm just going to refer you to a document. It's in A-
12 5 under the revised rates and charges, at page 14.

13 MR. PORTER: Yes. We have that.

14 Q.610 - And really our question is one more to clarify the
15 request here. But at Table 3, line 21, it appears that
16 there is a contingency amount of 300,000 included in that
17 column for '08, '09 and that the total cost of service
18 then is 9,133,000.

19 If you then turn to page 10 of the same section at Table
20 1, in the middle column the total expenses are shown as
21 8,833,000. And it doesn't appear that there is a
22 contingency built in.

23 So essentially we are just looking for some clarification
24 as to whether or not that contingency is in fact included
25 in the '08, '09 budget?

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MR. MARSHALL: In the '08, '09 budget on Table 1, page 10 the column "Test Year Number 1" is the entire operation for the year '08, '09 assuming that we were going to get rates starting in April. So that is a revenue requirement including a contingency that would result in the 9,133'. That is what was applied for under the interim in order to determine what the rate would be. And the second column, the July 1st implementation, column 2, that is in actual fact the budget for the year, assuming the revenues started to come in, on July 1st.

So the contingency, the \$300,000 essentially, at least three-quarters of that is being included in the revenues that are coming on line 24, because that new rate was approved and started on July 1st.

So it doesn't show up as a contingency. It shows up in increased revenue.

Q.611 - So that revenue then includes a contingency of approximately 225,000?

MR. MARSHALL: The rates there -- the revenue in that rate is on the basis of rates approved on the full year, including a \$300,000 contingency in the rate.

Q.612 - So you have built a contingency into this particular year. It is in the rates?

MR. MARSHALL: Basically there is about \$225,000 in the

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rate.

Q.613 - Still looking at page 10 of that document, from my read of that material it appears that the NBSO is forecasting a deficit of 57,000 for the '08, '09 year. Is that correct?

MS. WEST: That's on the SO operations. It's a total deficit of 15,000.

Q.614 - But for Schedule 1, including now the contingency that you have referenced, there is a deficit of 57,000?

MS. WEST: That is correct.

Q.615 - And having looked at the Settlement Agreement, is it correct that the NBSO intends to fund the deficit from an anticipated surplus from the other schedules, or from the amount currently I guess built into the contingency or in the retained surplus?

MR. MARSHALL: Under the Settlement Agreement, if the end of the year ended with that deficiency, it would be settled out of the surplus from CBAS.

Or actually, as Mr. Porter said, under the Settlement Agreement there is \$300,000 in a retained surplus account.

100,000 of that was going back to the settlement for 2007, '8. 200,000 would be retained.

So that \$57,000 would get settled out of the retained surplus agreement. The residual of the retained surplus

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2 would get rebated to CBAS customers. That's the arrangement
3 in the settlement agreement.

4 But if the deficit were, in line 33, if it actually was
5 larger than \$200,000 then it would take all of the
6 retained surplus account. And anything above the 200'
7 would come out of the CBAS surplus.

8 Q.616 - I would like to reference you to A-5, page 89. It is
9 under Schedule 1, the black line Schedule 1, I guess.

10 So at page 89 it states that if there is to be a deficit,
11 in your proposed plan for Schedule 1 revenue requirement,
12 if there was to be a deficit, that would be included in
13 the revenue requirement for the following year. But a
14 surplus would be rebated to transmission customers on a
15 pro rata basis for the same year.

16 Can you provide the rationale for dealing with the
17 surpluses in the year they occur but not dealing with the
18 deficits in the year they occur?

19 MR. PORTER: Certainly that arrangement is a consequence of
20 the settlement negotiations. And I can't say exactly what
21 thoughts were going through the minds of the parties.

22 But I would observe I guess that if I were a market
23 participant and there was a surplus, I would be in favor
24 of receiving my share as soon as possible.

25 But if there were a deficit I might prefer that that

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deficit only be addressed after a review by this Board.

Q.617 - Is there a risk, Mr. Porter, that there could be different customers from one year to the next?

MR. PORTER: There is that risk. We have a fair amount of consistency. A good portion, two-thirds to three-quarters of the usages is NB Power standard service. And the majority of the point-to-point service is taken under long-term firm transmission.

But nonetheless there is that risk, yes. But that risk is relatively small in comparison to the overall usage.

Q.618 - How would the surplus or deficit actually be determined? And essentially what would be the review process prior to the end of the year for finalizing or approving a deficit or surplus?

MR. PORTER: Actually it would be based on the final audited financial statements.

Q.619 - But with respect to a surplus how could you rebate that in the same year if you are waiting then for the audited financial statements?

MR. PORTER: Okay. Technically it would not be rebated within the same year. But we would -- after the end of the fiscal year which is March 31st, when the financial statements had been finalized, audited and finalized, then

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2 we would do the calculation and perform the rebate with
3 respect to the transmission usage in that year that had
4 just ended.

5 So the money would go out in the next fiscal -- very early
6 in the next fiscal year. But the rebate would be based on
7 the usage in the fiscal year in which the surplus
8 occurred.

9 MS. DESMOND: We would like to share with the panel I guess
10 maybe an alternative approach to how the revenue
11 requirement and in particular the deficit surplus issue
12 could be dealt with.

13 So if you don't mind, we would like to just circulate, Mr.
14 Chair, just an example that perhaps the panel could have a
15 look at.

16 CHAIRMAN: So the document that has been circulated,
17 Schedule 1 example, I am going to mark that Number 6 for
18 identification.

19 MR. PORTER: Mr. Chairman, I wonder if perhaps someone could
20 walk us through this document. And it might help us
21 understand.

22 CHAIRMAN: I'm sure Ms. Desmond would be pleased to do that.

23 MS. DESMOND: Thank you, Mr. Chair.

24 Q.620 - The example that has been crafted is essentially just
25 an alternative proposal to perhaps what has been offered

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by the SO as a mechanism for the adjustments.

In the first line essentially we have just made an assumption that there is a revenue requirement for the '09, '10 of 12,000,000. And that essentially would break down to a monthly charge of 1,000,000 per month.

You would then move to your approved budget for '10, '11.

And assuming you have the same Revenue Requirement that 12,000,000 is there. There would be an estimated surplus, maybe by the time you did your next year's budget, from '09, '10 of 600,000.

So in total then your budget for '10, '11 would be 11.4 million. That would result in an initial monthly charge of 950,000.

But when you actually got your audited results in June, as an example, perhaps the surplus was only 300,000. So now there is a difference of 300,000 that is yet to be recovered by June, the remaining months. But there would only be six remaining months. And that 300,000 over six months would result in an additional monthly charge of 50,000.

So the total monthly charge for the last six months of that fiscal year would be 1,000,000. And the total that you would have recovered is your 11.7 million.

So essentially your revenue requirement would still be

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met. So instead of giving -- handling the surplus and

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deficits in the mechanism you have suggested, would it be

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possible then to set the initial amount, the monthly

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charge, using an approved budget with an estimate of that

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surplus or deficit?

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MR. PORTER: If I could just characterize this to see if we

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are understanding it properly. But it seems to me there

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are really two kicks at the can here, and that we would

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set the rate going into the year based on an estimate of

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the previous year's surplus.

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And then so halfway through the year there would be

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another adjustment essentially to what we would be

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collecting each month.

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Q.621 - That is correct. And if you didn't take that approach

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how else would you set the rates for April 1st?

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MR. PORTER: The issue of not knowing exactly the surplus is

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one that we have discussed and had thought that we would -

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- under the proposal we would have to live with that risk.

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If there was a mismatch and it maybe carried over into

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the following year, this approach would address it more

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quickly.

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MR. MARSHALL: I would just ask then, Ms. Desmond, that in

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this example there was an estimated surplus for '09, '10

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in line 4. If we were in a situation where there was an

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2 estimated deficit say of 200,000 -- and of course you didn't
3 know what it was -- then under this proposal you would
4 start out -- and the actual budget requirement is still
5 the 12,000,000.

6 You would start out then at charges of 12.2 million,
7 assuming there was a deficit to make it up. But then
8 after you got the detailed numbers, if it was only 100,000
9 or whatever, you would make an adjustment six months in
10 and then pick it up and go on for the rest of the year.

11 So it could work for both a surplus and a deficit.

12 Q.622 - The example we provided, Mr. Marshall, essentially
13 could work in either scenario.

14 And I guess we wanted your thoughts on if you thought that
15 this perhaps was an alternative approach that in your view
16 could work?

17 MR. PORTER: In consideration of this, I just want to say
18 that we did have this issue about timing with respect to
19 the deficit. Because we wouldn't know the exact deficit
20 until after we had already filed with Board.

