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MANITOBA PUBLIC UTILITIES BOARD

Re: Manitoba Hydro's Application to the
Public Utilities Board for Approval of
New Electricity Rates in Communities
Served by Diesel Generation

Before Board Panel:

- Graham Lane - Board Chairman
- Robert Mayer, Q.C. - Board Member
- Kathi Avery Kinev - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
September 29, 2010
Pages 253 to 485

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Bob Peters) Board Counsel

Odette Fernandes) Manitoba Hydro

Patti Ramage)

Myfanwy Bowman) CAC/MSOS

Glynis Hart) INAC

Mary Ann Thompson)

Michael Anderson) MKO

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1 --- Upon commencing at 9:21 a.m.

2

3 THE CHAIRPERSON: Good morning, everyone.
4 It's so nice outside, it's almost a crime that we're in
5 here, but what are you going to do? We should probably
6 conduct this in the middle of winter, and then none of us
7 will feel bad about being here.

8 Ms. Bowman, are you ready to begin again?

9 MS. MYFANWY BOWMAN: Yes, I am. Thank
10 you, Mr. Chair, and good morning to everyone.

11

12 MANITOBA HYDRO PANEL RESUMED:

13 VINCE WARDEN, Resumed

14 ROBIN WIENS, Resumed

15 ROB COX, Resumed

16

17 CONTINUED CROSS-EXAMINATION BY MS. MYFANWY BOWMAN:

18 MS. MYFANWY BOWMAN: Yesterday, when we
19 left off, we were discussing the issue of contributions
20 from customers for capital costs and the fact that, thus
21 far, Manitoba Hydro has focussed its efforts in that
22 regard on the Federal Government -- pardon me, INAC and
23 the -- the First Nations.

24 Is that correct?

25 MR. ROBIN WIENS: That's correct.

1 MS. MYFANWY BOWMAN: Now, would you agree
2 with me that the other Federal Government accounts and
3 the Provincial Government accounts are unlikely to make
4 contributions to capital costs if they are not asked to
5 do so?

6 MR. ROBIN WIENS: Correct.

7 MS. MYFANWY BOWMAN: And would it also be
8 fair to say that the -- that delay in passing years is
9 not likely to make them more inclined to make those
10 contributions?

11 MR. ROBIN WIENS: That's also likely
12 true.

13 MS. MYFANWY BOWMAN: So does Manitoba
14 Hydro seriously intend to go back five (5) and six (6)
15 years, and possibly longer, and -- and make requests for
16 those kinds of contributions from those customers?

17 MR. ROBIN WIENS: Well, we are still
18 asking the parties to the agreement to make those
19 contributions, and, in fact, we have included much of
20 that capital in rates. And, as such, if -- if it is --
21 if it is approved to be included in rates, then de facto
22 those other parties will be making a contribution, at
23 least the Federal parties will be.

24 If is not included in rates, then it means
25 that we've got to go back to the table with INAC and MKO,

1 and in which case we would want to bring the other
2 parties into the discussion.

3 MS. MYFANWY BOWMAN: And if at the end of
4 the day the other Federal Government departments and the
5 -- or customers and the Provincial Government customers
6 don't contribute, whether they're -- because they're not
7 asked, or because they decline, or whatever, it's the
8 grid that bears those costs, is that fair?

9 Is that fair to say?

10 MR. ROBIN WIENS: Well, if those costs
11 are included in rates, no, the -- the other parties will
12 bear at least a portion of those costs.

13 MS. MYFANWY BOWMAN: And whatever costs
14 aren't included in rates then would be born by the grid?

15 MR. ROBIN WIENS: Please, again.

16 MS. MYFANWY BOWMAN: Whatever -- whatever
17 those costs aren't included in rates then would be born
18 by the grid?

19 MR. ROBIN WIENS: If they're not included
20 by -- in rates and not covered by contributions, then
21 they would, by definition, be passed onto the grid.

22 MR. ROBERT MAYER: If -- am I incorrect,
23 or is my memory failing me again; wasn't there something
24 in -- with the one (1) cop -- or the minutes of
25 settlement, I think, about a private buy-in for

1 contribution? And I thought at one (1) point all but one
2 (1) party had bought in, and now everybody had bought in.

3 MR. ROBIN WIENS: That would have been in
4 respect to the pre-2004 costs.

5 MR. VINCE WARDEN: To be clear, Mr.
6 Mayer, all of the parties, with respect to pre-2004
7 costs, have paid their respective capital.

8

9 CONTINUED BY MS. MYFANWY BOWMAN:

10 MS. MYFANWY BOWMAN: Thank you for that.
11 Still on the subject of capital costs, but I'm going to
12 focus in a little bit, I see that there are fire
13 suppression costs forecast in the amount of approximately
14 \$9 million, and I think that's for Lac Brochet and
15 Tadoule Lake.

16 Does that sound right? I'm looking --

17 MR. ROBIN WIENS: Yes, there -- there are
18 fire suppression costs in the five (5) year capital plan,
19 looking ahead.

20 MS. MYFANWY BOWMAN: And I understand
21 that Manitoba Hydro is intending to -- to seek
22 contributions from INAC, and the First Nations for that
23 purpose.

24 MR. ROBIN WIENS: Yes. And we've shared
25 that capital plan with them, along with updates to that

1 plan as well.

2 MS. MYFANWY BOWMAN: And that's for the
3 purpose of replacing Halon fire suppressions systems that
4 are currently in place? I don't know if I' saying the --
5 Halon correctly.

6 MR. ROB COX: That is correct, yes.

7 MS. MYFANWY BOWMAN: And are we talking
8 about alarms and sprinklers, and things like that, or
9 something else?

10 MR. ROB COX: Yes, it would be the -- the
11 sprinkler system, the -- the actual fluid that is -- is
12 used in the system, so -- and -- and obviously the alarms
13 play a part of that.

14 MS. MYFANWY BOWMAN: And -- and Halon is
15 a concern, I understand, because it's an ozone depleting
16 substance.

17 Is that right?

18 MR. ROB COX: Yes, that's correct.

19 MS. MYFANWY BOWMAN: And if I read the
20 evidence correctly, those systems are required to be
21 replaced in accordance with the National Action Plan For
22 The Environmental Control of Those Ozone Depleting
23 Substances.

24 MR. ROB COX: Yes, that's correct.

25 MS. MYFANWY BOWMAN: And part of that

1 plan is to phase out Halons by 2010?

2 MR. ROB COX: I believe that's the
3 correct date, yes.

4 MS. MYFANWY BOWMAN: And that plan, if I
5 read the evidence correctly, was -- was developed by the
6 Federal Government and the provinces together.

7 So the Federal Government would therefore
8 be aware of that plan. Would that be fair?

9 MR. ROB COX: Yes.

10 MS. MYFANWY BOWMAN: And I understand
11 that the system that Manitoba Hydro currently has in
12 place in those facilities, because it has Halon, that
13 system requires a special permit to be renewed each year
14 in order to keep it in place.

15 MR. ROB COX: Yes, that's correct.

16 MS. MYFANWY BOWMAN: Would it be fair to
17 expect that at some point the Provincial Government is
18 going to stop issuing that permit -- permit in order to
19 force those systems to be replaced?

20 MR. ROB COX: I -- I --

21 MS. PATTI RAMAGE: I'm not sure we can
22 answer --

23 MR. ROB COX: Yeah.

24 MS. PATTI RAMAGE: -- that question.

25 MS. MYFANWY BOWMAN: Fair enough. Thank

1 you.

2

3 CONTINUED BY MS. MYFANWY BOWMAN:

4 MS. MYFANWY BOWMAN: So this is safety
5 equipment, and it needs to be updated for both legal
6 reasons, because they're required by regulation, and for
7 environmental reasons.

8 Is that my -- am I understanding you
9 correctly?

10 MR. ROB COX: Yes. The regulation
11 changed because of the -- the environmental issue
12 surrounding Halon.

13 MS. MYFANWY BOWMAN: And it would be fair
14 to say, as well, that this fire suppression system is an
15 integral part of the safe operation of your diesel
16 facilities?

17 MR. ROB COX: Yes, that is correct.

18 MR. ROBERT MAYER: I -- excuse me again,
19 I find this most interesting, sir. The -- so you're
20 required to replace the system, not to benefit your
21 employees, because they're -- they're fire protected now,
22 and your -- and your assets are fire protected now.
23 You're required to change your system in order to benefit
24 the rest of the world, in so far as it effects the
25 environment.

1 Is -- is that what we're talking about
2 here?

3 MR. ROB COX: That's my understanding,
4 yes. It's -- the -- the -- Halon is not to be used
5 anymore in -- in a fire suppression system. So because
6 of that regulation change, we are changing --

7 MR. ROBIN WIENS: Thank you.

8

9 CONTINUED BY MS. MYFANWY BOWMAN:

10 MS. MYFANWY BOWMAN: So the -- the change
11 is required by provincial regulation, and that provincial
12 regulation was put in place, as you understand it, to
13 comply with this national action plan that was developed
14 between the provinces and the government, the Federal
15 Government.

16 MR. ROB COX: Yes, that's correct.

17 MS. MYFANWY BOWMAN: Thank you. Now
18 looking at the material, it would appear that soil
19 remediation costs are a substantial portion of capital
20 costs, both in the past and going forward.

21 Is that a fair statement?

22

23 (BRIEF PAUSE)

24

25 MR. ROBIN WIENS: In the past, to be

1 sure, but my recollection is that we don't -- in the four
2 (4) sites, we don't have any more soil remediation going
3 forward.

4 MS. MYFANWY BOWMAN: Bear with me for one
5 (1) minute.

6 DR. KATHI AVERY KINEW: Excuse me, Mr.
7 Wiens. Is there no -- have the First Nations agreed with
8 -- that there's no more soil remediation required, or
9 that's in Manitoba Hydro's view, or is --

10 MR. ROBIN WIENS: Sorry, I missed the
11 first part of your question.

12 DR. KATHI AVERY KINEW: You said there's
13 no future plans for soil remediation. Does that mean
14 that the First Nations are agreed that it's up to their
15 standard, or...

16 MR. ROBIN WIENS: I have no knowledge of
17 that. I'm just simply looking at the five (5) year
18 capital plan that Manitoba Hydro provided.

19 DR. KATHI AVERY KINEW: Okay. Thanks.

20

21 (BRIEF PAUSE)

22

23 CONTINUED BY MS. MYFANWY BOWMAN:

24 MS. MYFANWY BOWMAN: I'm looking at
25 CAC/MSOS/MANITOBA HYDRO-25A, which actually attaches an

1 answer from the GRA. And perhaps the -- the difference
2 that we're getting at is phrasing on my part, but I'll
3 give you a minute to find it before I ask the question.
4 It's CAC/MSOS/MANITOBA HYDRO-25A.

5

6

(BRIEF PAUSE)

7

8

MR. ROBIN WIENS: Well, we have CAC-25A.

9

MS. MYFANWY BOWMAN: And that attaches an
10 answer from the -- the GRA, which is CAC/MSOS/MANITOBA
11 HYDRO-1-85F, and that indicates that Manitoba Hydro's
12 portion of capital costs, with respect to remediation of
13 soil, for the last ten (10) years was 15.5 million, which
14 would be substantial, as we discussed. And capital costs
15 for the next ten (10) years for soil remediation are
16 projected to be 6.8 million.

17

MR. ROBIN WIENS: I see that.

18

MS. MYFANWY BOWMAN: So perhaps it's just
19 a -- a difference of opinion as to what's substantial in
20 the context of the various capital costs that Manitoba
21 Hydro has -

22

MR. ROBIN WIENS: Well, I would have to
23 go back and see what that constitutes. It -- it may have
24 incorporated the Shamattawa remediation costs, or perhaps
25 not. What -- it may be something that's beyond the --

1 the ten (10) year plan. I -- I would simply have to
2 investigate and see what that was.

3 So, subject to check, that would include
4 Shamattawa, which has already been done.

5 MS. MYFANWY BOWMAN: Okay. That's fair.
6 Thank you.

7 So just to assist my understanding, how
8 did diesel facilities contaminate soil? How does that
9 happen?

10 MR. ROB COX: What would happen is,
11 either during an unloading of -- or filling up of the
12 tanks from a tanker truck, you could have some leaks
13 there, and also there could be some leaks in the pipeline
14 itself.

15 MR. VINCE WARDEN: We should point out,
16 too, that much different standards have been in place
17 over the years, and those standards are very, very
18 controlled today, whereas years ago, many years ago,
19 spills were -- were not as tightly controlled, and
20 therefore there is contamination as a result of the
21 operations over a long period of time.

22 MS. MYFANWY BOWMAN: So standards and
23 technology have evolved over time, and you have a better
24 ability to try and prevent that now than perhaps you did
25 a number of years back.

1 Is that fair?

2 MR. VINCE WARDEN: Absolutely. We're
3 much more sensitive today than we were, or previous
4 operators of -- of the diesel sites in years gone by.

5 MS. MYFANWY BOWMAN: Would it be fair to
6 say that even when you operated a diesel facility up to
7 accepted and approved standards, that -- that spills and
8 contamination are a possibility?

9 MR. VINCE WARDEN: Yes, but very closely
10 monitored. And if there is a spill that occurs today,
11 for whatever reason, actions are taken immediately to
12 clean up that spill and to report that spill. So we --
13 as a matter of fact, the executive committee of Manitoba
14 Hydro gets a report every month on every spill that
15 occurs throughout the entire system, and we make sure
16 that appropriate action has been taken and -- and reports
17 have been prepared in accordance with the regulations.

18 MS. MYFANWY BOWMAN: So I have two (2)
19 questions flowing from that, the first of which is: So
20 is it now more common to clean up spills as you go, as
21 opposed to when this station is decommissioned?

22 MR. VINCE WARDEN: Spills are cleaned up
23 immediately. More common, sure. Like as mentioned
24 before, the standards have changed significantly over the
25 years.

1 MS. MYFANWY BOWMAN: So when we're
2 talking about soil remediation it's more likely that
3 we're talking about spills that have happened quite some
4 time passed, as --

5 MR. VINCE WARDEN: Oh yes, absolutely,
6 years ago.

7 MS. MYFANWY BOWMAN: But that was not
8 necessarily the standard a number of years back?

9 MR. VINCE WARDEN: Which -- I'm sorry?

10 MS. MYFANWY BOWMAN: To clean up as you
11 go.

12 MR. VINCE WARDEN: Well, the -- yes,
13 that's why I say the standards have -- are much more
14 stringent today than they were in the past.

15 MS. MYFANWY BOWMAN: And would it be
16 Manitoba Hydro's position that soil remediation an
17 integral part of Manitoba Hydro's operations in terms of
18 the diesel facilities?

19 MR. VINCE WARDEN: Yes, absolutely. We
20 have been focussing on remedi - remedi - sorry,
21 remediating all sites, not just diesel throughout --
22 throughout the system.