21 So that is where we felt if there was a true-up it would
22 probably happen a year subsequent. So this would be an
23 improvement on that.

24 But with respect to the Settlement Agreement proposal,
25 with the treatment of surpluses, we don't have this issue.

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2 Because as I mentioned a few moments ago, we would just do it
3 after the financial statements for the year were
4 completed.

5 We would know the exact amount of the surplus and would
6 rebate it against the previous year's usage on one bill,
7 basically a true-up at the point of time at which we knew
8 the actual surplus.

9 Q.623 - Okay. Now I would like to just discuss Schedule 2.

10 And I believe again at A-5, page 10 there is reference to
11 Schedule 2 and the expenses.

12 But could you point to a detailed schedule of expenses for
13 Schedule 2 that has been filed with your evidence?

14 MR. PORTER: That is in exhibit A-1.

15 MS. DESMOND: Do you have the particular reference in --

16 MR. PORTER: Just tracking that down. Yes. Okay. So it is

17 under -- I guess the detail that we would have would be

18 under tab 5, the colored tab 5. It is exhibit A-1,

19 colored tab 5. It will be a white tab, letter A.

20 And it is a schedule labeled 4.1, NBSO Expense for

21 Reactive Supply and Voltage Control for Generators. And

22 it just shows the expenses year over year for that

23 service.

24 Q.624 - So is it fair to suggest that we don't have a detailed

25 breakdown of your expenses for Schedule 2?

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2 MR. PORTER: We don't have any more detail on the record
3 than what's in this sheet. I'm not sure exactly what
4 detail you are looking for. Perhaps we could provide it.

5 But I think that's the lowest level of detail that's on
6 the record.

7 MR. MARSHALL: The amount of expense for each of the three
8 generating companies that have contracts to provide
9 ancillary services. So the total here could be broken
10 down by those companies.

11 And there actually is a -- say there is actually a rate or
12 a number that's paid to each specific generator. So there
13 is significant detail behind all this. But it's not on
14 the record.

15 MR. PORTER: As Mr. Marshall said, we can provide more
16 detail. But it would be helpful to know if there is
17 anything in particular you are looking for so that we
18 could make certain that it's included in any additional
19 submission or indeed if that's required. Maybe we could
20 just answer it verbally.

21 Q.625 - Essentially, Mr. Porter, is the SO able to get a firm
22 cost for Schedule 2 prior to the start of the year?

23 MR. PORTER: Yes.

24 Q.626 - And how would the Board then examine the cost to
25 determine the appropriate revenue requirement?

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MR. PORTER: Just a second please. Just to provide a little more detail there, we would know which generators we are contracted with and what their capabilities are. There is the issue of the escalation of the price. The contracts have an automatic escalation clause which is indexed to the consumer price index.

We will have to look into the timing of when in January -- whether the CPI figure for the previous calendar year is available before we would make our filing with this Board.

But it certainly would be out before the start of the fiscal year.

Q.627 - Mr. Porter, in fairness, I think in A-5 you did give some -- sort of a summary of how those costs were calculated. It does reference the escalation of the procurement prices.

But essentially how could the public and the Board be assured that those costs are reasonable? And in future years how would that budget be reviewed or tested?

MR. PORTER: The costs would be subject to Interrogatories and cross-examination as they would have been in this process that we are taking part in today on Schedule 2.

MR. MARSHALL: I would also comment that those costs come out of contracts between NBSO and the NB Power companies. And those contracts are based on the cost of service that

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was approved by the previous Board, the Public Utilities Board in the original tariff hearing. And they were based on proxy units and costs that were on an escalating basis. So the concept of a capacity-based cost on an escalating basis was approved by the previous Board. And those numbers are the exact basis of the contracts that were written and that went into effect on October 1st 2004 with the generating companies at NBSO.

Now on a go-forward basis sometimes I think it may be prudent to review them. But those contracts are absolutely in line with approved regulatory rates at this point in time.

Q.628 - How, Mr. Marshall, would the Board and the public be assured that they are being implemented appropriately? And when did these contracts expire?

MR. MARSHALL: The contracts are actually life of the facilities. So they are long-term contracts to assure that NBSO had access to the resources required to provide ancillary services in the system.

Q.629 - I appreciate that the contracts essentially are what form the rates today. But going forward how is the Board to be assured, if it is essentially revenue requirement, what material, what documents, what contracts are going to be provided so that the Board can assure the public that

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these costs are reasonable?

MR. MARSHALL: Whatever contracts the Board asks to have, we will provide.

Q.630 - But essentially then you are suggesting that would be open for a review for prudence, a public hearing, IR's I believe as Mr. Porter suggested.

That is essentially what you are suggesting for Schedule 2 for future years?

MR. MARSHALL: If it is deemed by the Board that that is required I think -- I think yes. For Schedules 3, 5 and 6 the -- I think the concept in the Electricity Act and in the previous hearing where approval of the tariff with the Public Utilities Board, was that wherever those services could be procured competitively, that should be the way that they are done. And the Board's role was to overview the competitive process, RFP type process, not necessarily to approve the rates.

But until such time as there is not an opportunity for a competitive procurement of all of them, that was the intent on setting a range on the amount that could be self-supplied. So as there were resources in the system that might be able to compete, we would be able to run another RFP to procure some of the competitively at whatever price we got. That's what the cost would be.

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So it's a mixture here of regulation and competition that's intended in the Electricity Act and that was also approved and intended from the previous Board.

Q.631 - Was Schedule 2 ever subject to a competitive bid, the services --

MR. MARSHALL: No. That's what I say. To review Schedule 2, if that's in the Board's interest, then that could be reviewed.

Q.632 - Do your own auditors review the payments made pursuant to these contracts to ensure that they are consistent?

MR. MARSHALL: Yes.

IQ.633 - How would the SO handle any defecit or surplus in Schedule 2?

MR. MARSHALL: The proposal is the same as Schedule 1.

Q.634 - If you know your costs up front, Mr. Marshall, why would we be even anticipating a surplus or a deficit? Would we not -- if those costs are fixed could they not simply be charged one-twelfth each month to recover those fixed costs?

MR. PORTER: I think we stated that earlier, that with Schedule 2 there would be that certainty of knowing what the costs were, and so there shouldn't any surplus or a deficit.

But you had put forward to Mr. Marshall a hypothetic

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that if there were a surplus or deficit. So he answered that question.

Q.635 - All right. So now our next area will be under schedules 3, 5 and 6.

And I understand your proposal is that each transmission customer essentially would pay a share of the total monthly expense for each CBAS service in proportion to their monthly obligation net of self-supply.

But how are the actual expenses for schedules 3, 5 and 6 in any given year actually determined?

MR. PORTER: There are really now two components to how we procure the capacity-based ancillary services. And one is referred to as the monthly and the other referred to as the hourly. So I will describe them in sequence.

On a monthly basis, going into a given month, we would look at the actual requirements, the requirements for these services, for each of the five capacity-based ancillary services.

And if need be we can turn up the numbers and show some example numbers from the cost allocation and rate design document for those services.

I can -- off the top of my head regulation requirement is 19 megawatts. On average load following is 54. But it varies from hour to hour. And then the requirements for

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the reserves is a function of the first and second contingency sizes as we spoke of yesterday.

But given that we know at the start of the month our expectation of what the requirements would be for each of those services, we put that information out there to the market participants so that those that are self-supplying, we let them know what our total requirement is and what their pro rata share of the obligation is.

So each market participant knows what their obligation is.

And then they would let us know the level of their self-supply. Then we would know that any difference between the total requirement and the level of self-supply is an amount that we would have to procure.

So we would look at our options with respect to supply and on a least cost basis would procure those services. So basically those capabilities would be set aside for the month.

And meaning that a generator who was selected to provide this say spinning reserve could not turn around and sell that same capacity into the New England market. Because that would be double dipping and have potential reliability consequences. So that process takes place on a monthly basis.

But then in real time, you know, in the operating

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horizon, we have the same issue. The size of the contingency may have changed. But for any given hour we would know what the regulation requirement is, the load following requirement and each of the three categories of reserves.

We would know what was required.

And again we would look and say okay, what is the level of self-supply? What is the difference between the total requirement versus the level of self-supply for each of the five services?

And system optimization software would look at the options for the supply of those services and select the service provider based on the least cost to the System Operator.

So at the end of the month we would know both the commitments we had made on the monthly basis, for which we would be paying the supplier, and the commitments we had made on the hourly basis and payments. We would total up both categories from all market participants from all five services.