23 MS. MYFANWY BOWMAN: Now, with respect to
24 the Brochet Soil Remediation Project, I understand that
25 project was carried out between 2001 and 2003? That's

1 what your rebuttal evidence indicated?

2 MR. ROBIN WIENS: Yes.

3 MS. MYFANWY BOWMAN: And the approximate
4 cost of that project was 3.4 million?

5 MR. ROBIN WIENS: Yes.

6 MS. MYFANWY BOWMAN: Now I understand
7 that that facility was off the reserve, is that right?

8 MR. ROBIN WIENS: That's my understanding
9 as well.

10 MS. MYFANWY BOWMAN: Was there any
11 particular reason for that to be the case, or was
12 Manitoba Hydro involved in that decision?

13 MR. ROBIN WIENS: Certainly I wasn't
14 involved in that decision and it may have happened quite
15 a number of years ago. Brochet is perhaps a little
16 different from the other communities in that they're --
17 the -- the -- there's a substantial non-treaty population
18 that lives at Brochet and it may have been for that
19 reason that the plant was located off the reserve. I
20 can't tell -- I can't really give you a definitive answer
21 on that.

22 MR. ROBERT MAYER: Mr. Wiens, it's -- I --
23 - it's further my understanding that even your Shamattawa
24 tank farm might be off the reserve, and I also think that
25 the airport is off reserve. And it's my understanding,

1 you can correct me if I'm wrong, that that is so that the
2 operator can own the land, because you can't own the land
3 if you happen to be on a reserve. I'm -- and -- and not
4 only own, but control the land. And that's my
5 understanding why the province located its remote
6 airports, literally, right beside reserves, but generally
7 off of them.

8 MR. ROBIN WIENS: I can't add anything to
9 that, Mr. Mayer.

10

11 CONTINUED BY MYFANWY BOWMAN:

12 MS. MYFANWY BOWMAN: Now, I understand
13 that the Brochet Soil Remediation Project was not
14 included in the undepreciated capital costs that were
15 dealt with, pursuant to the minutes of settlement,
16 because at that time Manitoba Hydro thought that those
17 costs would be dealt with under a separate agreement.

18 Is that right?

19 MR. ROBIN WIENS: To the best of my
20 knowledge that is correct.

21 MS. MYFANWY BOWMAN: And I -- if I review
22 the material that you provided in the rebuttal evidence,
23 it looks like you requested funding for this project from
24 the Federal Government, pursuant to the 1997 agreement,
25 as far back as September of 1998.

1 MR. ROBIN WIENS: I think the 1997
2 agreement may have been mentioned in some of the
3 correspondence, but I -- I am not aware that the -- that
4 pursuing that funding from the Federal Government was
5 pursuant to that agreement.

6 MS. MYFANWY BOWMAN: All right. So was
7 the -- the request was not -- regardless of how it was
8 worded, it was not necessarily intended to be pursuant to
9 that agreement, but you were requesting a contribution
10 from the Federal Government with respect to that facility
11 as far back as 1998.

12 Does that sound correct to you?

13 MR. ROBIN WIENS: Yes.

14 MS. MYFANWY BOWMAN: And the material
15 looks as though there were discussions in May of 1999,
16 with respect to possibly a 50/50 funding split.

17 MR. ROBIN WIENS: That's what I
18 understand from the min -- from the same material.

19 MS. MYFANWY BOWMAN: And then
20 approximately a year later, in February of 2000, Manitoba
21 Hydro sought confirmation from -- from INAC of that --
22 that arrangement?

23 MR. ROBIN WIENS: I believe that's
24 correct.

25 MS. MYFANWY BOWMAN: If you weren't

1 involved in that, then you may not be able to tell me the
2 cause of that delay, the -- the -- almost -- almost a
3 year.

4 MR. ROBIN WIENS: I was not involved in
5 it. I cannot -- I could speculate on it but it probably
6 wouldn't be very instructive.

7 MS. MYFANWY BOWMAN: I won't ask then.
8 And then some two (2) years later, in May of 2002,
9 there's a -- there's correspondence from INAC saying, no,
10 that they would not be prepared to pay.

11 Is that right?

12 MR. ROBIN WIENS: I believe that's right,
13 yes.

14 MS. MYFANWY BOWMAN: And Hydro's evidence
15 is that INAC has said and done nothing to suggest that
16 its changed its position or is likely to change its
17 position?

18 MR. ROBIN WIENS: I'm not aware of any --
19 anything in that regard.

20 MS. MYFANWY BOWMAN: Has Hydro made any
21 attempts to negotiation a contribution for this project,
22 pursuant to the tentative settlement agreement and the
23 minutes of settlement?

24 MR. ROBIN WIENS: Not until 2010.

25 MS. MYFANWY BOWMAN: Is there any

1 particular reason for that delay?

2 MR. ROBIN WIENS: Well, I think a lot of
3 it has to do with the fact that it was -- Manitoba Hydro
4 believed it was seeking some contribution along a
5 separate track that had existed prior to the tentative
6 settlement agreement. We filed a -- we did not actually
7 file another diesel application subsequent to the
8 tentative settlement agreement and the application which
9 was led to approved rates in the end of 2004 until
10 sometime in 2006.

11 I'm not aware -- I would have to go back
12 to my records to see if that project was on the books and
13 if we were aware of it at the time we filed that
14 application or not. We were certainly aware of it when
15 we began preparing for the hearing that took place in --
16 on November of 2009, and, subsequently, when we prepared
17 this application.

18 MR. ROBERT MAYER: Mr. Wiens, I -- I've
19 now had an opportunity to review the provisions of the
20 agreement, which is INAC-5, which was kindly provided
21 yesterday, and I note that at clause 10.01 there is a
22 release in indemnity for Canada, specifically excluding,
23 though there's no release, to the generating facilities
24 located at Brochet, Lac Brochet, Shamattawa, and Tadoule
25 Lake. So according to this agreement, those sites are

1 still in play.

2 I would then refer you to the dispute
3 resolution provisions in Article 13, and, specifically,
4 Section 13-02.

5 "Despite Section 13-01, in the event a
6 dispute arises between the parties
7 regarding interpretations of a
8 provision of this agreement [and quite
9 frankly, more importantly] or the
10 obligation of a party under this
11 agreement, that the dispute will be
12 resolved in the manner set out herein
13 [basically]."

14 Since your Shamattawa, Tadoule Lake,
15 Brochet, and Lac Brochet sites are specifically
16 referenced in the agreement, and are specifically
17 excluded from the release that was given to Canada under
18 10(1), is there some reason Hydro isn't using a dispute
19 resolution provision that's contained in this agreement
20 to resolve your soil remediation problems?

21 MR. ROBIN WIENS: Like -- like you, Mr.
22 Mayer, I first had an opportunity to actually look at
23 this agreement actually this morning, so I -- I'm not
24 familiar with all its clauses yet. I -- I can -- I can
25 say though that Manitoba Hydro did not produce the

1 correspondence that it produced in its rebuttal evidence
2 to conclude that there was any obligation under the 1997
3 agreement, but only that Manitoba Hydro had requested
4 contributions from the Federal Government, I believe, in
5 one (1) of the letters referenced in the spirit of the
6 agreement. But we were only intending to show that thi -
7 - this had been topic of discussion previously.

8 MR. ROBERT MAYER: Okay, well, looking at
9 the agreement, Mr. Wiens, it appears to me, like the
10 agreement -- it appears to me that the agreement did
11 intend to set out a framework for dealing not with this
12 spec -- not only with the specific sites which are
13 mentioned in section -- in -- in the provisions to the
14 agreement, but specifically with respect to the -- to the
15 four (4) remaining sites.

16 It would appear again to me that this
17 agreement arose partially out of -- when you ran your
18 land lines, which ever date that might be -- have been in
19 to the rem -- the other remote communities, with the
20 exception of the four (4) we still don't have served by
21 the lines. It -- it just seems to me that that was the
22 intent of this agreement, and I'm sure that now that
23 everybody has a copy, you're going -- they're sure going
24 to give you some opinion on that.

25 That wasn't a question, as you probably

1 figured out.

2 MR. ROBIN WIENS: Thank you.

3

4 (BRIEF PAUSE)

5

6 CONTINUED BY MS. MYFANWY BOWMAN:

7 MS. MYFANWY BOWMAN: You'll be grateful
8 to hear that I just got a copy of the agreement now, so I
9 don't have any questions about it yet.

10 So this project, as I understand it, was
11 completed approximately seven (7) years ago, and Manitoba
12 Hydro has been requesting funding from INAC for
13 approximately twelve (12) years, off and on.

14 Does that sound right?

15 MR. ROBIN WIENS: Yes.

16 MS. MYFANWY BOWMAN: And to the best of
17 your knowledge, INAC has been refusing to contribute for
18 that long?

19 MR. ROBIN WIENS: Yes.

20 MS. MYFANWY BOWMAN: So why has this cost
21 -- assuming that Manitoba Hydro is not going to pursue a
22 remedy under this agreement, why has this cost -- not --
23 cost not been included in rates prior to now?

24 MR. ROBIN WIENS: As I mentioned earlier,
25 Manitoba Hydro filed for rates after the -- after the

1 agreement.

2 Once immediately following the agreement
3 in 2004, and again in 2006. At that point, Manitoba
4 Hydro was not considering incorporating capital costs in
5 rates; although, I do believe we indicated to this Board
6 that there were some costs that had not been recovered.
7 And although we weren't -- we weren't proposing to
8 include them in rates at that time, that we were
9 considering what we might -- what we might do in order to
10 recover those costs.

11 MS. MYFANWY BOWMAN: And it would be
12 accurate to conclude that the grid has been carrying the
13 cost of this -- of these expenses until now?

14 MR. ROBIN WIENS: If the costs aren't
15 recovered from the diesel zone, that's how they are
16 recovered, yes.

17

18 (BRIEF PAUSE)

19

20 MS. MYFANWY BOWMAN: I'd like to ask a
21 couple of questions about some of the other capital costs
22 that are listed in -- in the chart which is attached to
23 PUB/MANITOBA HYDRO-16A, which I think is also in the book
24 of documents. Tab 4, someone says. Twelve (12), I -- I
25 lie.

1 It -- starting with Brochet, there's an
2 expense for well monitoring installation. Can you tell
3 us what that is, and why that expenditure was required?
4

5 (BRIEF PAUSE)

6
7 MR. ROBIN WIENS: I'm sorry, I can't
8 answer that question.

9 MS. MYFANWY BOWMAN: And it looks like
10 there was well monitoring in a couple of the other
11 communities as well.

12 So you're not sure about that one?

13 MR. ROBIN WIENS: I'm not sure. We'd
14 have to -- we'd have to check. Did -- would you like us
15 to check?

16 MS. MYFANWY BOWMAN: I think so -- just a
17 brief explanation of what that expense is, and -- and why
18 it was necessary.

19 MR. ROBIN WIENS: Thank you.

20 MR. VINCE WARDEN: Could -- sorry, would
21 you mind, just so we're clear, could you be clear on
22 exactly what it is you're asking us to undertake?

23 MS. MYFANWY BOWMAN: There -- there are
24 expenses listed for well monitoring installation for
25 Brochet, Tadoule Lake, and Lac Brochet, and if my math is

1 correct the total expense for al three (3) communities is
2 approximately ninety-two thousand dollars (\$92,000).

3 I'm just wondering what that was, and --
4 and why it was necessary.

5 MR. VINCE WARDEN: Oh, well, I can -- I
6 can tell you that well monitoring was going on in those
7 communities because of the soil contamination. There was
8 a -- there was a real concern that the contamination
9 would -- would migrate and pollute the water supply in
10 those communities, and therefore monitoring has been
11 going on, on a consistent basis.

12 MS. MYFANWY BOWMAN: So you're -- it's --
13 it's not a - a -- sort of a direct operation of Manitoba
14 Hydro. You're -- you're monitoring the impact of Hydro's
15 operations on the drinking water in the community.

16 Is that what's happening there?

17 MR. VINCE WARDEN: Of the soil
18 contamination. There -- there was -- there was urgency
19 to -- to do the remediation, and especially -- I'm
20 familiar with the monitoring that was going on in
21 Shamattawa. Because of the -- the urgency, Manitoba
22 Hydro wanted to get a remediation program in place early,
23 with the co-operation of the Federal Government, but in
24 the meantime, we want to ensure that the contamination
25 had not migrated into the drinking water of the community

1 --

2 MS. MYFANWY BOWMAN: So you're monitoring
3 the -- the drinking water supply of the community?

4 MR. VINCE WARDEN: Yes.

5 MS. MYFANWY BOWMAN: Thank you very much.
6 That's a very helpful answer, and I don't need the
7 undertaking now.

8 And I suspect you have taken us into our
9 next expense, which is potable water supply, and that
10 expense existed for -- it looks like just Shamattawa, and
11 it looks like an expense of about ninety-six thousand
12 dollars (\$96,000).

13 Can you tell us what that was and why.

14

15 (BRIEF PAUSE)

16

17 MS. MYFANWY BOWMAN: I believe the same
18 explanation would -- would apply in that case.

19 MS. MYFANWY BOWMAN: So there may have
20 been concerns about the quality of the drinking water --

21 MR. VINCE WARDEN: Yes.

22 MS. MYFANWY BOWMAN: -- and you brought
23 in some other kind of supply for them?

24 MR. VINCE WARDEN: Exactly, yes.

25 MS. MYFANWY BOWMAN: There's an expense

1 for heat recovery system for Tadoule Lake for about
2 forty-three thousand dollars (\$43,000).

3 Can someone tell me what that was and why
4 it was necessary.

5 MR. ROB COX: In each site, we have a
6 heat recovery system off of the operation of the diesel
7 generators that we use to heat the waterline in the
8 communities. It runs through the generating facility,
9 and then back out into the community, so it prevents it
10 from freezing. It -- the only other operation was a heat
11 -- heat trace, and that was again a higher expense, so we
12 worked with the communities and put that in.

13 MS. MYFANWY BOWMAN: So does the heat
14 recovery system benefit Hydro's operations, or is it
15 simply sort of taking advantage of heat that's already
16 there and using that for the purposes of the community?

17 MR. ROB COX: Sorry, I missed the start
18 of your question.

19 MS. MYFANWY BOWMAN: So does the heat
20 recovery system relate particularly to Hydro's
21 operations, or is it -- does it serve a purpose for
22 Hydro, or is it simply taking advantage of heat that
23 would otherwise go to waste and using it -- redirecting
24 it for purposes of benefiting the community?

25 MR. ROB COX: Yeah, it's -- it's just a

1 matter of the -- the heat being there and putting it to
2 use versus just having it go to the environment.

3 MS. MYFANWY BOWMAN: And we have
4 miscellaneous small capital for each of the four (4)
5 communities. And -- and the total for all four (4), I
6 think, is about a hundred and twenty-four thousand
7 dollars (\$124,000). I don't want you to go through every
8 single item, because I suspect there's a lot of little
9 ones.

10 Can -- but, can you give us an idea of
11 what that might include.

12

13 (BRIEF PAUSE)

14

15 MR. ROB COX: Yes. It's my understanding
16 that some of the items that would fall under that is --
17 we automated some of the stations so there'd be new
18 controls to go in place so that we could do that. In
19 fact, we monitor them from Thompson. So there's that
20 type of equipment that would have gone in under that --
21 that item.

22 MS. MYFANWY BOWMAN: Thank you. Now, in
23 reviewing INAC's material, I -- I've gotten the
24 impression, rightly or wrongly, that INAC appears to take
25 the view that smaller capital expenditures that, of

1 themselves, come to less than a hundred thousand dollars
2 are excluded from funding under the tentative settlement
3 agreement.

4 Does Manitoba Hydro share that view of
5 those expenses?

6 MR. VINCE WARDEN: No.

7 MS. MYFANWY BOWMAN: And in the event
8 those expenses were excluded from funding under the
9 tentative settlement agreement, those expenses would then
10 presumably form part of Manitoba Hydro's revenue
11 requirement.

12 Would that be right?

13 MR. VINCE WARDEN: If that -- excuse me,
14 if that were the case, yes, that would be our recourse,
15 is to include those expenditures in -- in rates.
16 However, discussions we've had with INAC since this
17 issue, with respect to the hundred thousand dollar
18 threshold, appears to have cleared up that issue now.
19 And I think -- I believe -- I don't want to speak for INA
20 - INAC, but I believe that they agree that all capital
21 comes within the provisions of the tentative se --
22 settlement agreement; that the hundred thousand dollars
23 was put in as a threshold, at which prior consultation
24 would take place but recognizing that there would be
25 smaller capital expenditures for which it would just not

1 be practical to con -- to consult on every -- every
2 expenditure.

3 MS. MYFANWY BOWMAN: And it's Manitoba
4 Hydro's impression that -- that you and INAC agree on
5 that issue now?

6 MR. VINCE WARDEN: Yes, I believe that to
7 be the case.

8 MS. MYFANWY BOWMAN: And, again, it's --
9 it's my impression from reading the -- the INAC material
10 -- and -- and I'm sure that that will become more clear
11 through their evidence -- but it appears that they take
12 the view that some capital expenses should be excluded
13 from the funding under the tentative settlement
14 agreement, because INAC takes the position that Manitoba
15 Hydro has failed to consult.

16 Does that -- does Manitoba Hydro take that
17 view of those expenses?

18 MR. VINCE WARDEN: No, I think I did say
19 on the record earlier that we can all do a better job of
20 consulting and we will -- will be making concerted
21 efforts to do that in the future. However, the fact that
22 we may not have consulted as well as we should have
23 doesn't alleviate the requirement for funding to be
24 provided for -- through INAC for some of those -- or all
25 of those capital expenditures. They're -- they're

1 proportionate -- they're proportionate, those capital
2 expenditures, I should say.

3 MS. MYFANWY BOWMAN: So in the event -- I
4 -- I take your answer, but in the event that those
5 expenses were excluded from funding under the tentative
6 settlement agreement, would Manitoba Hydro be in a
7 position to pass those costs on to the province of
8 Manitoba as shareholder?

9 MR. VINCE WARDEN: I'm not clear on your
10 question. How would we -- I'm not certain how you're
11 suggesting those costs to be passed on to the province.

12 MS. MYFANWY BOWMAN: What I'm asking is
13 whether Manitoba Hydro believes it can do that?

14 MS. PATTI RAMAGE: I think what you're
15 asking, Ms. Bowman, is for a legal opinion. And,
16 normally, we would say -- we wouldn't provide those.
17 However, in this case, just to move things along,
18 Manitoba Hydro does not have the ability under its
19 legislation to pass on costs to the province.

20 MS. MYFANWY BOWMAN: Thank you very much.

21 MR. ROBERT MAYER: There's some
22 suggestion by some of us that although there is only one
23 (1) shareholder of Manitoba Hydro, we in fact all own it.
24 And the only way to pass it on would be through to tax
25 the rest of the province -- provinces rate -- provinces

1 taxpayers, as opposed to just Hydro's ratepayers.

2

3 CONTINUED BY MS. MYFANWY BOWMAN:

4 MS. MYFANWY BOWMAN: Based on INAC's
5 evidence, it would appear that INAC takes the view that
6 some capital expenses are excluded from the tentative
7 settlement agreement because they don't, in INAC's view,
8 provide future benefits to the diesel communities.

9 Does Manitoba Hydro take that view of
10 those expenses?

11 MR. VINCE WARDEN: No, not at all. I
12 think we spoke to that earlier.

13

14 (BRIEF PAUSE)

15

16 MS. MYFANWY BOWMAN: And if I understood
17 the evidence yesterday, Manitoba Hydro in fact has
18 proposed some changes to the wording of the settlement
19 agreement to try and clarify some of those issues.

20 Is that right?

21 MR. VINCE WARDEN: Well, the -- there
22 were some very minor wording changes that we were going
23 to suggest, if we had the opportunity to insert those
24 minor wording changes, to make this issue very clear.
25 However, I -- I do believe all the parties are clear on

1 this now. And those wording changes, although desirable,
2 we certainly don't want to hol - hold up the signing of
3 the agreement, so we would forego any further changes if
4 we -- in the interests of getting the agreement signed
5 earlier rather than later.

6 MR. ROBERT MAYER: I realize, Mr. Warden,
7 that nobody seems to want to talk about the contents of
8 this agreement, whether or not it actually exists or when
9 in fact it gets signed, but I have to assume because
10 every other agreement I have read involving Manitoba
11 Hydro will have some displute - dispute re -- mechanism -
12 - dispute resolution mechanism in it.

13 Am I correct?

14 MR. VINCE WARDEN: That would seem
15 reasonable.

16

17 (BRIEF PAUSE)

18

19 DR. KATHI AVERY KINEW: Ms. Bowman, can I
20 just interject. So if -- if there isn't one, then it
21 would fall back to the '97 agreement? No? A dispute
22 resolution, you'd have to discuss a new one?

23 MR. VINCE WARDEN: No, this -- this
24 agreement is un -- totally unrelated from the '97
25 agreement. There's no -- there's no connection between

1 the two (2) agreements.

2 DR. KATHI AVERY KINEW: That's so --
3 there is no other dispute resolution mechanism in any --
4 then there is no other agreement then between Manitoba
5 Hydro and INAC?

6 So if it's not -- all I'm asking is: If
7 it's not in this one that might be signed this week, or
8 whenever, it doesn't exist; there is no dispute
9 resolution?

10 MR. VINCE WARDEN: We're just...

11

12 (BRIEF PAUSE)

13

14 MR. VINCE WARDEN: Yes, it's just been
15 pointed out to me that, in fact, there is a clause
16 referencing a resola - resolution of disputes. It's --
17 yes. So, for what it's worth it -- there is -- there is
18 reference to that in the agreement.

19 Just -- just to be clear -- and I -- you
20 know, I don't think we want to get too deeply into the --
21 into the terms of the agreement, but while -- while there
22 is a clause that references resolution of disputes,
23 there's really no process to resolve those disp --
24 disputes. So whichever lawyer drafted this agreement --
25 so, I'm not sure whether that's totally answering the

1 question or not, but there -- there is -- definitely
2 recognize that there could be disputes coming up in the
3 future.

4 MR. ROBERT MAYER: It does appear to be a
5 little problematic if there's no process but...

6 MS. MARY ANN THOMPSON: If -- if I might
7 make a suggestion to the panel. While there is
8 tremendous reluctance to talk about the content of the
9 agreement, well, there will be some in camera discussion
10 of the agreement. And so that's complicating our
11 discussion, I think, at this point because whatever
12 discussion we -- we might want to have is going to have
13 to wait and -- and so we're not able to clarify right
14 now.

15 I don't know if the Board has any thoughts
16 on how we might try and resolve any issues right now.

17 MR. ROBERT MAYER: I, of course, had
18 hoped my question was general enough that nobody would
19 have to get that specific, but obviously, we -- I think
20 we can leave it to the other portion of the hearing.

21 MS. MYFANWY BOWMAN: Give you that we'll
22 be asking Mr. Hildebrand, who may or may not wish to
23 express an opinion on -- on dispute resolution components
24 of that agreement.

25 THE CHAIRPERSON: We will see.

1

2 CONTINUED BY MS. MYFANWY BOWMAN:

3 MS. MYFANWY BOWMAN: Now, as I understand
4 it the draft tentative settlement agreement con --
5 contemplates consultation on projects exceeding -- a
6 prior consultation on projects exceeding the, sort of,
7 threshold of a hundred thousand dollars. Now, it's
8 Manitoba Hydro's view, if I read the evidence correctly,
9 that Hydro is not require to seek approval for those
10 expenses, merely to consult.

11 Is that right?

12 MR. VINCE WARDEN: Yes, that's correct.

13

14 (BRIEF PAUSE)

15

16 MS. MYFANWY BOWMAN: Now, Manitoba -- Mr.
17 Warden, I believe it was you who said in your direct
18 evidence that -- that it -- it's your preference, as much
19 as possible, to deal with capital costs through this
20 contribution mechanism, but if push comes to shove that
21 those capital costs, if they're not funded, can and
22 presumably will go into rates?

23 MR. VINCE WARDEN: Yes.

24 MS. MYFANWY BOWMAN: Does Manitoba Hydro
25 -- has Manitoba Hydro given any thought to at what point

1 it will take that step?

2 MR. VINCE WARDEN: Well, as evidenced by
3 this filing, we found it necessary to include interest --
4 interest and depreciation on capital, due to the fact
5 that we were not able to obtain funding on approximately
6 \$4.4 million of capital costs. So it's certainly up to
7 this Board as to whether or not those -- those costs will
8 be accepted in rates.

9 MS. MYFANWY BOWMAN: And Hydro will then
10 sort of make a judgment call on at what point to
11 incorporate more, if -- if it's not being funded?

12 MR. VINCE WARDEN: Yes. We're -- we're
13 certainly hopeful, with better consultation in the
14 future, that we can avoid this arising again.

15 MS. MYFANWY BOWMAN: Which brings me
16 again to -- to the issue of consultation. And -- and it
17 appears from the material filed in Appendix 1 in the --
18 in the second binder that, shortly after the settlement
19 agreement, Manitoba Hydro made some efforts to try and
20 establish sort of a framework for these consultations,
21 and there was some emails and it looks like a meeting or
22 two (2). And this would have been back presumably in
23 2004/2005.

24 Is that right?

25 MR. ROBIN WIENS: Going from memory, we

1 did have some significant discussions in 2005 for sure,
2 possibly the latter part of 2004. These were focussed on
3 the Tadoule generating genset replacement. Definitely,
4 subsequent to the initial discussions on Tadoule, we did
5 make an effort to establish a consultation framework.

6 And I believe that a lot of the material
7 related to that would be found in the appendix and would
8 be dated in the early part of 2006.

9 MS. MYFANWY BOWMAN: I think that was the
10 material I was referring to. So -- I got the date wrong,
11 and I apologize.

12 So it sounds like thereafter, the attempts
13 -- or -- or the issue of -- of creating a framework or a
14 -- a general process kind of fell by the wayside to some
15 extent, and -- and Hydro was more focussed on a couple of
16 particular projects.

17 Would that be fair?

18 MR. ROBIN WIENS: Well, we were
19 definitely focussed on Tadoule Lake. And -- and if you
20 go through the chronology of that, those discussions --
21 or the issue of Tadoule Lake, contribution for Tadoule
22 Lake -- lingered on through 2006 and was -- finally a
23 contribution was received towards the end of -- of March
24 of 2007, if I've got my dates correct.

25 MS. MYFANWY BOWMAN: And Hydro has now

1 returned to the issue of trying to develop more -- a more
2 formalized process or a framework for -- for seeking
3 these contributions and -- and initiating those
4 consultations.

5 Is that right?

6 MR. ROBIN WIENS: We are attempting to do
7 that, yes.

8 MS. MYFANWY BOWMAN: So if I understand
9 the steps that Hydro has taken, you've created a -- an
10 internal committee, or is it a -- a joint committee
11 between Hydro and the other stakeholders?

12 MR. ROBIN WIENS: We've created an
13 internal committee, and the idea of the internal
14 committee is to coordinate so that the parties that have
15 different responsibilities with respect to operations,
16 administration, negotiations, and so forth in --
17 regarding the provision of diesel service are sharing the
18 information that's required for them to do their jobs
19 effectively.

20 MS. MYFANWY BOWMAN: And how recently has
21 that -- was that put in place?

22 MR. VINCE WARDEN: We've just -- it's --
23 it's very recent. This has been established within the
24 last two (2) months.

25 MS. MYFANWY BOWMAN: So there's not a lot

1 of progress yet to report, then, is what I'm...

2 MR. VINCE WARDEN: No, but the structure
3 is in place --

4 MS. MYFANWY BOWMAN: Okay.

5 MR. VINCE WARDEN: -- and we're expecting
6 it to be effective.

7 MS. MYFANWY BOWMAN: Thank you. No, what
8 I was trying to get at was whether -- if there was any
9 point asking questions about the response you were
10 getting, but it's too early to say. Thank you.

11 Moving onto the issue of the Shamattawa --

12 DR. KATHI AVERY KINEW: Excuse me, Ms.
13 Bowman. I -- I just wondered how -- what is the
14 involvement of First Nations in the process? Is it --
15 can that be clarified.

16 MR. VINCE WARDEN: Well, the -- the
17 purpose of the internal committee is to make sure that,
18 first of all, Manitoba Hydro is coordinating its
19 activities within the organization. In the past, there's
20 -- it's been somewhat fragmented, and we want to make
21 sure -- we recognize this as being an issue, especially
22 because of some of the problems we've been experiencing
23 over the recent past, and in putting this application
24 together.

25 So we've taken steps to develop a

1 committee that will be a primary point of contact with
2 the First Nations and with INAC. So it will now be
3 coordinated and has -- is responsible to a senior
4 executive at -- at Manitoba Hydro.

5 DR. KATHI AVERY KINEW: Is this the
6 committee that Mr. Cox chairs now?

7 MR. VINCE WARDEN: Well, no. No, that's
8 not part of the committee that Mr. Cox chairs. Are --
9 are you -- you're on that committee? It's -- sorry.

10

11 (BRIEF PAUSE)

12

13 MR. VINCE WARDEN: Yeah, there -- there's
14 a -- there's a level of administration. Mr. Cox is
15 chairing a committee that will report through to this
16 senior executive that I referenced earlier.

17 DR. KATHI AVERY KINEW: Sorry, I don't
18 understand. This is all internal, so the connection with
19 the communities, then, is through the higher management,
20 the senior management?

21 MR. VINCE WARDEN: Yes. That -- that
22 senior executive at Manitoba Hydro -- Mr. Wittmeier is
23 his name -- will be the senior point of contact with both
24 the First Nations and -- and INAC.