And then within each service we would allocate the cost out that was incurred in that month, allocate that out to the user, to those that had the obligation in that month net of their self-supply.

So if someone was self-supply 100 percent we would not

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2 charge them anything. But those that did not self-supply 100
3 percent would carry their pro rata share of the expenses
4 incurred by NBSO.

5 And if you wanted to look at some typical quantities, it
6 is in exhibit A-1, colored tab 5, sub tab white B. And
7 that's the cost of service study for capacity-based
8 ancillary services.

9 So I will leave it to you, Mr. Chairman, as to whether or
10 not you would like to run through any of those numbers.

11 Q.636 - Mr. Porter, a couple of times now you have referred to
12 the least cost supplier. Does anybody have an opportunity
13 to examine that selection process?

14 Is there an opportunity to determine that the SO has in
15 fact chosen the least cost supplier? How would those
16 costs be examined?

17 MR. PORTER: Well, certainly that function would be subject
18 to review by auditors periodically. If -- I guess to the
19 extent a market participant or this Board wanted to
20 examine the process, we could walk through the process.

21 MR. MARSHALL: There is a requirement in the market rules
22 that market settlement systems be audited on a regular
23 basis.

24 So those actual software systems, the methodologies and
25 the processes through them are subject to audits under

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the rules. And they are also subject to -- that's from an external auditor. They are also subject to review internally and looking at our systems, an internal audit as well.

MR. PORTER: If it is helpful I should elaborate as well that it's going beyond just a financial audit, that there is a specific system in functional areas, specific audits that go into a lot of detail.

And as the assurance plan proceeds further we would get to the point where, you know, at least a summary of the results of those reviews would be made public. And we also do file any such audit or review in confidence, at the very least in confidence with this Board.

Q.637 - Yesterday there was a question around how a potential customer might know what the actual cost was going to be.

And there was a bit of confusion, at least from the Board Staff perspective, as to what the actual intent was and how the SO would actually bill for these services.

So does the SO propose to bill for schedules 3, 5 and 6 after the cost for the month is known and actually after sort of the actual quantity of service is taken? And how does that line up with somebody being able to determine in advance what their costs would be?

MR. PORTER: Yes. That is correct. With respect to

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2 schedules 3, 5 and 6 we would not know the actual expenses
3 until the end of the month, nor would the market
4 participants. We would calculate what the expense was,
5 allocate that out to the transmission customers and send
6 them the bill.

7 And I believe yesterday I made reference to Schedule 9 in
8 the tariff. I misspoke. It was actually Schedule 10.

9 And I just mention that because it is very similar in that
10 it is -- it's called a residual uplift in the tariff. But
11 it's a mechanism whereby some of the market settlement
12 activities are settled out. And whatever expenses are
13 incurred are flowed through to market participants.

14 And in fact in the case of Schedule 10, in any given month
15 that amount might be positive or it might be negative. So
16 not only does the market participant not know the
17 magnitude, they don't know whether they are going to be
18 receiving money or paying money in. And it's something
19 that has been in place for some time now.

20 And the proposal for the settlement of schedules 3, 5 and
21 6, in accordance with the Settlement Agreement, would move
22 those schedules into the situation where the market
23 participant would not know what they would be paying until
24 -- basically till they saw the settlement statement at the
25 end of the month.

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MR. MARSHALL: But I would like to just add to what Mr. Porter said. It's important the Board understands that the people that are procuring these capacity-based ancillary services are very sophisticated market players. And they know exactly what their obligation is in terms of capacity for each service going into the month. So they know how much they are obligated to either buy or self-supply. They also know contractually what the capacity cost of those services generally are.

That will be provided as information in a forecast in terms of what are the effective rates and that information behind it. So they will know within very accurate estimate of what their costs are for the month for those services.

What we are talking about in terms of settlement, okay, will be differences against that. And most of the changes, I think almost all of the changes will not be increases in costs. They will be decreases in costs because the contingency in the system is now smaller than the largest contingencies.

In other words, if Lepreau is offline for a period of time then the requirement would be less for that week. Well, at the start of the month their obligation was higher.

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So most of the changes will be reductions in cost, not increases. And they will know full well what their full expected maximum costs would be going into the month.

MR. PORTER: Not to get the last word here. But as Mr. Marshall said, the market participants will likely be sophisticated. But if it happens that they are not, there may be a very able consultant available to help them out to provide that information.

CHAIRMAN: This might be a good time to take an afternoon break. So we will take 15 minutes.

(Recess - 3:00 p.m. - 3:15 p.m.)

CHAIRMAN: Anytime you are ready to resume your questions.

Q.638 - Our next area of questioning relates to Schedule 3.

And the evidence I understand that has been presented essentially is that Schedule 3 has three parts.

And on a very high level could you describe essentially each of those parts? So starting with Schedule A what is the nature of that service, under Schedule 3(A)?

MR. PORTER: 3(A) is the service that's used to help in real time, keep the system in balance. As I think most of you know, the characteristics of the electric power system are such that supply and demand need to be in balance at all times.

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2 And so some generation on the system is controllable
3 directly from the SCADA system that Mr. Marshall referred
4 to earlier. So signals can be sent from our offices in
5 Fredericton from the SCADA system to these generators to
6 ask them to increase their output or decrease their output
7 on a fairly rapid basis.

8 And so as the consumption increases or decreases or the
9 basically net of the consumption of the generation
10 fluctuates within the hour, the 3(A) service is used to
11 maintain balance.

12 3(B) service, the load following service is similar. But
13 it's on a slower moving service that follows trends across
14 the hour. So for instance, if in the morning as people
15 are turning their lights on getting going for the day, the
16 load may be increasing from 1800 megawatts at the start of
17 the hour to 1900 megawatts at the end of the hour.

18 So effectively you have 100 megawatt requirement for a
19 load following swing. So you need to have generation that
20 can be ramped up across the hour to offset that increase
21 in the consumption.

22 Q.639 - And who has the obligation -- sorry, oh, 3(C).

23 MR. PORTER: With respect to 3(C), the new service that we
24 propose to add to the tariff, it's a combination of 3(A)

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2 and 3(B) types of services. But the distinction being that
3 this is a service that's required specifically to
4 accommodate fluctuations in wind power generation that
5 will be added to the system.

6 Now there is a recognition that the requirement for those
7 services will be increased as a consequence of adding wind
8 power to the system. And so even though technically now
9 the generator that might be providing the service might be
10 the same as what's providing the service under 3(A) or
11 3(B), we want to carve out the services that are being
12 provided to keep the system in balance in light of the
13 variability of the wind power production.

14 So 3(C), really the cost components within that, I believe
15 we discussed yesterday, is the capacity component of both
16 regulation and load following, but also the aspect of
17 additional unit commitment or dispatch costs that would
18 also occur.

19 Q.640 - Is it correct that all of the costs for Schedule 3(A)
20 are to be recovered each month by the charges for Schedule
21 3(A)?

22 MR. PORTER: Yes. That is correct.

23 Q.641 - And the same with 3(B)?

24 MR. PORTER: Yes. That is correct.

25 Q.642 - And is it correct that the charges for 3(C) may not

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equal the cost each month?

MR. PORTER: Yes. That is correct.

Q.643 - If there is a deficit on Schedule 3(C), what does the SO plan to do?

MR. PORTER: I believe we discussed this yesterday, that if over a period of time we found we were in a situation where that deficit was expected to continue to exist, is that we would bring the matter to this Board for resolution.

Q.644 - Why would it not be appropriate for Schedule 3(C) to operate essentially on a full cost recovery basis each month, the same way that is proposed for the other CBAS services?

MR. PORTER: The proposal we put forward gives a greater degree of certainty to project proponents, that they would have this rate, fixed rate in the tariff which they could use in developing their business case. And it's going to be our intent not to get into a situation where there is an ongoing deficit whereby we would have to try and recover that deficit.

Q.645 - Have any commitments been made to wind farm generators concerning the rates they would be required to pay for the Schedule 3 services?

MR. PORTER: No. The proposal has been filed with this

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2 Board. It has been discussed at the Market Advisory

3 Committee. And there is a representative of alternative

4 energy providers on the Market Advisory Committee.

5 So they are aware of it, but only through this -- I should

6 say back through the original -- through this process,

7 that they are aware of it.

8 There has been no commitment made. Because we are not in

9 a position to make such a commitment. We implement tolls,

10 charges and rates under the Act only upon the approval of

11 this Board.