25 DR. KATHI AVERY KINEW: And what would

1 his title be?

2 MR. VINCE WARDEN: He's the division
3 manager, and I'll just confirm the exact title for you.

4 DR. KATHI AVERY KINEW: Okay. Thank you.

5 MR. VINCE WARDEN: Division Manager,
6 Apparatus Maintenance.

7

8 (BRIEF PAUSE)

9

10 DR. KATHI AVERY KINEW: Sorry to
11 interrupt you, Ms. Bowman.

12

13 (BRIEF PAUSE)

14

15 MS. MYFANWY BOWMAN: Quite all right.
16 You'll be happy to hear I'm moving on.

17

18 CONTINUED BY MS. MYFANWY BOWMAN:

19 MS. MYFANWY BOWMAN: I want to talk a
20 little bit about the soil remediation project in
21 Shamattawa. Now, is that project complete, or is it
22 still ongoing? Perhaps I asked too soon.

23

24 (BRIEF PAUSE)

25

1 MS. MYFANWY BOWMAN: I'd be happy with
2 "close," if that's the answer.

3 MR. VINCE WARDEN: Can we take that as an
4 undertaking? We'll just report -- none of us are totally
5 sure of the answer on that, so we'll take the -- that as
6 an undertaking and come back with the stage of
7 completion.

8 MS. MYFANWY BOWMAN: Thank you. So it is
9 underway?

10 MR. VINCE WARDEN: It's underway, but the
11 extent of completion, we're not totally certain.

12 MS. MYFANWY BOWMAN: All right. And I --
13 that's the one where there's three (3) sites, and
14 Manitoba Hydro has responsibility for one (1) of them, is
15 that right?

16 THE CHAIRPERSON: Why don't you take that
17 as part of your undertaking?

18 MR. VINCE WARDEN: I'm informed that that
19 is correct; however, we will absolutely confirm that as
20 part of the undertaking as well.

21

22 --- UNDERTAKING NO. 7: Manitoba Hydro to indicate at
23 what stage the soil
24 remediation project in
25 Shamattawa is at, and to

1 confirm if that project is
2 the one where there's three
3 (3) sites, and Manitoba Hydro
4 has responsibility for one
5 (1) of them
6

7 CONTINUED BY MS. MYFANWY BOWMAN:

8 MS. MYFANWY BOWMAN: All right. And when
9 I look at one of the inter -- the Information Request
10 responses, it indicates that Manitoba Hydro's share was
11 approximately \$4 million. Are -- are we still
12 comfortable with that number? That's INAC/MANITOBA
13 HYDRO-7E, if that helps.
14

15 (BRIEF PAUSE)
16

17 MR. VINCE WARDEN: Yes. Yes, we're --
18 that -- that number is correct.

19 MS. MYFANWY BOWMAN: And it appears from
20 the documentation that's attached as Appendix 2,
21 Attachment 2, which is the -- sort of the consultation
22 documents that were -- that were included, it would
23 appear that, back in -- in 2007, Hydro was initially
24 seeking a contribution from INAC of 73.4 percent of those
25 costs.

1 Does that sound approximately correct?

2 MR. ROBIN WIENS: Yes, it does.

3 MS. MYFANWY BOWMAN: And there's a couple
4 of letters later on, one (1) in October of 2008, and one
5 (1) of June of 2009, where Hydro was seeking a
6 contribution of 81.6 percent of those costs.

7 Does that also sound correct?

8 MR. ROBIN WIENS: You know, I don't have
9 instant recall on all that communication, but I know that
10 the discussions carried on for a -- for a fair length of
11 time, and Manitoba Hydro was looking to have INAC pick up
12 a share that was proportionate to the energy use in the
13 community. And we may have referenced different numbers
14 at different times.

15 Our principle was that we wanted them to
16 pick up a share related to the -- their energy share in
17 the community. Various percentages that they have been
18 quoted at one (1) time or another may have represented
19 different periods of time, or different approaches to
20 that principle.

21 The -- the point is that that was the
22 basis on which we were trying to negotiate a
23 contribution, and -- and of course the key overriding
24 factor was that we were trying to negotiate the
25 participation by INAC, period, and -- and discuss our --

1 well, our principles, as -- as well as others that they
2 might bring to the table.

3 MS. MYFANWY BOWMAN: That's fair. And so
4 at the end of the day, the agreement was to split the
5 cost 50/50, is that right?

6 MR. ROBIN WIENS: That's my
7 understanding, yes.

8 MS. MYFANWY BOWMAN: And are you able to
9 comment on -- on why it went from 73 or 81 percent, or
10 whatever INAC's energy share, was to -- to 50 percent?

11 MR. ROBIN WIENS: I was not part of those
12 negotiations, so --

13 MR. ROBERT MAYER: That information is
14 all in your rebuttal evidence. There was some discussion
15 at some point about being able to define the sites.
16 There was some discussion about -- in some of the 50/50
17 stuff there was some issues of defining the sites. I
18 believe most of this information is in your rebuttal
19 evidence.

20 MR. ROBIN WIENS: Well, yes, I believe
21 there's a lot of it in -- in the rebuttal evidence, but
22 I'm not -- I was not part of the actual negotiations, so
23 to discuss why we went from one (1) number to another, I
24 can't give you a good answer on that. We would have to
25 undertake.

1 CONTINUED BY MS. MYFANWY BOWMAN:

2 MS. MYFANWY BOWMAN: Well, I -- I don't
3 want to get into the...

4

5 (BRIEF PAUSE)

6

7 MS. MYFANWY BOWMAN: Moving onto the
8 Shamattawa engine repairs, if I'm not mistake that was
9 the -- the item that Mr. Wiens mentioned in his direct
10 evidence that was the emergency repair.

11 Am I right?

12 MR. ROBIN WIENS: Yes.

13 MS. MYFANWY BOWMAN: And that work was
14 completed -- substantially completed in September of '08,
15 and -- and entirely completed in January of '09?

16 MR. ROBIN WIENS: Yes.

17 MS. MYFANWY BOWMAN: And if I understand
18 correctly, there was no request for a contribution from
19 INAC until February of 2010.

20 Is that right?

21 MR. ROBIN WIENS: Correct.

22 MS. MYFANWY BOWMAN: Is there a
23 particular reason for that?

24 MR. ROBIN WIENS: The -- the repair was
25 conducted, I -- because I believe I mentioned in the

1 direct evidence that it was an emergency. It was
2 necessary to carry it out. It -- was there a reason for
3 delaying our request until February of 2010? I'm -- I'm
4 sure there was, but I'm not -- I'm at a loss to explain
5 why right now.

6 MS. MYFANWY BOWMAN: And has Hydro
7 received an type of -- of response from INAC to this
8 request? Do you have a sense of what INAC's position is
9 on this one?

10 MR. ROBIN WIENS: I believe we put that
11 correspondence on the record, that I -- INAC declined to
12 make the contribution. I'm not remember the date of the
13 letter, but it's -- it's part of the record.

14 I don't think they categorically said they
15 never would make it ever, but it was pretty definitive at
16 that point that they were not inclined to make that
17 contribution.

18 MS. MYFANWY BOWMAN: Thank you.

19

20 (BRIEF PAUSE)

21

22 MS. MYFANWY BOWMAN: I'd like to move on
23 to a different area. Mr. Warden, in -- in response, I
24 think it was to a question from Mr. Peters, you talked a
25 little bit about the reason that -- that Manitoba Hydro

1 was pro -- proposing a reduced tail block for the
2 residential and -- and general service customers. And as
3 I understood -- stood your evidence, it's because of
4 Manitoba Hydro's concerns about the impacts of a large
5 rate increase on those customers.

6 Is that right?

7 MR. VINCE WARDEN: Yes.

8 MS. MYFANWY BOWMAN: And you're con --
9 Hydro's concerned not only with the direct impacts in
10 terms of -- of having to pay higher electricity bills,
11 but also the indirect impacts, in terms of the cost of
12 goods and services. Is --

13 MR. VINCE WARDEN: Yes.

14 MS. MYFANWY BOWMAN: -- that right?

15 MR. VINCE WARDEN: That is right, yes.

16 MS. MYFANWY BOWMAN: And -- and Hydro's
17 concerns in that context are -- there you're talking only
18 about an increase to the tail block rate. You're not
19 talking about an across the board increase; it's only to
20 that tail block consumption up here, is that right?

21 MR. VINCE WARDEN: Correct.

22 MS. MYFANWY BOWMAN: So even on that
23 limited consumption, Hydro's concerned about the impacts
24 of a substantial rate increase.

25 Is that right?

1 MR. VINCE WARDEN: We are.

2 MS. MYFANWY BOWMAN: Would it be fair to
3 say then that Manitoba Hydro would be concerned with the
4 impact of a 100 percent rate increase as proposed by Mr.
5 Hildebrand?

6 MR. VINCE WARDEN: Very much so, yes.

7 MS. MYFANWY BOWMAN: Would it be fair to
8 say that the impacts of that kind of a rate increase
9 would be substantial?

10 MR. VINCE WARDEN: I believe that to be
11 true, yes.

12 MS. MYFANWY BOWMAN: So Manitoba --
13 therefore, Hydro does not support that recommendation?

14 MR. VINCE WARDEN: We do not.

15 MS. MYFANWY BOWMAN: And Manitoba Hydro's
16 view would be, even if there is a substantial reduction
17 in consumption, that -- a rate increase of that magnitude
18 will be likely to have serious impacts on consumers.

19 Is that fair?

20 MR. VINCE WARDEN: Yes, that would
21 constitute rate shock and we would not support that.

22 MS. MYFANWY BOWMAN: Manitoba Hydro would
23 also not support doubling the month -- the basic monthly
24 charge.

25 Is that fair?

1 MR. VINCE WARDEN: That is also fair.

2 MS. MYFANWY BOWMAN: And would part of
3 Manitoba Hydro's reasoning behind that be that the
4 customer can't change that -- that amount of their bill,
5 no matter how much they might conserve or reduce their
6 energy use?

7 MR. VINCE WARDEN: Well, it is -- it is a
8 fixed amount and tends to affect the low income consumers
9 more so than those that could afford to pay.

10 MS. MYFANWY BOWMAN: And Manitoba Hydro
11 would also, therefore, not agree with the suggestion that
12 even customers at very low consumption levels require a
13 substantial rate increase.

14 Is that also correct?

15 MR. VINCE WARDEN: Yes.

16 MS. MYFANWY BOWMAN: I suspect that this
17 question is going to go to Mr. Wiens because I think
18 we've -- we've discussed this before, but can you tell --
19 explain to me a little bit of the concept of price
20 elasticity, please.

21 MR. ROBIN WIENS: We've had this
22 discussion before, so I'll -- I'll try to be very brief.
23 Price elasticity refers to the percentage change in
24 customer usage related to the percentage change in the
25 price that's charged. So if -- just as a simple example,

1 if -- if prices were to double, which is a hundred
2 percent increase, and you got approximate 50 percent
3 reduction in usage, you'd be approximately at uni -- what
4 we call unitary elasticity, which means the change in one
5 is proportionate to the change in the other.

6 Some goods have a high responsiveness to
7 price and some goods and services have a low
8 responsiveness to price. Typically, electricity for most
9 types of customers, and particularly in the short-term,
10 is -- I think there's a general agreement that there's a
11 low responsiveness to price changes.

12 MR. ROBERT MAYER: Mr. -- Mr. Wiens, I
13 understand what you're saying, but there is also a
14 significant -- I suggest to you, a significant body of
15 thought that says although they're not prepared to
16 necessarily stop using electricity when the price goes
17 up, they are prepared to adjust the time at which they --
18 they use the electricity, such as their dishwashers and
19 their washers and dryers if for -- if there was some
20 reward by using them in off-peak hours, which, of course,
21 is why this Board has been discussing the issue of time
22 of use rates.

23 MR. ROBIN WIENS: Well, Mr. Mayer, I
24 think the jury is still out on that one, at least as far
25 as residential customers are concerned.

1

2 CONTINUED BY MS. MYFANWY BOWMAN:

3 MS. MYFANWY BOWMAN: So just to make sure
4 I understood your answer: Generally speaking,
5 residential customers are considered to be fairly price
6 inelastic, is that right?

7 MR. ROBIN WIENS: That seems to be a
8 consensus among people who have observed or studied this,
9 yes.

10 MS. MYFANWY BOWMAN: And that is
11 suspected to be, at least in part, because electricity is
12 considered an essential service and people feel they need
13 that for -- for basic living?

14 MR. ROBIN WIENS: There -- there are a
15 number of reasons for it, but that's one (1) of them for
16 sure.

17 MS. MYFANWY BOWMAN: It would also be
18 fair to say that some customers have a limited ability to
19 respond to price signals, in terms of their ability to --
20 to put in place conservation measures and so on?

21 MR. ROBIN WIENS: That's also true. And
22 it's generally true that as you extend the period of time
23 over which you observe the phenomenon of price
24 responsiveness that customers can do more over a longer
25 timeframe. And typically the price elasticity in the

1 long term is -- is greater than it is in the short term.

2 We -- we've had discussions about this
3 before and there's been suggestions that price elasticity
4 is very low, particularly in the short term.

5

6 (BRIEF PAUSE)

7

8 MS. MYFANWY BOWMAN: And residential
9 customers tend to be less elastic than, for example,
10 general service customers who may have more ability to
11 respond to -- to times and -- and shifts and things like
12 that.

13 Is that right?

14 MR. ROBIN WIENS: Well, my -- my general
15 impression is that there's not -- not certainty about
16 that. I think -- I think, generally regarded industrial
17 customers have -- tend to have a higher price elasticity
18 among general service customers because there's such a
19 wide variety of them; some groups do and some don't.

20 MS. MYFANWY BOWMAN: That's fair. Thank
21 you. On an entirely different topic, does the tentative
22 settlement agreement address responsibility for the
23 revenue shortfall from residential service -- pardon me,
24 residential and general service customers, due to the
25 grid equivalent rates, the -- the, sort of, the

1 government surcharge piece of -- of rates?

2 MR. ROBIN WIENS: No, it doesn't.

3 MS. MYFANWY BOWMAN: On the issue of the
4 pre-2004 accumulated deficit, I understand that as of
5 March 2004 that was 16.9 million, and that amount is to
6 be retired within ten (10) years.

7 Is that right?

8 MR. ROBIN WIENS: Correct.

9 MS. MYFANWY BOWMAN: And I understand
10 from Manitoba Hydro's evidence that the tentative
11 settlement agreement does not specify the details of how
12 much or at what rate that's to be retired, as long as
13 it's retired by the end of the period.

14 Is that right?

15 MR. VINCE WARDEN: This may be a
16 discussion that's better -- that we would be better to
17 conduct during -- when we have the agreement in front of
18 us in the in camera session.

19 MS. MYFANWY BOWMAN: Fair enough. Now,
20 if I look at the amortization schedule that was provided
21 as part of the cost of service, it refers to the -- to
22 the diesel portion.

23 That means net export revenues, is that
24 right?

25 MR. ROBIN WIENS: I don't have it in

1 front of me, but I think that's right.

2 MS. MYFANWY BOWMAN: Now, it also refers
3 to other revenues that are being applied towards that
4 deficit.

5 MR. ROBIN WIENS: It does.

6 MS. MYFANWY BOWMAN: And -- and is that
7 just other general revenues of Manitoba Hydro?

8 MR. ROBIN WIENS: Yes.

9 MS. MYFANWY BOWMAN: So, those revenues
10 would come from the grid?

11 MR. ROBIN WIENS: They would come from
12 all customers. And since the grid is virtually all of
13 that, I would -- virtually all come from the grid.

14 MS. MYFANWY BOWMAN: And then at the end
15 of the day, at the end of the -- at 2014, if there is any
16 amount that has not been amortized, then Manitoba Hydro
17 is to absorb that amount.

18 Is that right?

19 MR. VINCE WARDEN: Mr. Bowan - Bowman,
20 the -- the plan is to amortize that over ten (10) years,
21 so it will be fully amortized at the end of the ten (10)
22 years.

23

24

(BRIEF PAUSE)

25

1 THE CHAIRPERSON: Ms. Bowman, I think
2 we'll take the mid-morning break now. So we'll be back
3 in fifteen (15) minutes. Thank you.

4

5 --- Upon recessing at 10:29 a.m.

6 --- Upon resuming at 10:56 a.m.

7

8 THE CHAIRPERSON: Okay. Ms. Bowman.

9 MS. MYFANWY BOWMAN: Very good. Thank
10 you.

11

12 CONTINUED BY MS. MYFANWY BOWMAN:

13 MS. MYFANWY BOWMAN: My -- the next area
14 I wanted to ask some questions about was -- were
15 subsidies flowing from grid customers to the diesel zone.
16 And when I look at -- at PUB/MANITOBA HYDRO number 9B --
17 I'll give you a minute -- it's referring to a chart that
18 appears in the Board's order from earlier this year,
19 Order 1/10.

20

21 (BRIEF PAUSE)

22

23 MR. ROBIN WIENS: Well, I have PUB-9B.

24 MS. MYFANWY BOWMAN: It does not actually
25 contain the chart that its referring to, so I -- I'm not

1 sure if you have that chart available to you. It's in
2 Order 1/10 from this year.

3 MR. ROBIN WIENS: Yes. Thank you.

4 MS. MYFANWY BOWMAN: Now, this chart
5 relates to pre-2004 costs that had stacked up in one (1)
6 way or another and who ultimately assumed responsibility
7 for those costs.

8 Is that correct?

9 MR. ROBIN WIENS: Yes.

10 MS. MYFANWY BOWMAN: And if I'm reading
11 the chart correctly, the grid absorbed costs related to
12 the pre-2004 deficit, a portion of the surcharge, and a
13 portion of undepreciated capital costs, for a grand total
14 of 24.45 million.

15 Is that right?

16 MR. ROBIN WIENS: Yes, that is generally
17 correct. Although, I -- I would want to observe that the
18 Public Utilities Board did approve an allocation of net
19 export revenues to the diesel communities. And given
20 that that is an accepted cost allocation, and it appears
21 that it is, then some of that 16.9 million would have
22 been absorbed by that allocation.

23 So, while it's technically correct to say
24 that relative to the situation that existed prior to 2004
25 the \$16.9 million deficit would have been picked up by

1 the grid, given the allocation of export revenues, it may
2 be more fair to say that a portion of it was picked up by
3 the grid customers.

4 MS. MYFANWY BOWMAN: Would it also be
5 fair to say that the net export revenues flow from
6 investments made by the grid?

7 MR. ROBIN WIENS: The -- the net export
8 revenues are created by the assets that generate those
9 export revenues. But, I mean, we've had this dialogue
10 and debate in front of the Board for a large number of
11 years now, and the approved allocation of the benefits
12 includes an allocation of benefits to the diesel
13 communities.

14 MS. MYFANWY BOWMAN: That's fair enough.
15 Thank you.

16 Now, this chart also reflects a
17 contribution by INAC and the First Nations to the
18 surcharge and the undepreciated -- undepreciated capital
19 costs for a total of 23.1 million, and a contribution
20 from other government departments of 2.9 million towards
21 undepreciated capital costs.

22 Am I correct?

23 MR. ROBIN WIENS: Yes.

24 MS. MYFANWY BOWMAN: Now, if we turn the
25 page to --

1 MR. VINCE WARDEN: Ms. Bowman, I think I
2 would just like to clarify one (1) point. The tentative
3 settlement agreement contemplated allocation of export
4 revenues to the grid. That -- that agreement is still
5 subject to the approval -- or, I'm sorry to the diesel
6 communities. That -- that tentative settlement
7 agreement, of course, is still subject to the approval of
8 -- of the Public Utilities Board.

9 So you're very right in -- in stating
10 earlier that the -- the grid customers are the ones that
11 contributed to the -- to the export -- the facility, to
12 be able to export and drive revenues therefrom. The
13 diesel communities did not participate in that. And the
14 extent to which the diesel communities are entitled to a
15 share of those export revenues has yet to be determined
16 by this Board.

17 MS. MYFANWY BOWMAN: And I wasn't trying
18 to get into that issue at all.

19

20 (BRIEF PAUSE)

21

22 MS. MYFANWY BOWMAN: Should I move on, or
23 are you checking something?

24 MR. VINCE WARDEN: No, we're fine.

25 Thanks.

1 MS. MYFANWY BOWMAN: Sorry, I was
2 waiting. I thought you were looking for something.

3 If we turn the page then to PUB/MH number
4 9C, that deals with -- it again refers to a -- a chart
5 from the same board order dealing with costs from 2005
6 through to 2010.

7 MR. ROBIN WIENS: Yes, I see that.

8 MS. MYFANWY BOWMAN: Now, I'd like you to
9 just help me out with this chart. It shows the relative
10 contributions by INAC and the First Nations, other
11 government departments, and the grid, interest and
12 depreciation expenses on capital.

13 1.73 million is the contribution that INAC
14 has actually paid?

15 MR. ROBIN WIENS: I'm sorry, I must have
16 missed your reference because I don't see that on what
17 I'm looking at.

18 MS. MYFANWY BOWMAN: I'm looking at
19 PUB/MANITOBA HYDRO-9C.

20 MR. ROBIN WIENS: Okay. I -- I have
21 that. I'm -- I'm sorry, I was looking at the chart on
22 page 10 of Order 1/10.

23 MS. MYFANWY BOWMAN: You don't want to
24 confuse me on this. It's -- it's gonna -- it'll go all
25 down hill from there.

1 All right. So interest and depreciation
2 on capital -- interest and depreciation expense on
3 capital, INAC has paid 1.73 million.

4 Is that right? Or is this simply an
5 allocation that INAC, in Manitoba Hydro's view, is
6 responsible for but hasn't actually paid at this time?

7 MR. ROBIN WIENS: Just a moment.

8

9 (BRIEF PAUSE)

10

11 MR. ROBIN WIENS: Ms. Bowman, this is an
12 allocation. It doesn't mean that we've actually
13 collected this.

14 MS. MYFANWY BOWMAN: All right. That's
15 what I was trying to make sure I understood. So the --
16 the six point seven seven (6.77), which is the total
17 amount allocated to INAC, is sort of Hydro's position as
18 -- as to what INAC should be paying, as opposed to what
19 they have actually paid at this point in time?

20 MR. ROBIN WIENS: Yes.

21 MS. MYFANWY BOWMAN: And so that would
22 also be true for the other government column -

23 MR. ROBIN WIENS: Yes.

24 MS. MYFANWY BOWMAN: -- which is zero
25 point nine eight (0.98).

1 And for the grid, the grid has actually
2 borne those expenses, the fourteen point-o-three (14.03)
3 that's allocated to them?

4

5 (BRIEF PAUSE)

6

7 MR. ROBIN WIENS: Yes, that's correct.

8 MS. MYFANWY BOWMAN: So unless and until
9 INAC and/or the fed -- the First Nations, and/or the
10 Provincial Government were to contribute to some of these
11 costs, all of those numbers would really be to the
12 account of the grid.

13 Is that fair?

14 MR. ROBIN WIENS: By definition, that
15 would be the case.

16 MS. MYFANWY BOWMAN: Okay. Thank you. I
17 simply didn't understand the chart.

18

19 (BRIEF PAUSE)

20

21 MS. MYFANWY BOWMAN: I'm going to be
22 looking at -- at CAC/MSOS/MANITO - MANITOBA HYDRO-13G.
23 It'll take me a moment to find, but I'll give you that
24 moment as well.

25

1 (BRIEF PAUSE)

2

3 MS. MYFANWY BOWMAN: 13G, yes. And this,
4 as I understand it, is a correction of several of the
5 schedules from the application -- oh, sorry, it's just
6 one (1) schedule -- correcting I can't recall what now,
7 something that was not inserted correctly. But I wanted
8 to make sure we were referring to the right number.

9 What I want to discuss here is the total
10 revenues -- pardon me, the total subsidies from the grid.

11 What I see here for the -- this is the
12 '10/'11 fiscal year?

13 MR. ROBIN WIENS: Yes, it's the year
14 under discussion at this proceeding. It's the year to
15 which Manitoba Hydro's application applies.

16 MS. MYFANWY BOWMAN: Thank you. And so
17 we see from the grid an RCC subsidy to the residential
18 general service customers of a little over a million
19 dollars.

20 MR. ROBIN WIENS: Yes.

21 MS. MYFANWY BOWMAN: And the tail rate
22 subsidy to residential and general service of three
23 hundred and twenty-two thousand five hundred (322,500).

24 MR. ROBIN WIENS: Yes.

25 MS. MYFANWY BOWMAN: And then we have the

1 amounts for the unrecovered provincial revenue
2 requirement and the subsidy in lieu of provincial
3 surcharge.

4 MR. ROBIN WIENS: Yes.

5 MS. MYFANWY BOWMAN: And, finally, we
6 have the government rate variance. And if I'm
7 understanding that correctly, that is the difference
8 between the rate that Manitoba Hydro was actually seeking
9 and what it is currently costing to provide that service.
10 Is that right?

11 MR. ROBIN WIENS: It is the difference
12 between the rates that Manitoba Hydro is actually seeking
13 and what we ultimately calculated the allocation of cost
14 to the government class to be.

15 MS. MYFANWY BOWMAN: And that's due to
16 sort of the -- the time that passes between when the
17 Manitoba Hydro Electric Board approves the rate
18 application on behalf of Hydro and when we get here.

19 Is that right?

20 MR. ROBIN WIENS: Yes, we had a number of
21 changes to our application that occurred subsequent to
22 that review.

23 MS. MYFANWY BOWMAN: All right. And so
24 that brings us to a total subsidy in that department of -
25 - from the grid of two million one hundred and eight-one

1 thousand four hundred and thirty-six thousand dollars
2 (sic)?

3 MR. ROBIN WIENS: Yes.

4 MS. MYFANWY BOWMAN: And then on top of
5 that we have the grid absorbing operating deficits. Of
6 course, we talked about the ones that went back before
7 2010, which was about \$7 million. And then we have the -
8 - there's an operating deficit forecast of about \$2
9 million for this year, is that right?

10 MR. ROBIN WIENS: Well, there is the 7
11 million past operating deficit. I believe that the 2.18
12 million referenced here would be the operating deficit
13 for the fiscal year under consideration.

14 MS. MYFANWY BOWMAN: I apologize. You're
15 right. So we've got the 2.18 million that we've just
16 talked about plus the -- the previous operating deficits.
17 And then, of course, there's -- there's the other
18 expenses that the grid carries unless and until somebody
19 else pays them?

20 MR. ROBIN WIENS: Yes, if you're
21 referring to unrecovered capital costs and so forth, yes.

22 MS. MYFANWY BOWMAN: I was. Thank you.
23 I have a couple -- I have a question following up on some
24 questions that were asked yesterday, I believe by Mr.
25 Peter, relating to restrictions on electric space heating

1 in the diesel zone.

2 And perhaps this reflects my newness to
3 the Hydro milieu, but how do the customers know that
4 they're not to use electric space heat, aside from the
5 price signal issue? Is -- is there some -- somebody
6 tells them that at some point in time?

7 MR. ROB COX: That is one (1) of our
8 service extension policies, and anybody requesting a new
9 service would be advised at that time that the maximum
10 they could have is a 60 amp service.

11 MS. MYFANWY BOWMAN: And that tells them
12 automatically that they can't use electric space heat?

13 MR. ROB COX: That's also one (1) of our
14 policies, is that you cannot heat your home with electric
15 space heat, and, again, they would be advised of that.

16 MS. MYFANWY BOWMAN: And how do customers
17 know about things like space heaters, that those are --
18 are not allowed?

19 MR. ROB COX: That also would be
20 communicated with them. It's -- it's been a long-
21 standing policy, so it's --

22 MS. MYFANWY BOWMAN: It's common
23 knowledge?

24 MR. ROB COX: It -- it should be common
25 knowledge, yes.

1 MS. MYFANWY BOWMAN: All right. Thank
2 you. I just wanted to clarify that.

3 And then I had a question following up on
4 the discussion about the -- the potential transmission
5 line to one (1) or more of the -- the First Nations,
6 which we now understand is not going to be funded.

7 Over what period of time does one
8 depreciate a transmission line?

9 MR. VINCE WARDEN: Typically, we would be
10 talking about a 66 kilovolt line to those communities,
11 which would be depreciated over fifty (50) years.

12

13 (BRIEF PAUSE)

14

15 MS. MYFANWY BOWMAN: So if you're talking
16 about a two hundred thousand (200,000) -- a \$200 million
17 transmission line, you're depreciating that over fifty
18 (50) years at approximately \$40 million a year, I -- I
19 guess it's a sliding scale?

20 MR. VINCE WARDEN: No. The depreciation
21 would be an equal amount per year.

22 MS. MYFANWY BOWMAN: I'm going to ask you
23 to have a look at PUB/MANITOBA HYDRO-6B.

24

25 (BRIEF PAUSE)

1

2

MR. ROBIN WIENS: Yes, we have that.

3

4

MS. MYFANWY BOWMAN: And this is a table that looks at residential accounts that, at some point or other, exceeded the two thousand (2,000) kilowatt hour per month limit in '08/'09.

5

6

Is that right?

7

8

MR. ROBIN WIENS: Yes, I believe that's right.

9

10

11

12

13

MS. MYFANWY BOWMAN: And if I read the table correctly, there were a hundred and eighty-one (181) accounts that exceeded that limit at least once at some point in time, out of a total of five hundred and thirty-six (536) accounts.

14

15

16

17

Is that right?

MR. ROBIN WIENS: Yes. I -- I -- that's -- that's correct.