12 Q.646 - How --

13 MR. MARSHALL: Just add to that that all of the wind

14 producers that are under contract to Disco are aware of

15 it. All of the wind projects in the New Brunswick

16 balancing area are aware of this charge.

17 All of the System Operators in the Maritime area, Maritime

18 Electric, Northern Maine Administrator are aware of this

19 and were aware that this particular hearing was taking

20 place and this application was being made.

21 And none of them are here. So I can only assume that they

22 don't see it as such a big problem to them.

23 Q.647 - How are the costs for Schedule 3(C) services

24 determined?

25 MR. PORTER: The costs are a result of the wind innovation

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study that NBSO performed and for which the report was published in 2007 and which is included in exhibit A-1 under tab 5. I believe it's a white tab D. Yes. It's under tab 5, colored tab 5, the white tab lettered D in exhibit A-1.

Q.648 - I understand that that study is there. But is there actually a contract in place that will secure the price as suggested, the cost as suggested?

MR. PORTER: There are contracts in place with NB Power Generation, with Coleson Cove with respect to these services, the capacity based ancillary services. And there is also the market rules whereby we have dispatch rates over generators. The answer is yes. There is an arrangement in place whereby we would procure those services.

Q.649 - So based on those contracts then what are your cost estimates for schedule 3(C) for each of the upcoming years, starting with '09, '10 up to 2012, 2013?

MR. PORTER: We have not produced such estimates. Because that's really a function of a couple of things. (1) is the amount of wind generation that's on the system in that time frame. And (2) is the level of self-supply. Because as we have noted earlier, that those parties that have the obligation, the wind farms that have the

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2 obligation could choose to self-supply and therefore would not
3 be buying the services from us.

4 We don't know at this time which wind farms would self-
5 supply and which would buy the services from us. At this
6 point our focus is on getting the approval of that 3(C)
7 component of the proposal.

8 Now estimate of the costs on a per megawatt hour basis of
9 wind farm generation is roughly a dollar per megawatt
10 hour. And that's why we have proposed that the charge be
11 a dollar per megawatt hour of wind power production.

12 Q.650 - If that's your cost is it fair then to suggest your
13 anticipating a deficit for the next couple of years given
14 that your rate is much less than that?

15 MR. PORTER: Sorry, the dollar per megawatt hour rate is
16 based on -- as in shown in the wind integration study, it
17 is based on a total balancing area of wind power of
18 ampiration of somewhere between 400 and 600 megawatts of
19 wind. We will not be at that level over these next two or
20 three years. It would be very difficult for us to like
21 perfectly identify the -- what the costs would be over
22 these next two or three years. That's why we have simply
23 selected a linear phasing in of that rate. We owe 25
24 cents in the first year, 50 cents in the second year and
25 75 up to the dollar. I am sure the cost will not increase

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linearly, but we have no better information upon which to define what the wind increases will occur.

Q.651 - Is it fair to suggest that the revenue estimates for Schedules 3(c) have not yet been determined?

MR. PORTER: Yes, that is correct.

Q.652 - If that's the case how then have the rates for 3(c) been developed?

MR. PORTER: We will go back to the wind integration study and perhaps I didn't really go far enough on that story that we have a model for performing what we call unit commitment and dispatch of the system. And within that we have data on hourly load available, thermal generation, hydro generation, et cetera.

And we added to that some simulated wind power production data and, you know, made comparison of the costs with and without the wind power production available to the system and inclusive of forecast error.

And we do that at three levels of wind power penetration for the balancing area, one at 400 megawatts, another case at 600 megawatts and the third case at 800 megawatts, and made an estimation of what the costs would be to the system in each of those three cases, and then in each case took the cost, divided by the megawatt hours of wind power production to get a cost per megawatt hour of

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wind power production. And we did it on that basis.

Q.653 - You mentioned earlier that, you know, the objective is that you would not be faced with a large deficit. But how would that deficit, if there was one, essentially be dealt with?

You have indicated that the contingency fund wouldn't be used for other than Schedule 1, that it is your goal that in the other schedules the cost and revenues would be aligned.

How then would that deficit be covered if you were a not for profit organization?

MR. PORTER: We do not have in place a specific proposal as to how that would be handled. I believe it would be appropriate to get the views of those that would have contributed the money and have those views taken into account.

And ideally a consensus for those will be brought forward to this Board for this Board's approval. If a consensus cannot be reached then, you know, there might be more than one proposal brought to this Board in order to resolve that question.

So in summary it's a bit premature. We don't -- you know, we don't know exactly who -- we know some of the project developers that will be involved but not all of

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2 them. And I think the main focus of those developers today is
3 on getting their projects up and running. And for some of
4 them it might be a matter of getting financing.

5 I think there will be a more appropriate point in time to
6 discuss that question with the proponents and resolve how
7 any surplus or deficit would be handled.

8 But we would certainly intend to stick to the principle
9 that cost subsidization between ancillary services is not
10 favored, and would be tracking the costs so that there
11 would be a measure of surplus or deficit relative to that
12 3-C service.

13 And the treatment of any surplus or deficit would only be
14 dealt with after approval by this Board, a decision by
15 this Board in that matter.

16 Q.654 - Yesterday there was some reference to limiting access
17 by possible new wind farm projects if they could not self-
18 supply the services under schedule 3-C and could not
19 export their entire production in a dynamic or real time
20 scheduling environment, is that correct?

21 MR. PORTER: Yes. That's correct. That wording is included
22 within the proposal.

23 Q.655 - Could this lead to a situation whereby the proponent
24 of the project would be in a position to appeal that

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decision to the EUB?

MR. PORTER: The policy, if accepted by this Board, would be in the tariff and subject to whatever opportunities for appeal might exist under the Act for any aspect of the tariff.

Q.656 - Where in the tariff would it preclude proponents from essentially having access?

MR. PORTER: I refer you to exhibit A-1 under tab 5 again, the colored tab 5. It's the white tab lettered F. And it's on page 93.

So this is the section of the tariff -- so this is section 3-C in the proposed or revised tariff. So the title of that section 3-C is AGC and load following for nondispatchable wind power generators. And the relevant paragraph is at the bottom of that page. And I will just read that. So again on page 93.

To the extent that expenses are expected to exceed the revenues for these services, new nondispatchable wind generation in the balancing area shall self-supply this service in accordance with the transmission provider's market rules.

So as I stated earlier there is a defined rate on the next page, the page 94 that we would apply. And if we were to be in a situation where we would anticipate that

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2 if we allow more wind generators to come on and not self-
3 supply, that the expenses would end up exceeding the
4 revenues, then we would have to say that those -- after
5 that point in time all new generators would have to self-
6 supply or do the dynamic scheduling.

7 Q.657 - Would it be possible to structure the services under
8 schedule 3-C so that the proposed rates would apply up to
9 a certain maximum amount as megawatt?

10 And then if projects were proposed that would exceed this,
11 that a new rate would be developed for an amount in
12 excess?

13 MR. PORTER: It is possible. But one of the issues that we
14 are trying to address here is not just the cost of
15 procuring these services. It is that we may not be able
16 to procure the services at all.

17 But it is possible that if we approach that point and
18 there was a desire of market participants to do that, and
19 we could somehow procure those additional services, that
20 could be considered.

21 Q.658 - If you are not able to procure them how could a wind
22 farm generator self-supply them?

23 MR. PORTER: They may not be able to. But on the other hand
24 we can't operate the system with wind power production
25 added to the system without those services available.

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2 Q.659 - Essentially then this service is limited for a certain
3 number of megawatts. Because if you are not able to
4 procure then certainly other people aren't going to be
5 able to self-supply, is that correct?

6 MR. PORTER: That's not necessarily the case. It might be
7 that we were not able to come to a contractual arrangement
8 with the providers but that the wind farm could.

9 Q.660 - Just one last question in this area. The first line
10 in that last paragraph talks about the fact that if the
11 expenses are expected to exceed then new nondispatchable
12 wind farm generators wouldn't be permitted essentially, or
13 they would have to self-supply.

14 But what if that happened right from day one? What if
15 right from the beginning of this schedule the expenses did
16 exceed the revenues? Why then are only new wind farm
17 generators excluded?

18 MR. PORTER: Well, in the scenario you describe we are into
19 that situation you have asked about before, which is that
20 we would be in a deficit situation, if I understand your
21 question properly.

22 And as I said before, we would have had to come to this
23 Board to resolve that deficit situation. And there are
24 only so many different ways to tackle that. One would be
25 to increase the rate. Another would be to find someone

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else to cover off the deficit, but --

Q.661 - How frequently would you be reporting the costs for this service to the Board? Would you be waiting for the entire year to pass before there was a deficit situation?