18

19

20

MS. MYFANWY BOWMAN: And you're spared from my math by the fact that somebody else has done the math for me.

21

22

That's 33.8 percent of the accounts that have exceeded the limit at one point or another?

23

24

25

MR. ROBIN WIENS: Yes, that's correct.

MS. MYFANWY BOWMAN: And here's where we get into the tenuous ground of -- of my math. If I look

1 at the number of accounts that have exceeded the limit
2 twice or more -- so we take out the eighty-three (83) --
3 that takes us to about ninety-eight (98) accounts that
4 have exceeded the limit twice or more over that --

5 MR. ROBIN WIENS: Yes.

6 MS. MYFANWY BOWMAN: So that's more than
7 half? Pardon me, that's more than half of the accounts
8 that have exceeded the limit, they've done it at twice or
9 more?

10 MR. ROBIN WIENS: Yes.

11 MS. MYFANWY BOWMAN: And if we flip the
12 page to Table 2, that shows us the dist -- distribution
13 month by month of when customers have exceeded that
14 limit. And it appears that there are some customers who
15 are going over that limit even during the summer months.

16 Is that right?

17 MR. ROBIN WIENS: Yes. You'll see
18 generally that most of the exceedance is in the winter
19 months, but there is some in the summer months.

20 MS. MYFANWY BOWMAN: So what Hydro draws
21 from that is that there is likely some electric space
22 heating going on, hence this -- the winter months, but
23 some of that consumption is also driven by other things?

24 MR. ROBIN WIENS: That would appear to be
25 true.

1 MS. MYFANWY BOWMAN: And does Manitoba
2 Hydro have any idea what might be driving that level of
3 consumption?

4 MR. ROBIN WIENS: Well, most likely it's
5 appliances other than electric heat, but which they are,
6 I -- I wouldn't be able to say.

7 MS. MYFANWY BOWMAN: But appliances seem
8 like the safest guess?

9 MR. ROBIN WIENS: Well, some form of
10 appliance. It could be outdoor plug-ins for -- for
11 vehicles. I'm --

12 MR. ROBERT MAYER: Excuse me.

13 MR. ROBIN WIENS: -- clothes dryers.

14 MR. ROBERT MAYER: Excuse me, Ms. Bowman.
15 You have to understand, I live in Thompson. We're not
16 generally as remote as the rest of them. Mr. Hildebrand
17 may want to discuss that. But -- but we've had snow in
18 every month of the year since I've been in Thompson, and
19 I can tell you that when you get to the latitudes of
20 Tadoule Lake, Brochet, and Lac Brochet, summer is not
21 what we know summer in here -- in Manito - in Southern
22 Manitoba.

23 So the fact that somebody exceeded a limit
24 in what we call the summer months, you can assure
25 yourself that in Brochet and Lac Brochet, it is not

1 unusual -- and -- and Tadoule Lake, it is not unusual to
2 have snow and relatively cold weather in June.

3

4 CONTINUED BY MS. MYFANWY BOWMAN:

5 MS. MYFANWY BOWMAN: So some of -- some
6 of the levels of consumption in those sort of early
7 summer months, or possibly even all summer, could
8 potentially be heating related?

9 Is that also true?

10 MR. ROBIN WIENS: I -- I suspect it is.
11 Certainly, even in Winnipeg, people have been known to
12 turn their furnaces on in September.

13 MS. MYFANWY BOWMAN: That's fair enough.
14 Thank you.

15 I have a follow-up question for Mr. Cox
16 related to something he had said in his direct. You were
17 talking in your direct about the DSM programs, or Power
18 Smart for -- for the province as a whole, and you had
19 talked about savings across the province of approximately
20 6 percent.

21 And you had specified the sources; sort of
22 where those savings had come from, which sectors, or
23 which customer classes. And I wonder if you could run
24 through that for me, because you went through it quickly
25 on direct.

1 MR. ROB COX: As I mentioned yesterday,
2 there -- the total energy savings achieved under our
3 Power Smart is 6 percent. Of that, 35 percent of these
4 savings were realized from the industrial sector; 42
5 percent from the commercial sector; and the remaining 23
6 percent from the residential sector.

7 MS. MYFANWY BOWMAN: So when we talk
8 about Power Smart savings for the res -- residential
9 sector, were talking about 23 percent of 6 percent?

10 MR. ROB COX: That is correct.

11 MS. MYFANWY BOWMAN: Thank you. So on --
12 on the basis of that experience, Manitoba Hydro feels
13 that 20 -- 20 percent consumption in reduction that is
14 proposed by the desiro -- Desiderata report is
15 unrealistic.

16 Is that right?

17 MR. ROB COX: That's correct.

18 MS. MYFANWY BOWMAN: And it's Hydro's
19 view that given that space heating is strongly
20 discouraged in the -- in the diesel zone, that there may
21 not be a lot of opportunities to save through -- through
22 space heating means? Through measures deemed safe -- at
23 space heating, is what I'm getting at.

24 MR. ROB COX: Yes. That -- that would be
25 correct, yes.

1 MS. MYFANWY BOWMAN: And it's also your
2 view that there are -- the additional opportunities for -
3 - for consumption reduction, there's certainly some
4 there, but they're -- they're probably more limited?

5 MR. ROB COX: That's correct.

6 MS. MYFANWY BOWMAN: I'm going to ask you
7 to look at PUB/MANITOBA HYDRO-28A.

8

9 (BRIEF PAUSE)

10

11 MS. MYFANWY BOWMAN: And do I understand
12 correctly that this is the extent of these -- the Power
13 Smart programming delivered specifically to the diesel
14 zone, aside from whatever the might have participated,
15 for example, on a trip to Winnipeg, or whatever?

16 But this is the extent of the diesel prog
17 -- of the diesel Power Smart programming, is that right?

18 MR. ROB COX: Yes, that's correct.

19 MS. MYFANWY BOWMAN: So when we look at
20 the residential customers, there's been an appliance
21 program for washing machines at a cost of a hundred
22 dollars?

23 MR. ROB COX: Yes, that's correct.

24 MS. MYFANWY BOWMAN: And then there's
25 been approx -- a little over a thousand (1,000) free

1 light bulbs given out? Seven hundred and sixty eight
2 (768) plus two hundred and forty (240)?

3 MR. ROB COX: Yes, that's correct.

4 MS. MYFANWY BOWMAN: And then thereafter
5 there was apparently some kind of instant rebate program,
6 so you then can't track participation as well?

7 MR. ROB COX: Yes, that's correct. We
8 were giving away some free ones based on them buying
9 some.

10 MS. MYFANWY BOWMAN: And then you have a
11 program -- the new First Nations Power Smart program that
12 has inspected some -- some -- audited some homes in
13 2008/'09, but the retrofits haven't actually started
14 until this year.

15 Is that right?

16 MR. ROB COX: That's correct.

17 MS. MYFANWY BOWMAN: And the delay for
18 that was caused by the -- the delays reflected in your
19 rebuttal evidence, or by something else?

20 MR. ROB COX: The -- the delays would
21 have been attributed to the First Nation not making a
22 commitment to participate it -- until later on.

23 MS. MYFANWY BOWMAN: And if I understood
24 your evidence correctly, is this -- Hydro is not
25 proposing to do more audits at this point? That -- that

1 the plan is that this is the extent of the program and
2 Hydro is hoping that thereafter the First Nations will
3 pick up that ball and run with it?

4 MR. ROB COX: That was the -- our initial
5 position on that. We would be prepared to consider going
6 beyond the initial ten (10) per home -- per community.

7 MS. MYFANWY BOWMAN: So you are doing
8 that, or you're thinking about it?

9 MR. ROB COX: We're thinking about it
10 right now.

11

12 (BRIEF PAUSE)

13

14 MS. MYFANWY BOWMAN: My next questions
15 revolve around CAC/MSOS/HYDRO-24A. So, I'll give you a
16 moment to find that.

17

18 (BRIEF PAUSE)

19

20 MS. MYFANWY BOWMAN: And this deals with
21 the -- the First Nations Power Smart Program, I believe,
22 and how that program works.

23 MR. ROB COX: Yes. Part of it does, yes.

24 MS. MYFANWY BOWMAN: And if I'm looking
25 at it -- or, if I'm reading it correctly, it sounds like

1 there -- furnaces are not included. Am I correct in
2 assuming that's because we -- we don't expect that
3 customers there have electric furnaces, so there's no
4 electricity savings to be gained in that manner?

5 MR. ROB COX: That would be correct.

6 MS. MYFANWY BOWMAN: And it also looks as
7 though there are mit -- there are upgrades related, for
8 example: insulation, caulking, and so on.

9 Those would be aimed at space heating?

10 MR. ROB COX: Yes, that -- they would be
11 benefits associated with the heating of the home, yes.

12 MS. MYFANWY BOWMAN: And that's included
13 less because Manitoba Hydro thinks that -- that there's a
14 huge amount of space heating going on and more, sort of,
15 on the better safe than sorry theory.

16 Is that correct?

17

18 (BRIEF PAUSE)

19

20 MR. ROB COX: Yeah, the goal there is
21 that by doing the insulation and caulking there is
22 definitely a benefit to them by reducing their heating
23 bill.

24 MS. MYFANWY BOWMAN: Assuming they're
25 using electricity for space heating?

1 MR. ROB COX: No, it would also save
2 heating based on fuel oil.

3 MS. MYFANWY BOWMAN: Okay. So you're
4 talking about a benefit beyond electricity?

5 MR. ROB COX: Yes.

6 MS. MYFANWY BOWMAN: That's fair. All
7 right. Did Manitoba Hydro consider including in this
8 list items such as energy efficient light fixtures,
9 appliances, fridges, freezers, things like that?

10

11 (BRIEF PAUSE)

12

13 MR. ROB COX: Certainly from a light
14 fixture point of view, our CFL program is available and
15 that does achieve some savings, based on using a more
16 efficient light bulb. And we did go into the actual
17 fixtures, just a matter of the light bulbs being there.

18 And appliances, there isn't a lot of
19 savings available from appliances, so we didn't see any
20 benefit to providing that. We did have an appliance
21 program, as noted, in that first chart that you
22 referenced, where there was some rebates that were
23 available, but those programs are no longer available.

24 MS. MYFANWY BOWMAN: So it's Hydro's view
25 that -- that there are not a lot of energy efficiency

1 gains to be made through appliance upgrades in these
2 communities?

3 MR. ROB COX: Sorry, could you try that
4 again?

5 MS. MYFANWY BOWMAN: It's Hydro's view
6 that there -- there are not a lot of efficiency gains to
7 be made through upgrading appliances in these
8 communities?

9 MR. ROB COX: Yes, that would be correct.

10 MS. MYFANWY BOWMAN: Would it not stand
11 to reason that many of -- of these customers may well
12 have older, less efficient appliances?

13 MR. ROB COX: That I don't know.

14 MS. MYFANWY BOWMAN: Okay. That's fair.
15 Thank you.

16 Did Hydro consider including measures such
17 as windows and doors?

18 MR. ROB COX: Windows and doors are very
19 expensive and the savings attributed would in -- would
20 take a long time payback, so there's no real immediate
21 benefit to that. Plus, the caulking is designed to seal
22 up the doors and the windows and that's one way of
23 providing a benefit.

24 MS. MYFANWY BOWMAN: So it was felt that
25 those -- those measures would not be cost effective?

1 MR. ROB COX: That's correct.

2 MS. MYFANWY BOWMAN: Now, in determining
3 which efficiency measures to include in this list, you
4 would be looking at the potential savings versus the cost
5 of the measure and -- and whether it makes the bus -- to
6 -- to use Mr. Peters' phrase, where there's a business
7 case.

8 Is that fair?

9

10 (BRIEF PAUSE)

11

12 MR. ROB COX: Any of the Power Smart
13 programs that do apply here, that's how we would do it.
14 But in some of the other measures that we are looking at,
15 the Affordable Energy Fund was used to off -- to offset
16 that.

17 MS. MYFANWY BOWMAN: So that allows you
18 to implement some measures that maybe not quite as cost
19 effective, but you're hoping will still provide a
20 benefit?

21 MR. ROB COX: That's correct.

22 MS. MYFANWY BOWMAN: Would it be fair to
23 say that when you look at what measures are cost
24 effective, the cost to provide electricity service in a
25 particular area will have an impact on which measures pay

1 for themselves and which ones don't?

2 MS. PATTI RAMAGE: Ms. Bowman, I'm
3 wondering, do you have a lot more on this topic?

4 MS. MYFANWY BOWMAN: A little bit.

5 MS. PATTI RAMAGE: We might be able to
6 move things along faster if we brought Ms. Johnson up
7 from the back row to the front row. That might save a
8 lot of back and forth, if that's amenable to the Board.

9 THE CHAIRPERSON: Ms. Shields, would you
10 swear in the new panel member.

11

12 SHANNON JOHNSON, Sworn

13

14 THE CHAIRPERSON: Thank you. Welcome.

15

16 CONTINUED BY MS. MYFANWY BOWMAN:

17 MS. MYFANWY BOWMAN: Thank you very much.
18 So I think the question I was asking was: Would it be
19 fair to be say that the cost to serve -- or to provide
20 electricity in a particular place will have an impact on
21 which measures are or are not cost effective?

22 MS. SHANNON JOHNSON: Are you res -- are
23 you looking at all DSM programming, or the First Nation
24 Program, or diesel specific?

25 MS. MYFANWY BOWMAN: Well, I assume that

1 would be true generally, that -- that the cost to provide
2 electricity service, wherever you happen to be, is going
3 to affect which measures are or are not cost effective.

4 MS. SHANNON JOHNSON: One (1) of the --
5 one (1) of the things that we look at when we build a
6 Power Smart program overall, one (1) of it is the -- the
7 electricity savings, as well as gas savings as well as --
8 as well as greenhouse gas emissions. I'm not an expert
9 on that area, but there's certainly several factors that
10 are considered.

11 MS. MYFANWY BOWMAN: That's fair. So
12 would it also be safe to assume then that the higher the
13 cost to serve, the more likely it is that more expensive
14 measures might become cost effective?

15 MS. SHANNON JOHNSON: I think when we
16 developed the Lower Income Program, which -- which the --
17 the First Nation Program falls under, one (1) of the
18 things we looked at was trying to ensure that we could
19 provide energy efficiency opportunities across the
20 province, regardless of where you are. So -- and in some
21 instances it is more expensive to serve customers up
22 north from a DSM standpoint to, you know, facilitate with
23 -- with a specialist.

24 So in developing the First Nations
25 Program, certainly some of that was indeed taken into

1 consideration.

2 MS. MYFANWY BOWMAN: So given the high
3 cost of diesel service, there are some measures that
4 might be cost effective in the diesel zone that might not
5 be cost effective other places?

6 MS. SHANNON JOHNSON: In the overall Lower
7 Income Program, which the First Nation Program and diesel
8 falls under, certainly there are measures were are doing
9 that are not necessarily cost effective.

10 MS. MYFANWY BOWMAN: What I'm trying to
11 get at, however, is that there might be a measure that is
12 prohibitive in the -- in -- for grid customers but might
13 still be cost effective for diesel customers because the
14 cost to serve those diesel customers is so much higher.

15 Would I be correct in that assumption, or
16 no?

17 MR. ROBIN WIENS: Ms. Bowman, if --
18 perhaps I could attempt to respond to that. As a general
19 rule, I think what you're saying is correct, but it's --
20 it's not just as simple as that.

21 The cost of providing diesel service is
22 certainly an incentive for the -- the parties
23 collectively to engage in Power Smart programming, and it
24 -- the higher that cost, the greater the incentive is.

25 But there is also a question of the

1 distribution of who benefits from it. If the price to
2 Manitoba Hydro recovers the cost, then there aren't a lot
3 of economic motivators for Manitoba Hydro to engage in
4 DSM, but there's a very strong motivation for the
5 customer, or whoever's funding the customer, to engage in
6 DSM.

7 So it's -- it's not just a simple question
8 of -- of looking at what -- what the cost is, although
9 that's important. And Manitoba Hydro does gain benefits
10 from DSM in the remote communities, but a lot of the
11 benefits accrue to other parties, or to parties other
12 than Manitoba Hydro.

13

14 (BRIEF PAUSE)

15

16 MS. MYFANWY BOWMAN: I think I understand
17 your point, so what I'm -- what I was trying to get at,
18 and I think you answered the question, was that when --
19 when you're looking at whether it's reasonable to fund a
20 particular energy efficiency measure, whether it's an
21 appliance or caulking or a shower head or whatever, the
22 fact that it costs so much more to serve in the diesel
23 communities might make some measure cost effective there,
24 that -- or reasonable to provide there, that might not be
25 reasonable to provide elsewhere. Is...

1 MR. ROBIN WIENS: I think if you look at
2 the overall cost without consideration of who benefits,
3 that is true.

4 MS. MYFANWY BOWMAN: Thank you. And in
5 designing the First Nations' Power Smart Program, did
6 Manitoba Hydro go back and look at those costs to serve
7 and how they might affect what's reasonable and what
8 isn't, or -- in producing this offering, or is it simply
9 pretty much the same offering is available elsewhere, but
10 simply the funding arrangements are different?

11

12 (BRIEF PAUSE)

13

14 MS. SHANNON JOHNSON: All right. When we
15 developed the program, what we looked at is what are
16 opportunities available in the -- in the First Nation, in
17 lower income communities and rural communities. So -- so
18 it wasn't designed specifically for one (1) area, per se,
19 and what energy efficiency opportunities are available to
20 reduce -- you know, reduce overall consumption. So
21 that's -- that's what we looked at.

22 What was the best way to deliver the
23 program? How might we get best uptakes? So there were
24 several different things that were considered when the
25 program was developed.

1 And then, when we looked at the First
2 Nation piece, the delivery mechanism, and how we worked
3 with the communities, was something that's unique to that
4 program, more, say, than the overall program.

5

6 (BRIEF PAUSE)

7

8 MS. MYFANWY BOWMAN: Did Hydro look at
9 including measures such as engine block timers, power
10 bars, things like that?

11 MS. SHANNON JOHNSON: I believe through
12 the -- we -- you can still access all the other
13 commercial programming, residential programming, so I
14 believe -- and I may have to take this as subject to
15 check -- there was block heater opportunities available
16 at the commercial side. So then, looking at the overall
17 opportunities available, I believe we did look at those,
18 but -- but we can take that away, just so I can clarify
19 for you.

20 MS. MYFANWY BOWMAN: Thank you. Now,
21 through the First Nation Power Smart Program or -- or
22 otherwise, does Hydro assist with sort of maintenance
23 types of activities -- for example, changing furnace
24 filters, an ongoing supply of CFL bulbs, things like
25 that?

1 MS. SHANNON JOHNSON: I should probably
2 start by just clarifying on the CFL. In diesel
3 communities, compact fluorescent lights don't necessarily
4 work as well as in -- in regular communities, due to the
5 interactive effects. And what I mean by that is, your
6 regular light bulb will give off heat, so when you change
7 it to a CFL, you lose that heat impact, which makes CFLs
8 not necessarily as energy efficiency (sic) an opportunity
9 in the diesel communities as they would elsewhere.

10 So that's -- that's one (1) thing that --
11 that I just wanted to quickly clarify. And now I've gone
12 completely blank on your second question.

13 MS. MYFANWY BOWMAN: I want to make a
14 note of that answer first.

15

16 (BRIEF PAUSE)

17

18 MS. MYFANWY BOWMAN: So I have a follow-
19 up question to that, and then we'll go back to my first
20 question.

21 So would that, then, make energy efficient
22 light fixtures perhaps a better option for those
23 communities?

24 MS. SHANNON JOHNSON: No, the opposite.
25 The CFLs are not a good opportunity in diesel

1 communities.

2 MS. MYFANWY BOWMAN: So the energy
3 efficient light fixtures would all use CFLs.

4 MS. SHANNON JOHNSON: Correct.

5 MS. MYFANWY BOWMAN: Ah, I see --

6 MS. SHANNON JOHNSON: In -- in some
7 instances. It depends on the -- you know, whether it's a
8 -- a dimmer, or a -- you know, a regular lamp, or -- it
9 would depend on the lighting fixture.

10 MS. MYFANWY BOWMAN: So the question
11 that I've been asking before we went out -- on our
12 tangent was whether, through First Nation's Power Smart
13 or otherwise, the Corporation assists customers with sort
14 of maintenance type of activities, like an ongoing supply
15 of -- of those light bulbs, or for furnace fil --
16 changing furnace filters or those kinds of things?

17 MS. SHANNON JOHNSON: One (1) of the
18 things that we do when we go into all First Nation
19 communities is we work with the community to develop an
20 overall plan. So we're not just looking at the energy
21 efficiency; we're also looking at operation of HRBs,
22 working with the maintenance people to -- to suggest
23 things like putting grading around the houses which will
24 reduce moisture, and things along those lines.

25 So we really do look at it holistically,

1 and not specifically energy efficiency in the home on its
2 own. We'll go in and -- and work with the housing people
3 to see if we can find other opportunities, such as -- as
4 what you mentioned.

5 So every community is -- is unique, and
6 every community is different as to what they might need
7 assistance on, and what they might not need assistance
8 on, and that's why we -- we have kind of a customized
9 program in those communities.

10 MS. MYFANWY BOWMAN: So would Hydro
11 actually send somebody out to -- to change furnace
12 filters, and install light bulbs?

13 MS. SHANNON JOHNSON: We wouldn't send
14 somebody out, but we would talk to the community, and --
15 and help them understand why it's important for the
16 maintenance people in the community to do things like
17 that.

18 MS. MYFANWY BOWMAN: Thank you. Now, for
19 this -- for the First Nation's Power Smart Program, as I
20 understand it, you conduct audits on homes, make
21 recommendations, and then provide some assistance with
22 the retrofits.

23 Is that right?

24 MS. SHANNON JOHNSON: What we'll do is,
25 we'll go in, look at the homes, work with the housing

1 manager, find out what the opportunities are, make
2 suggestions to the community on how they might best
3 execute on them. We'll provide training in the community
4 to install these measures, if they wish. That's usually
5 the best way to do it because then you can create some
6 sustainability within the community.

7 Do some training on -- on insulation, and
8 caulking, and things along those lines. In some
9 communities they need it, and other -- other communities
10 not so much. So we definitely participate in that -- in
11 that piece of it.

12 We'll also go back after the work is done
13 to have a look at the work to ensure that it -- it meets
14 Power Smart standards, and to ensure that the workmanship
15 makes sense, and if there's any learning opportunities
16 for the community at that point, we would also provide
17 them.

18 MS. MYFANWY BOWMAN: And in terms of the
19 retrofits, does Manitoba Hydro order the supplies for the
20 community?

21 MS. SHANNON JOHNSON: No, we leave the
22 ordering of the supplies up to the community. They can
23 choose the supplier that they want to go with.

24 MS. MYFANWY BOWMAN: So you simply say,
25 This is what you need, and order it, and bring it in?

1 MS. SHANNON JOHNSON: What we'll do is
2 we'll actually put a spreadsheet together for them that
3 they can simply fax off, and get the information back.

4 MS. MYFANWY BOWMAN: And does Hydro cover
5 the cost of trans -- transporting that material up to the
6 community?

7 MS. SHANNON JOHNSON: Right now we're
8 looking at -- at potentially providing reasonable costs
9 for shipping.

10 MS. MYFANWY BOWMAN: So that will be an
11 expansion to the program.

12 MS. SHANNON JOHNSON: It would, but it's
13 something we're seriously looking at.

14 MS. MYFANWY BOWMAN: And Manitoba Hydro
15 covers the cost of those materials, is that right?

16 MS. SHANNON JOHNSON: Yes, we do.

17 MS. MYFANWY BOWMAN: Okay.

18 MS. SHANNON JOHNSON: We -- assuming --
19 we should -- I should clarify that a little. We cover
20 the cost of the materials, assuming they're reasonable.
21 We've got numbers that we know make sense based on our
22 experience in -- in this area.

23 MS. MYFANWY BOWMAN: So you cover the
24 cost of the materials. At this point the First Nation
25 has to cover the cost of transportation, but you're

1 looking at possibly getting into that area?

2 MS. SHANNON JOHNSON: Yes.

3 MS. MYFANWY BOWMAN: And then they do the
4 installation themselves, and you provide some training in
5 that regard?

6 MS. SHANNON JOHNSON: Absolutely. We're
7 also looking at potentially providing labour funding.

8 MS. MYFANWY BOWMAN: And you'll be very
9 grateful to hear that was my last question. Thank you
10 very much.

11 Thank you, sir.

12 THE CHAIRPERSON: Thank you, Ms. Bowman.
13 I'm just going to -- we have a few questions, too, before
14 we move onto INAC's counsel.

15 Mr. Peters, do you want to give us sort of
16 a layout of the plans through to the end of this oral
17 hearing?

18 MR. BOB PETERS: Yes, Mr. Chairman. As
19 you've correctly noted, following Ms. Bowman, Ms. Hart
20 would have an opportunity to ask questions of this panel,
21 followed by Mr. Anderson. And then we would turn to the
22 INAC witnesses, and I believe it'll be the preference of
23 INAC counsel to have the witnesses appear individually
24 rather than as a panel.

25 But we'll follow the same process, where

1 the -- the INAC witness would be first examined directly
2 by INAC counsel, followed by cross-examination of the
3 Intervenors. Following the Intervenors it would be
4 Manitoba Hydro. And then if there's any further
5 questions, it would be Board counsel.

6 THE CHAIRPERSON: Ms. Hart, can you give
7 us any estimate of how long it'll take you to cross-
8 examine this -- this particular panel?

9 MS. GLYNIS HART: My best guess --

10 THE CHAIRPERSON: Yes.

11 MS. GLYNIS HART: -- possibly an hour and
12 a half. It's just a guess.

13 THE CHAIRPERSON: Mr. Anderson...?

14 MR. MICHAEL ANDERSON: Mr. Chair,
15 probably about an hour, per -- perhaps a tiny bit more
16 than that but not much. Many of my questions have been
17 asked and answered. Thank you.

18 THE CHAIRPERSON: Thank you. Okay, we'll
19 consider this over the lunch break. Before we do that,
20 we just have a few questions before we go back to Ms.
21 Hart and INAC.

22 THE CHAIRPERSON: With respect to the
23 potential of extending grid service to the four (4)
24 diesel communities, are you -- is Manitoba Hydro aware of
25 any funding request to the Federal Government under

1 various programs associated with the stimulus capital
2 projects or the Federal Green Plan, or even the P3 Canada
3 funding? Were any requests made under any of those
4 programs?

5 MR. VINCE WARDEN: Mr. Chairman, my
6 understanding is that we did pursue funding under each of
7 those programs, but we have not been successful in
8 obtaining any assistance from -- from Canada -- any of
9 these projects.

10 THE CHAIRPERSON: Thank you, Mr. Warden.
11 If Mr. Jeffery Rubin, who used to be the former chief
12 economist of the large chartered bank, I think it was the
13 CIBC, oftentimes featured in the Globe & Mail, he ends up
14 being correct with respect to peak oil and oil prices.
15 He's predicted oil reaching two hundred dollars (\$200) a
16 barrel. Presumably diesel prices would follow gasoline
17 and -- and there would be very significant price
18 increases.

19 Have these possibilities been taken into
20 account in considering the business case for another
21 source of electricity for the communities?

22 MR. VINCE WARDEN: Mr. Chairman, we're --
23 we're -- we are constantly looking at other potential
24 opportunities. There -- there's a project underway right
25 now as to whether it's feasible to fuel the diesel -- the

1 -- the generators in these communities through LNG. So
2 there -- there's been some thought that we can transport
3 LNG into these communities and -- and fuel the
4 communities more efficiently with re -- less greenhouse
5 gases than -- than there is today.

6 That's still in the very preliminary
7 stages. And the only reason I'm pointing that out is
8 that we do look at other alternatives. Biomass --
9 Biomass is another alternative that's under
10 consideration. Wind, small wind, gen -- to provide some
11 supplementary source of energy. Small hydro.

12 So other -- other alternatives to land
13 lines are certainly being considered, and probably over
14 the long-term, make more sense than a land line to - to
15 these communities.

16 THE CHAIRPERSON: Earlier you confirmed
17 that the transmission line depreciation period is fifty
18 (50) years. So -- without any capital contribution from
19 anyone, that's basically if the total cost of putting
20 landlines in was 250 million, that's 5 million a year,
21 correct?

22 MR. VINCE WARDEN: Yes. But, of course,
23 we'd have to consider the interest on that as well, so
24 there's -- the carrying costs are not considered in that
25 \$5 million per year.

1 THE CHAIRPERSON: And looking at interest
2 right now, a thirty (30) year government bond is probably
3 about the lowest since the depression, I imagine, hey?

4 MR. VINCE WARDEN: Yes, absolutely.

5 THE CHAIRPERSON: Was there a business
6 case -- this is going way, way back -- supporting the
7 electrification of Southern, Western, and Eastern
8 Manitoba which included towns, villages, and farms?

9 MR. VINCE WARDEN: It is going way, way
10 back. And I -- I do believe though that that was an
11 initiative of the Provincial Government. And whether
12 that was supported by a business case, yeah, I -- I
13 couldn't really say.

14 THE CHAIRPERSON: So, basically
15 confirming that the considerations that went into driving
16 those early electrification efforts were not primarily
17 those of an economic nature?

18 MR. VINCE WARDEN: That -- that would be
19 my guess, but I -- I'm -- that's not based on any fact.

20 THE CHAIRPERSON: These are varied type
21 of questions, so I'm jumping around.

22 I imagine there's been many, many years
23 spent in consultation with INAC, MKO, and the four (4)
24 diesel communities and -- and Manitoba Hydro. Is it fair
25 to say that the communications between the parties have

1 been going on for decades?