MR. PORTER: This would be information that we would be publishing on a monthly basis along with other settlement information.

In terms of the frequency of the filing with the Board, we would comply with whatever the Board's wishes would be on that. It's available monthly. We would not likely be reporting it any more frequently than that.

Q.662 - I would like --

MR. PORTER: Sorry. Today we file a monthly statement with this Board in confidence. And it would show -- now it does lump all the capacity-based ancillary services together and shows the revenues received and the expenses.

But certainly the Schedule 3-C revenues and expenses could be separated out and put on that same statement.

That would probably be the best way to -- most likely be the best way to handle that. So the Board would receive on a monthly basis both the current month's information and I guess the -- yes, they would receive the current month's information.

Q.663 - I just had a couple of questions on the settlement and

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in particular the retained surplus. What was the rationale for eliminating the retained surplus?

MR. PORTER: Sorry. I just wanted to -- we had a follow-up just on -- that last question is that the monthly statement also includes the year to date revenues and expenses. So that information would be available as well. Could you repeat the next question, please?

Q.664 - Sure. I just wanted to ask a couple of questions around the settlement, and in particular, the retained surplus. What was the rationale for eliminated the retained surplus?

MR. MARSHALL: Under the terms of the settlement agreement, the fact that CBAS services would be settled each month based on actuals, there would be no need for the retained surplus relating to those services. And that the proposal was that instead of retaining a surplus, it would be better to put a contingency in the budget on revenue requirements for Schedule 1 and then deal with it and rebate it each at the end of the year and adjust on a go forward basis for an deficits. So it was basically agreed rather than just have money sitting there market participants agreed that they would rather have everything settled on a month-by-month basis and know exactly where they are.

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2 Q.665 - Have all market participants been informed of the
3 proposed settlement?

4 MR. MARSHALL: The little confusion around some of this --
5 it is hard saying all of the market participants that
6 purchased CBAS services from us would have gotten this
7 information. They either got it through the circulation
8 list that the Board put out for reference 2008-003, which
9 was the surplus rebate process, or even the list
10 associated with this hearing going out. But all parties
11 that had anything -- any stake in the game on the surplus
12 issue got this information. There may be some market
13 participants that are only point-to-point transmission
14 customers that have not been active that are registered
15 market participants may not have received it. I guess
16 that's -- but everybody party to this hearing, everybody
17 party to the surplus process have.

18 MR. PORTER: And certainly they would have opportunities
19 through their Market Advisory Committee representative to
20 be apprised of the discussion. And also, you know, the
21 Market Advisory Committee minutes are available on the
22 website and so they could have been following the
23 discussions there.

24 Q.666 - There has been some reference in the last day or two
25 with respect to the use of the retained surplus account.

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2 In particular, I think it was a decision of the PUB of April
3 26th 2005. And is the SO asking the Board that as part of
4 this hearing that the retained surplus account be used as
5 proposed in the settlement agreement? And in essence, the
6 decision says one thing but what I am hearing you testify
7 to as part of your application is that something different
8 happened with that retained surplus different from what
9 has been provided for in the Board decision?

10 MR. MARSHALL: I think the answer is yes.

11 Q.667 - Dealing next with the cap on self supply. And in
12 particular I am referring to document A-5 in the
13 Introduction, page 2.

14 MR. PORTER: Please just repeat that reference?

15 Q.668 - Yes. It is A-5 in the Introduction section, page 2.

16 MR. PORTER: Yes, we have that.

17 Q.669 - I am wondering what criteria would the SO use to set
18 the actual cap within the proposed 85 to 100 percent
19 range?

20 MR. PORTER: Their criteria would be consideration of the
21 level of interest in new entrant participant versus the
22 need for new entrant participant -- yes, new entrant
23 participation. And if we felt that we had to have a lower
24 cap on self supply in order to stimulate -- provide the

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opportunity and stimulate these new entrants to actually participate then we would do so.

Q.670 - How often would that cap be set or adjusted?

MR. PORTER: Only as the conditions arise that would cause us to change that and that's really a function of when new entrants come along. I couldn't put a particular timing or frequency on that.

Q.671 - What are the SO's plans with respect to when the first review or adjustment of the cap would occur?

MR. PORTER: I have no doubt that we will be asked by at least one market participant to review that at the next -- at the first Market Advisory Committee after the decision of this Board on the matter.

Q.672 - How was that 85 percent arrived at?

MR. PORTER: That was a -- as I recall when this matter was discussed before this Board previously, the notion came up of putting some limits and I am not sure that it wasn't the Public Intervenor that proposed that 85 percent, but I am not sure. There were a number of different suggestions put forward. And I recall us saying that that was a -- that could work for us. But what we had asked for at the time was the same thing that we are asking for now which was an allowable range of 85 to 100 percent. I would really have to look back and see who it was who came up

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2 with the 85 number and what that was based on. Just a second,
3 please.

4 Yes, just to be clear, I don't think we initially asked
5 for any of -- the allowable range that we had asked for
6 was from zero to 100 percent. And there were concerns
7 raised in those proceedings and even the discussion, the
8 notion of the 85 percent came up and that was -- and we
9 have just continued with that number. But I believe we
10 also did some calculations at one time about the potential
11 cost impact of such a limit, but I would have to take a
12 look back through the files to track that down.

13 MR. MARSHALL: Plus I think there was some work down -- we
14 did some analysis looking at the other resources in the
15 region that might be able to provide some of those
16 services that were not under contract currently from NB
17 Power Corporations. So to the extent that there were some
18 resources in northern Maine or in P.E.I. and others that
19 might be able to provide, other than self supply that
20 might actually respond to an RFP for those resources, that
21 was sort of looked at in terms of determining, you know,
22 some kind of quantity. And I think today still 10 -- or
23 15 percent of the total requirement in the system is a
24 reasonable number in light of what their might possibly be
25 out there in the system to be able to participate in an

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RFP competition, given that we do get some new resources as well as what's there.

Q.673 - Would it be appropriate to remove the cap altogether?

MR. MARSHALL: Originally NBSO asked to have that -- actually asked to have the flexibility to put a cap on to try to stimulate the market. To remove the cap altogether, I guess there is two ways. You can just self supply everything and go back to the original tariff. That would not give NBSO any flexibility in trying to stimulate the market and require some degree of competition. Not putting an 85 percent in and saying NBSO -- you had the flexibility to put the cap at any level, I guess that would -- is what we originally asked for. I don't see that it would be an issue, because any cap that would get set would be going through the Market Advisory Committee. It would be consulting with all parties in the market. And a decision on how much you would go out for ultimately would go to our Board, but would have scrutiny from all of the participants.

I think at the previous hearing the 85 percent was sort of fenced in at some degree of certainty and comfort to some of the parties that -- they didn't want to just give NBSO a blank cheque.

MR. PORTER: I think we would also have a concern that

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certainly for this proceeding that having gone this far, you know, through two, three rounds of interrogatories and cross-examination, et cetera, that there has been no other approach put forward for consideration. So any change at this time would -- I would have a bit of discomfort about any assumptions that the market participants would be okay with that. You know, no one has objected to the proposed 85 to 100, but nor was there any other approach under consideration in these proceedings.

Q.674 - I have a follow-up question as a result of the questions posed yesterday by my friend, Mr. MacDougall. Would the NBSO's cost of borrowing be lower than Transco's weighted cost of capital?

MR. MARSHALL: We have a line of credit with Electricity Finance to a million dollars that's at -- I assume -- is at a lower rate than Transco's overall weighted cost of capital. But we have -- other than that we have no capability to go into the marketplace and borrow. So if the question is we should go out and do the SCADA system and build it and finance it, we can't borrow enough money to do it.

Q.675 - That's essentially where we were going. So thank you for that. The next question is with respect to document A-6.

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2 Actually to save everybody the trouble of turning up the
3 IR, it was a question posed by the Public Intervenor with
4 respect to a wind report. And there was an undertaking
5 that that would be provided once it was finished and
6 perhaps posted on the SO's website. Is that study yet
7 complete?

8 MR. PORTER: I believe you are referring to the report of
9 the Ea Consulting?

10 Q.676 - Yes.

11 MR. PORTER: That report is complete. It has not yet been
12 published. It should be published soon. I don't know the
13 exact timing on that.

14 MS. DESMOND: That's everything. Thank you very much, Mr.
15 Chair.

16 CHAIRMAN: Thank you, Ms. Desmond. Mr. Kenny, do you have
17 any redirect?

18 MR. KENNEDY: No, Mr. Chair. Thank you.

19 CHAIRMAN: Any questions from the Panel? Mr. Normandeau,
20 any questions?

21 MR. NORMANDEAU: No. That's all right.

22 CHAIRMAN: Mr. McKenzie?

23 MR. MCKENZIE: No.

24 CHAIRMAN: Mr. Barnett?

25 MR. BARNETT: Yes, Mr. Chairman. A few following up on

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Board Counsel's questions. And then I have a few that I had before Board Counsel started to question.

BY MR. BARNETT:

Q.677 - The methodology, you are seeking the approval of methodology in this hearing I understand, Panel?

MR. MARSHALL: Yes.

Q.678 - It's in the settlement agreement. And that negates all the other options that were put forward in earlier evidence that was filed with the Board?

MR. MARSHALL: Yes.

Q.679 - If the Board approves this methodology, there was some discussion about exactly what would be filed on an annual basis on a go forward basis beyond the test year. So for '09-2010.

Obviously, I think you have given some thought of what that would be and it would be also subject to the Board. How would you see settling on what would be filed? For example, I would see minimum requirements type of thing would include, your audited -- three years, your audited financial year, your year that just ended and the test year that you are applying for the revenue requirement for Schedule 1. Is that the type of thing that you would see? I know there was some discussion by you Mr. Marshall or Mr. Porter in regards to that?

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MR. MARSHALL: Yes, Mr. Barnett that would be -- in terms of the past history and the budget for the coming year, and a bit more detail around the budget with the expansion of some of the line items that are in Table 3 in the evidence explaining the requirements for those expenditures.

Q.680 - And I understand an explanation of the deltas from one year to the next?

MR. MARSHALL: Yes. An explanation of the variances from last year where you are, yes.

Q.681 - One observation that comes to mind would approval of this methodology then negate the need for any potentially future interim rate increase by the SO?

MR. MARSHALL: Yes, I believe so, because the -- there would be essentially a revenue adjustment, an effective rate adjustment every year.

Q.682 - Did I understand that the timing of this would be such that you would be taking your budget to your Board of Directors for approval and then filing with the Board sometime in January?

MR. MARSHALL: That's the thinking by the -- towards the end of January to do a filing.

Q.683 - And this would be in anticipation of approval for an effective date of April 1st --

MR. MARSHALL: Yes.

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2 Q.684 - -- of the following fiscal year?

3 MR. MARSHALL: Yes.

4 Q.685 - Don't you consider it would be rather a tight time
5 frame?

6 MR. MARSHALL: We don't see it as a full hearing process
7 that takes four or five months. This is -- because it is so
8 focused strictly on the revenue requirement should be able
9 to be done in a reasonable time period. And if it did take
10 longer, the proposal is that we could implement that charge
11 -- that revenue requirement for April. Now implement in
12 April it really means we need to know what it is by the end
13 of April. So in actual fact approval, a filing in January
14 doesn't mean approval by March 31st. It means approval by -
15 - towards the end of April, because the bills and the
16 settlement are done in the first five days of May. But even
17 if it went longer, you would go a couple of months, and then
18 you would get a final ruling what it is. You could do an
19 adjustment retroactively on those couple of months to deal
20 with it.

21 Q.686 - You also indicate, and I am just looking for the
22 reference, in terms of the methodology itself, and the
23 Board's ability to of its own volition to initiate a
24 review of that methodology. I am not a lawyer. You have
25 lawyers with you. I know you are not lawyers. I wonder

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if you could identify where in the Electricity Act or in the Energy Utilities Board Act where that such authority exists for the Board to do that? In other words, initiate a review of the methodology, which is approved say at this hearing on a go forward basis? As a non-lawyer looking at the legislation, I have not been able to find that provision. And if you can't find it now, perhaps counsel can provide that. And when do you think you might have that?

MR. MARSHALL: We -- the last day, it's my understanding we actually filed a response to an interrogatory from the Public Intervenor related to that question and the tariff. And it got into some of the discussion with the Public Intervenor on what a tariff is or is not. And in that the -- under the Electricity Act, the definition of tariff it means a schedule of all charges, not necessarily rates or tolls, it says all charges, rates and tolls. Well, it's a schedule of charges including rules for calculation, you know, of tolls established for either both transmission service or ancillary service. Do we think that based on that definition and based on the Board's authority to regulate the tariff that the tariff as you are well aware is not just a set of charges. The tariff is a very thick document that defines all the contractual obligations of

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2 transmission customers and the NBSO providing that service and
3 then comes down to a means of what those charges are. So
4 we think that writing that methodology into the tariff can
5 be approved by the Board, use the tariff. And the tariff
6 defines how the charges will be taken care of.

7 Q.687 - It's just in your answer to the IR that I can't lay my
8 hands on right now you indicate that the Board has the
9 authority specifically on the methodology to review it of
10 its own volition. That's the part I have been struggling
11 with where the Board can do that. It's not an application
12 by the System Operator. It's on the Board's own
13 initiative.

14 MR. MARSHALL: I am at a little bit of a loss here, Mr.
15 Barnett. I don't know that we said that the Board review
16 it on its own volition. What we said is that the Board
17 approve the tariff and that in order to change the -- to
18 cover off Schedule 1 we are going to need to come with an
19 application every year in order to change the Schedule 1
20 revenue requirement. And the Board certainly has
21 authority to approve the revenue requirement.

22 Q.688 - My reference which I am looking for now indicates
23 exhibit A-14, PI IR-4, and I have got answer 5, page 8.
24 I'm just trying to find the binder. A-14, PI IR-4, answer
25 5, page 8. And to paraphrase what it says, NBSO sees the

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EUB upon its own motion could open for review the methodology and could lead to the EUB directing a change in the methodology.

MR. PORTER: I guess I would just say that our point there was that we would co-operate fully with the Board should the Board desire to review the methodology. I don't think that we looked at the Act at that time. I certainly don't recall doing that. And the point being is that if the Board is in a position of feeling that they didn't think the methodology was appropriate then it should be opened up for review. The mechanics of that, would it mean that we would have to actually submit an application? That's up to the lawyers to decide.

Q.689 - But you are not actually citing -- I know you are not a lawyer, you are not actually citing a section in the legislation to give the Board authority. If the Board had an issue with the methodology and wished to discuss any change to it, with the cooperation of the NBSO it could go through due process.

MR. PORTER: Yes. I'm not citing any particular aspect of the Act that reflects that.

MR. MARSHALL: What I would propose though, Mr. Barnett, is not knowing whether there is specific authority in the Act or the EUB Act or not for that, but in terms of process,

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the market advisory committee is very open to discussion and to alternatives and to parties. And if there was an issue I would think one way to initiate that process would simply be for Board staff to come to the market advisory committee, make a pitch that there is some concern here, should we consider this, and given what that concern is I think it would get full attention of the committee and to the NBSO Board and that would if necessary initiate a response to it.

Q.690 - Thank you. I would like to ask a question -- maybe I will move to wind for a second, if I may. A follow up on some of the questions. First of all, are any of the wind generators represented on the market advisory committee or, if not, how are they represented on the market advisory, how are their concerns brought to the market advisory committee?

MR. PORTER: A relatively new position has been added to the market advisory committee and it's a representative for alternative generation. The current individual -- so that sector certainly would include wind power and certainly a majority of the activity in that area has been and I think will continue to be wind power. That position was filled based on a name put forward by the Canadian Wind Energy Association. The individual

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is Rob Apold. He is now an employee of Suez Energy which is a developer of wind farms around the world including here in New Brunswick. So they are represented clearly through that individual on the market advisory committee. One could make the argument that they would have a degree of representation by the independent power producer representative as well, but that's -- their primary representation would be through that alternative generation resource representative on the committee.

Q.691 - The principle that non-dispatchable resources, in this case wind, that you are applying here, would that also apply to other non-dispatchable resources? I'm particularly thinking in the removable sector. Would the similar sort of principle apply that you are applying to the wind generators?

MR. PORTER: That's not what is proposed. If there were to be such a facility of any significant magnitude we would have to -- well consider whether we expanded the policy to include those. And I would say that for some of the market rule changes we are discussing currently for wind, I know it has come up that they should also apply to, you know, run of the river hydro. We don't have any run of the river hydro technically. Depending on your definition, but on the strict definition we don't have any

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run of the river hydro in New Brunswick today. So to your point, no, we have not.

Q.692 - I'm thinking for example solar, which perhaps has similar characteristics to wind and may be in the position of non-dispatchable. Would you extend -- I know it's not part of this application, but would you extend the same principle to those producers?

MR. PORTER: Principle you would have to do another cost study because of course the variability and the ability to forecast would be quite different. We can talk about industry and tidal which would have a fairly high degree of variability but it's very easy to forecast production from tidal facilities. So it would have to be I think a separate cost analysis and charge.

MR. MARSHALL: The point I would like to add to that, Mr. Barnett, is that until such time as we actually see that there is going to be a significant amount of solar on the system or a significant amount of tidal on the system, it's not a problem or not an issue. The amount of wind that is projected to come on the system is an issue and has to be dealt with. So that is why wind is really singled out at this point in time. It's not about whether there is a small little run of the river hydro plant that needs to be -- because it's so

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2 small it's just noise on the system. But when you get four or
3 500 megawatts of wind on the system it's not noise and it
4 has got to be addressed.

5 Q.693 - Okay. Continuing on the wind for a moment, I believe
6 this is in exhibit A-4, and it's a response to a GENCO
7 request, it's on page 19, IR-17. You don't really need to
8 turn it up. It refers to in addition the NBSO has drafted
9 an MLU for the purpose of facilitating wind integration.
10 The proposed signatories are NBSO, TransEnergy, ISO New
11 England, Nova Scotia Power system operator, and those
12 parties are currently reviewing the draft MLU. Could you
13 update us as to what the status of that review is, Mr.
14 Porter?

15 MR. PORTER: Yes. Since that document was submitted we went
16 through a series of revisions with ISO New England. The
17 document had been sent out to TransEnergy and then Nova
18 Scotia Power, but we have had the most extensive
19 discussions with ISO New England.
20 They made suggestions for changes to the documents. We
21 made those. We came to the point where we had full
22 agreement on the contents of the document. And the
23 executive with ISO New England had discussions with a
24 couple of their committees and their executive was on
25 board with it.

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2 They had one -- I think it was the participants' committee
3 that had a concern that the document had not gone through
4 what they felt was due process. ISO New England certainly
5 felt they had authority to sign this document. It was
6 merely a memorandum of understanding. But they certainly
7 didn't want to, you know, go against the wishes of that
8 participants' committee.

9 So they said to us that they are -- you know -- they are
10 still very keen to work on the individual components and
11 of course most if not all of those components to the
12 agreement would require changes to a market rule or a
13 tariff or a procedure, and those changes would have to go
14 through due process and all the relevant committees and
15 whatnot. So ISO New England said let's just work through
16 those changes. And in fact ISO New England recently
17 received FERC approval the last day of September for one
18 market rule change that would allow us to implement one
19 aspect of that memorandum of understanding.

20 With respect to TransEnergy in Quebec and Nova Scotia
21 Power, our approach is to work with them to see which
22 components of that agreement fit well and are high enough
23 priority that we tackle those as we go. The memorandum of
24 understanding serves as a -- even unexecuted serves as a
25 template for those discussions and enhancements as to how

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we do business.

Q.694 - Thank you. Just one last question I have on wind and

it arose from some questions by Mr. Morrison yesterday.

In your developing the numbers that you have and the ratchet up to a dollar per megawatt hour for wind, I think you indicated as far as wind pretty well the CBAS services would be provided to a large extent by GENCO, and later today you mentioned NuclearCo when they are operating and Colsonco.

Did you consider the fact that if GENCO is providing the CBAS services, did you factor in the fact that there may be an opportunity -- a lost export opportunity cost as far as GENCO was concerned, or is that not part of any thought process?

MR. PORTER: No. The contract, as Mr. Marshall mentioned earlier today, the contract prices were based on proxy costs and the contract is an ongoing escalation of those contract prices. Now there is -- there is an aspect of this that -- and how we handle -- how we handle exports and scheduling whereby if a party has scheduled to produce energy of a facility that has the ability to provide a capacity based ancillary service and our optimization -- system optimization determines that we need that facility to provide say spinning reserve, then there would be -- a

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2 re-dispatch would allow that export contract -- export energy
3 contract to continue to exist. So in that aspect the
4 market rules allow exports from those facilities to be
5 scheduled.

6 Q.695 - Now if I could -- this somewhat relates to exports as
7 well I guess, but if I could turn you to exhibit A-4.

8 This is an IR-5 from IES. It's on page 8.

9 And at the bottom of the page the full paragraph under the
10 table there, it says beginning in December 2007, the
11 international pipeline was available long-term
12 reservations on that line were expected to reduce short-
13 term Schedule 1 revenues. With more players holding more
14 capacity in the form of the long-term reservations, the
15 potential for sales of transmission in the secondary
16 market, i.e., resales by holders of long-term reservation
17 increases. Such sales would be in direct competition with
18 the NBSO short-term firm and non-firm sales.

19 I guess I would just like to get an understanding of what
20 the implications are for Schedule 1 in regards o this. Is
21 this a reduced revenue in that regard? Does it carry
22 implications for network customers in New Brunswick?

23 MR. PORTER: What it is indicating is that there -- as we
24 said in many different ways through our evidence that
25 those short-term firm and non-firm revenues are a risk.

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2 There is no guarantee that they will continue. This is one
3 aspect that put those at even greater risk. If those were
4 to go away and were expected to -- they would lead to
5 increased cost for both the long-term firm point-to-point
6 customers and network service customers.

7 Q.696 - And it would apply -- it would affect --

8 MR. PORTER: Schedules 1, 2 and the charges for the use o
9 the transmission system.

10 Q.697 - So did I hear you say there would be an increased
11 cost?

12 MR. PORTER: Yes. If these revenues were to go away or
13 diminish.

14 Q.698 - Just a few more then I will be done. I think when the
15 Public Intervenor was asking question about the shared
16 services agreement -- or the service agreement itself, I
17 see it covers a period from April 1st 2005 to March 31st
18 2007. So it has already done as well -- there doesn't
19 seem to be an automatic continuance clause in it. What is
20 the status of that service agreement?

21 MR. MARSHALL: There is an automatic continuation clause in
22 it that if notification wasn't given by a point in time it
23 automatically continues for another five years, and if
24 notification isn't given then, it automatically continues
25 another five years beyond that.

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2 Q.699 - So it is in effect today?

3 MR. MARSHALL: Yes.

4 Q.700 - I also believe and heard in response to a question

5 this morning that you said that Transco provides a number

6 of services there. And some of the services seem to be

7 coming to my mind, correct me if I am wrong, from Holdco,

8 payroll, and yet your agreement with Transco. So is there

9 sort of sidebar agreement with Holdco that Transco has got

10 in fact and that's how you actually acquire these services

11 or all those services directly coming from Transco?

12 MR. MARSHALL: Transco procures all of the services from

13 Holdco for its needs and the seconded employees' needs and

14 the Energy Control Centre and NBSO's needs. And NBSO's

15 contract is strictly with Transco.

16 Q.701 - But the people that punch the numbers, push the

17 buttons are in Holdco?

18 MR. MARSHALL: Yes.

19 Q.702 - Just moving onto CBAS and self supply that Board

20 Counsel just finished up, just from historical point of

21 view and I know you have the history Mr. Marshall, the

22 original application was by the NBSO and the Board's

23 decision was -- the Board at that time was to set a cap.

24 But the application by the NBSO was the idea of spurring a

25 competitive market for CBAS services I believe was it not?

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MR. MARSHALL: That's correct.

Q.703 - And you went through due process, a process which I think was approved by the Board with an RFP in regard --

MR. MARSHALL: Yes.

Q.704 - And the result was nobody bid?

MR. PORTER: The result was -- well we received two bids, only one of which met the qualifications of the tender.

Q.705 - So how would you describe that process? It failed?

MR. PORTER: It succeeded in testing the waters, seeing what parties were seriously interested and so in that aspect it succeeded. It resulted in a slightly lower price than what we would have had if we had not had the RFP. So in that respect it was -- it had some degree of success.

Q.706 - A slightly lower price than what could be procured under --

MR. PORTER: We have an existing contract -- well the existing contracts with NB Power Generation and Coleson Cove for the provision of this capacity based ancillary service. We do not have a contract with Lepreau for the provision of capacity based ancillary services. But the bid we received from NB Power with respect to that RFP was at a lower price than what our standby contract price was -- slightly lower.

Q.707 - Did that result in any change in the standby contract

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2 or is that continued at the higher price?

3 MR. PORTER: We bought the services at the lower price.

4 Q.708 - From the provider of the standby contract prior to the
5 RFP?

6 MR. PORTER: Pardon me?

7 Q.709 - From the party that you are contracting with prior to
8 the RFP?

9 MR. PORTER: Yes.

10 Q.710 - What optimism do you have now if you were to go
11 through the process again, what's changed when you went
12 with this earlier RFP that would give you optimism that it
13 may succeed this next time around and therefore there
14 should be a range I guess as you have got 85 to 100
15 percent as you are applying for?

16 MR. PORTER: We haven't determined when the time will be for
17 an additional RFP. I don't see it being on the near
18 horizon. Conditions have not changed drastically from the
19 time at which we had that RFP. So, you know, it may not
20 be within the next few months or even the next couple of
21 capability periods.

22 Q.711 - So just so I understand, if the Board approves the 85
23 to 100 percent range, which you are asking for, correct?

24 MR. PORTER: YES.

25 Q.712 - What happens next? What happens to the people who

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currently have been capped at 90 percent of self supply? What will actually happen?

MR. PORTER: Nothing will happen May 1. We will leave the cap at 90 percent until we have the discussion with the Market Advisory Committee and get input on whether the 90 percent should be changed or not. And as I said earlier, I believe one of the market participants will want to change the allowed cap from 90 percent to 100 percent. And say we will consult with the Market Advisory Committee and if there is a consensus that that's desirable, then we will take it to our Board for their consideration.

Q.713 - Just a couple of slightly different areas and then I am finished. You indicated earlier today in answer to a question that you are doing more system impact analyses yourselves, the SO, am I correct?

MR. PORTER: Yes, that's correct.

Q.714 - And I am also looking at the list of staffing, the full-time staff. And I think you added two last fiscal and one this fiscal. Are any of those staff involved in the system impact analysis that the NBSO is now doing that it wasn't doing a year and a half ago?

MR. MARSHALL: No. But one of them is taking over all of the compliance issues that were done by an employee, who has the capability to do analysis and system impact

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studies, but didn't have the time because of this other work.

So by doing that we have freed up resources inside the organization, more capability to do system impact studies.

MR. PORTER: In fact that individual who had that aspect of his job relieved has been working on kind of a generic system upgrade study over these last few weeks.

Q.715 - And just finally I just want to be a little clearer on this contingency, the 300,000 that you are seeking to be plugged into your budget, the annual revenue requirement for Schedule 1 on an annual basis.

My understanding of the discussion with Board Counsel that basically once it's approved and I know it has been -- you spoke sometimes about unforeseen events that couldn't have been planned for used in that regard, but if it's approved, the Board has no authority over approving what's spent in that year. In other words, you could spend it, I guess imprudently -- I am not saying you would, but you could spend it imprudently and the Board would have no means or the intervenors would have no means of saying you were imprudent in that decision and therefore we don't agree with it, because that's approved in the year and you don't get to see it until the end of the year where that money has been -- well I guess maybe

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2 on a monthly basis, but the Board has no authority once we
3 have approved that 300,000 contingency within your annual
4 revenue requirement.

5 MR. MARSHALL: I guess that may be. I just reiterate a
6 point that Mr. Porter made earlier that the \$300,000 is
7 essentially about a 3 percent of the budget of NBSO, you
8 know, to operate and do its job. It is not a huge amount of
9 money. And, you know, you will see the full budget and you
10 will see the activities and their work -- and essentially
11 simply asking that, you know, a 3 percent contingency on top
12 of the projected cost is not unreasonable and we would ask
13 that you approve it. We don't think you should need to
14 approve every individual little activity that we do. I
15 don't think it is your job to manage our organization. I
16 think it is your job to review the revenue requirements and
17 come up with a prudent -- is this an overall reasonable
18 revenue requirement and then let us stand back and operate
19 the business to provide the services that we are required to
20 do under the Electricity Act.

21 MR. BARNETT: I don't want to get into an argument, but you
22 talk about the small percentage that 300,000 is but one-
23 third of that was sufficient to help achieve a settlement
24 agreement, Mr. Marshall. I have no more questions.

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

VICE-CHAIRMAN: I will try and be very brief given the lateness of the hour. And if there is something in the written evidence that can answer these questions, if you could just point me to it, maybe that would help.

BY THE VICE-CHAIRMAN:

Q.716 - My question relates to miscellaneous revenues. And Mr. Barnett touched on this a little bit. But I am just wondering if just one item at a time or in general you could outline for me how the pricing or the costing is done with respect to the different miscellaneous revenues that the Board has. For example, maybe we could start with what Mr. Barnett was talking about earlier about system impact studies and that sort of thing. There is an income of about \$100,000. How is that priced and what is the decision making process that goes into that?

MR. PORTER: I will take that one. Based on costs that is clearly one where the individuals that are working on those studies would track their time. We have an hourly rate which is kind of based on industry standards in which the time would be charged out and passed on to the party who requested the study.

Q.717 - And are those rates -- has that ever been approved by

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the Board or is the Board aware of what those rates are?

MR. PORTER: No.

Q.718 - So internally you have a -- essentially an hourly rate as if it was a consultant working and then the party requesting the system impact or similar study is charged based on that hourly rate?

MR. PORTER: That is correct. The rationale is there is always the possibility if we are doing this work for an individual with their own staff then maybe paid more or less than what that typical consultant rate would be, but it might mean that we at a point in time we might have to hire a consultant to backfill or whatever. So it's just kind of a going industry rate that we apply.

Q.719 - And with respect to -- just to hit one of the other large ones -- NPCC reimbursement. How is that -- the amount is \$270,000. How is that derived or what is that based on?

MR. MARSHALL: That is -- it is the total assessment that we get billed from NPCC. It covers their share of NERC costs. So essentially that money funds NERC and NPCC and it is an assessment done by the Board of NPCC and NERC and it flows down. We pay on a load for energy share so that the total requirement of NPCC is allocated out on an energy basis across the regions of NPCC. That is the

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2 estimate of our bill that we get assessed from them.

3 So we get assessed, we pay it. We pass it on and charge
4 it back to the transmitters. They pay it. We collect it
5 and pass it on through.

6 Q.720 - So that is revenue neutral really in terms --

7 MR. MARSHALL: Yes.

8 Q.721 - Okay. And OASIS \$75,000, I understand what the OASIS
9 system is and I'm not clear on how there is a charge for
10 that that you are receiving.

11 MR. MARSHALL: That -- as Mr. Porter said earlier, that is -
12 - we provide OASIS services to Nova Scotia Power for their
13 open access transmission tariff in Nova Scotia. And we do
14 that under contract. So having developed the OASIS system
15 here, had that capability that we could it, that is -- I
16 believe it is a five year contract and it is spread out --
17 some of the actual value costs of the contract plus the
18 bit of labour required to provide that service. So it is
19 a contractual -- five year contract to provide that
20 service to Nova Scotia Power.

21 Q.722 - And schedule balancing service, how is that calculated
22 and who is that charged to?

23 MR. MARSHALL: It is charged to NB Power Generation, who are
24 the -- they are the scheduling agent on behalf of NB Power
25 Distribution and Customer Service.

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2 As a load serving entity, under the market rules they have
3 an obligation to provide a balanced schedule. They do
4 that day ahead but then they can update that schedule
5 every hour.

6 Well what they asked for, we provided a software program
7 that would take our updated load forecast and make
8 available every hour and readjust their schedule so that
9 they get to an optimum schedule on an hour by hour basis.

10 So part of that cost was the cost of developing that
11 software in the system and of providing it to them. And
12 it was essentially a negotiated price that back at the
13 time of the hearing in 2005, was a necessary price to make
14 up for a shortfall and they agreed that that was
15 reasonable to pay.

16 Q.723 - So just to summarize. That service -- schedule
17 balancing service is supplied to GENCO and the amount is
18 based on a negotiated contract that was entered into a
19 number of years ago?

20 MR. MARSHALL: Yes.

21 VICE-CHAIRMAN: I would go on but it is 20 to 5:00 so --

22 CHAIRMAN: He would. I don't have any questions. I would

23 like to thank the Panel for their testimony over the past
24 couple of days. Certainly have been two long days and it
25 is probably not much fun sitting in those seats for two

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full days. So I would thank the Panel.

Mr. Kenny, I assume that completes the case for the Applicant except for final argument, of course?

MR. KENNY: That is correct, Mr. Chair.

CHAIRMAN: Ms. Desmond, anything else we need to do to complete the record prior to moving to final argument, which will not be today. I can see some worried looks on people's faces.

MS. DESMOND: Nothing further. Thank you, Mr. Chair.

CHAIRMAN: Anything from any other parties prior to dealing with final argument? Anything further that we need to deal with? All right. Then we will adjourn until tomorrow morning at 9:30 for final argument.

(Adjourned)

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

Reporter