2 MR. VINCE WARDEN: Yes, that's fair.

3 THE CHAIRPERSON: Would it be -- would
4 it be fair to say that the relationship, at least with
5 respect to communication protocols, could be, by some
6 critics, portrayed as being dysfunctional?

7 MR. VINCE WARDEN: That seems a little
8 harsh, but it -- it definitely could be improved.

9 THE CHAIRPERSON: I'm saying by some
10 critics.

11 Has any consideration been given to
12 bringing in a third party to work with the parties to try
13 and develop protocols that would allow for, sort of,
14 quicker resolution and means of resolving issues that
15 seem to repeat, and repeat, and repeat?

16 MR. VINCE WARDEN: That has not certainly
17 been discussed internally at Manitoba Hydro. We -- we
18 recognize the issue. It's taken us a long time to get to
19 this point, I will admit that, but we recognize it as
20 being an issue and I do believe we are finally on track
21 to resolve the communication coordination issues.

22 THE CHAIRPERSON: Switching again, by
23 the way, with respect to some questions of Ms. Bowman,
24 returning that, the sharing of export revenues of the
25 past with the diesel communities, wouldn't it be fair to

1 say that if the four (4) communities had been on the grid
2 the consumption would be -- of electricity would be
3 larger than it is now, and -- and the -- with increased
4 consumption, for example, there would have been less
5 electricity available for exporting?

6 MR. VINCE WARDEN: Yes, I think that's
7 fair. Although, in the overall scheme of things,
8 probably pretty insignificant.

9 THE CHAIRPERSON: But nonetheless, less
10 than has been the case as a result of them being on
11 diesel?

12 MR. VINCE WARDEN: Yes.

13 THE CHAIRPERSON: The -- I'm relating --
14 I'm going back now to Board Order 176/06. You don't have
15 to look it up. And just assume there was some directives
16 in there related to issues other than economic, related
17 to the four (4) diesel communities.

18 Given the four (4) communities cannot use,
19 or at least, are not supposed to use electricity to heat
20 their homes, how -- how do they heat their homes and what
21 impact does their approach taken, with respect to
22 environmental issues, social, health issues, and things
23 of that nature, to what degree is Manitoba Hydro aware of
24 the alternate heating methods that are being used and the
25 impact it has, leaving the economic behind?

1 MR. ROB COX: We do know that fuel oil is
2 used quite a bit and some people are also using wood to
3 heat their homes. That's the two (2) main sources that
4 we're aware of.

5 I know in Shamattawa there was concerns
6 before because of the distance people had to go to get
7 their wood, so that was a factor. I'm not sure about the
8 other three (3) communities, whether that's a factor
9 there.

10 I also know that there is a considerable
11 amount of fuel oil used because in most cases we are
12 asked to provide some -- some fuel on a temporary basis
13 at the end of the season because they've run out, so.

14 THE CHAIRPERSON: Arising again out of -
15 - continuing on with this line. To Manitoba Hydro's
16 knowledge -- and I realize you're a utility; you're not a
17 government -- are you aware of studies that have been on
18 the impact on the people of the communities and of their
19 residents as a result of the heating practices that have
20 to be relied on in the absence of grid service?

21 MR. VINCE WARDEN: Not -- not aware of
22 such studies. It would be of interest though and
23 probably instructive to -- to look at the be -- before
24 and after in the communities served by the North Central
25 Project.

1 THE CHAIRPERSON: Sounds like a logical
2 thing. Is Manitoba Hydro aware of mold problems, for
3 example, that's been illustrated in various videos that
4 have been shown down south, related to the communities
5 that don't have the heating sources that we enjoy down
6 here?

7 MR. VINCE WARDEN: Yes. Having said
8 that, aware of mold problems in other communities that do
9 have full access to electricity.

10 THE CHAIRPERSON: I'm sorry to hear that.
11 Mr. Mayer was referencing Oxford House.

12 Continuing, is Manitoba Hydro aware of
13 Ofgem, that's a UK regulatory agency, the research that
14 they'd done on the impact on human health of inadequate
15 heated homes?

16 MR. VINCE WARDEN: No, I'm not personally
17 aware of that, Mr. Chairman.

18 THE CHAIRPERSON: Again, it's all drawn
19 on 167/07, questions that were asked at that point in
20 time.

21 Is Manitoba Hydro -- and, again, we're
22 appreciative of the fact that you're not government,
23 you're utility, but are you aware of the costs incurred,
24 including travel, hotel, health, et cetera, related to
25 health issues in the four (4) communities, and are you

1 aware of any studies that sort of indicate, for example,
2 the average lifespan of residents in the communities it -
3 - compared to other communities in Manitoba?

4 MR. VINCE WARDEN: No, I'm not.

5 THE CHAIRPERSON: Thank you very much.
6 We'll have our break, and given the time pressures that
7 we'll be all under, I'm suggesting would it be all right
8 if we came back for one o'clock. Is that fine?

9 Okay, we'll see you at 1:00. Thank you.

10

11 --- Upon recessing at 11:52 a.m.

12 --- Upon resuming at 1:04 p.m.

13

14 THE CHAIRPERSON: Okay. As Jackie
15 Gleason once said: "Away we go."

16 Anyway, we'll start with Mr. Peters, who's
17 going to be the purveyor of some news as to our schedule.

18 Mr. Peters...?

19 MR. BOB PETERS: Yes, thank you, and just
20 prior to the lunch break, the Chairman canvassed the
21 timelines that would be required to complete Manitoba
22 Hydro's cross-examinations. And that, of course, for
23 those of us looking at the big picture, we realized that
24 tomorrow, instead of being a day for oral submissions,
25 will be a day in which the Board will hear evidence from

1 the INAC witnesses. That means the closing submissions
2 that the Board would like to hear will need to be
3 rescheduled.

4 Now, Mr. Chairman, some parties have
5 already on the record indicated a desire to file written
6 submissions to address certain issues identified and
7 raised by you in your opening comments. And on top of
8 that, now the Board has determined that oral closing
9 submissions would be helpful to the Board, and therefore
10 I would ask the parties to bring their calendars tomorrow
11 to schedule an available date for those closing
12 submissions.

13 The way it's envisioned from this side of
14 the room is that the parties would be given an
15 opportunity to file their written submissions, what they
16 would like with the Board. And then following the filing
17 of those written submissions, we would have the date for
18 the oral closing submissions, and that would allow all
19 parties an opportunity to provide any submissions
20 relative to either of those to the Board.

21 So with that suggestion, I'll ask the
22 parties to bring their calendars tomorrow. In the
23 meantime, I'll also try to get the Board's availability,
24 and I do know the Board has another hearing starting on
25 Monday of -- of some duration, but we will -- we will

1 schedule a time as expeditiously as we can.

2 THE CHAIRPERSON: Thank you, Mr. Peters.

3 So we'll move on now to INAC.

4 Ms. Hart...?

5

6 CROSS-EXAMINATION BY MS. GLYNIS HART:

7 MS. GLYNIS HART: Good afternoon. This
8 afternoon, I'll direct most of my questions to the panel
9 to whomever would like to answer the question. However,
10 there are a few where I may specifically refer the
11 question to one (1) individual, maybe as a follow-up to
12 either your direct or cross-examination, if that is fine,
13 Manitoba Hydro?

14 MR. VINCE WARDEN: That is good. Thank
15 you.

16 MS. GLYNIS HART: Who is your customer in
17 this rate application?

18 MR. ROBIN WIENS: Our customer is the
19 individuals who are being served and/or the First
20 Nations.

21 MS. GLYNIS HART: The individuals in the
22 diesel communities?

23 MR. ROBIN WIENS: Yes.

24 MS. GLYNIS HART: In Manitoba Hydro's
25 view, what is a major capital project such that Manitoba

1 Hydro can request funding from its customer for the
2 contribution, a contribution from its customer?

3 MR. VINCE WARDEN: We at Manitoba Hydro
4 have a number of different service extension policies
5 that apply to any provision of service to customers, and
6 contributions may or may not be required, depending on
7 the application of those policies. So, in some cases,
8 there's -- there's a revenue return type calculation that
9 we look -- if they -- if the extension meets therten -
10 certain thresholds with respect to revenue, then a con --
11 a contribution may or may not be required.

12 MS. GLYNIS HART: Would your customer be
13 aware of these, of what Hydro would consider as -- or
14 possibly could ask for contributions on?

15 MR. VINCE WARDEN: Typically, when a
16 customer applies for service, yes, that that customer is
17 made aware of the amount of contribution that -- that may
18 be required.

19 MS. GLYNIS HART: Is there any difference
20 in the diesel zone than in the other parts of Manitoba?

21 MR. ROBIN WIENS: When it comes to
22 extensions of the distribution system, they are treated
23 in a -- I won't say precisely similar, but they're
24 treated in a similar way. There is a -- there is a
25 general service extension policy that is applied to those

1 extensions of the distribution system to serve customers.

2 In the case of the costs associated with
3 generation, we treat those costs as requiring -- as --
4 all those costs as requiring contributions, pursuant to
5 the tentative settlement agreement.

6 MS. GLYNIS HART: Could you relate that
7 to the minutes of settlement when you're speaking to --
8 as it relates to -- we have the minutes of settlement as
9 an exhibit, can you tie that in?

10 MR. ROBIN WIENS: Yes, it would relate to
11 the minutes of settlement. It would relate to what we
12 negotiated and agreed to back in the summer of 2004.

13 MS. GLYNIS HART: And what did you agree
14 to, in regard to capital contributions in the 2004 in the
15 minutes of settlement?

16 MR. ROBIN WIENS: Well, I don't -- I
17 don't precisely have them in front of me, but the -- we
18 agreed that we would consult with the First Nations and
19 INAC regarding contributions, with the intent that they
20 would become -- they would satisfy themselves as to the
21 necessity of the cos -- of the -- of the cost and would
22 make capital contributions towards it.

23 MS. GLYNIS HART: Well -- and maybe now
24 is a good time to look at the minutes of settlement. I
25 believe it's Exhibit 4 in PUB's exhibits, the minutes of

1 settlement. They were distributed yesterday.

2

3

(BRIEF PAUSE)

4

5 MR. BOB PETERS: Going to have to work
6 with Ms. Hart on that. I'm not aware that they were
7 filed officially as an exhibit. Could I just -- have you
8 extra copies with you, or can I make copies?

9 MS. GLYNIS HART: I believe someone from
10 here did make copies and distributed them yesterday --

11 MR. BOB PETERS: Oh, I'm sorry.

12 MS. GLYNIS HART: -- the minutes of
13 settlement.

14 MR. ROBERT MAYER: We got -- we got the
15 1997 agreement yesterday --

16 MR. BOB PETERS: Yeah. Mr. Chairman, I
17 want to make sure my colleague, Ms. Hart, is aware that
18 the copies made were of a March 26th, 1997 letter from
19 INAC to Manitoba Hydro dealing with diesel site
20 remediation agreement. And that -- and that's -- if
21 that's the document you're referring to, you are correct,
22 that has been marked as Exhibit INAC number 5.

23

24

(BRIEF PAUSE)

25

1 MR. BOB PETERS: Yeah. And just to help
2 My Friend, and I -- I may have contributed to the
3 confusion, I'll apologize in advance -- but, I believe
4 the Board's ruling was that Ms. Bowman was entitled to
5 receive the -- the minutes of settlement because they
6 were already a public document and a copy was to be
7 provided to her either by INAC or Manitoba Hydro. I
8 don't believe a copy of that has been circulated, but I
9 would -- if it's important, I could photocopy it right
10 now and circulate it if you'd like.

11 MS. GLYNIS HART: Yes. I'm sorry that I
12 was confused about that. I thought they had been.

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: Okay. The -- as it's
17 being distributed, the minutes of settlement will be
18 marked as INAC-6.

19

20 --- EXHIBIT NO. INAC-6: Minutes of settlement

21

22 CONTINUED BY MS. GLYNIS HART:

23

24 MS. GLYNIS HART: In the meantime,
25 possibly if I could back up and maybe ask Hydro if they
would be willing to undertake to provide us with a copy

1 of their General Service Extension Policy that was
2 referred to earlier.

3 MR. VINCE WARDEN: We could certainly do
4 that. It is an extensive document, but certainly we can
5 do that.

6 MS. GLYNIS HART: Thank you.

7

8 --- UNDERTAKING NO. 8: Manitoba Hydro to produce
9 their General Service
10 Extension Policy

11

12 CONTINUED BY MS. GLYNIS HART:

13 MS. GLYNIS HART: May I continue now, or
14 do we -- everyone has a copy now of the minutes of
15 settlement?

16 MR. ROBIN WIENS: Yes.

17 MS. GLYNIS HART: Thank you.

18 MR. ROBIN WIENS: At least at this table.

19 MS. GLYNIS HART: With the minutes of ta
20 -- sorry, the minutes of settlement that were executed in
21 July, 2004, I'd like to specifically look at Article
22 number 5 on future capital expenditures.

23 Starting with the first point. It's the
24 one where the clause says that Manitoba Hydro will
25 consult with First Nations prior to any new major

1 capital expenditures being undertaken. And two (2)
2 objectives are then listed: For reaching a mutual
3 understanding of the requirement for the expenditures;
4 and secondly, to secure the necessary funding
5 arrangements, and with the term, "major new capital
6 expenditures" to be fined -- defined.

7 The other bullet I'd like you to look at
8 is the third one, where the parties agree that Manitoba
9 Hydro will require adequate funding to be secured by the
10 First Nations in a manner satisfactory to Manitoba Hydro
11 and the First Nations, prior to incurring any new major
12 capital expenditures.

13 So Manitoba Hydro made a commitment in
14 2004 that they would consult with First Nations, is that
15 not correct?

16 MR. VINCE WARDEN: That's what was
17 incorporated in the minutes of settlement, yes.

18 MS. GLYNIS HART: Yes. And what does
19 Manitoba Hydro think of -- or what did they mean when
20 they said they would consult? What does that mean to
21 Manitoba Hydro when you said you would consult with First
22 Nations? What does that entail?

23 MR. VINCE WARDEN: Well, Ms. Hart, rec --
24 recognize that these are minutes of settlement, which --
25 with the -- prepared with the understanding that an

1 agreement would follow -- a draft -- an agreement would
2 be drafted. So these minutes of settlement capture
3 certain high level principles which would be subsequently
4 incorporated into an agreement.

5 So there -- the -- the language of the
6 agreement differs from this to recognize the practicality
7 of consulting in every instance. So we -- we - even
8 though we would like to be able to consult to the extent
9 that we can plan capital expenditures -- and we do; we
10 provide a five (5) year capital plan --

11 MS. GLYNIS HART: Who do you provide the
12 five (5) year capital plan to?

13 MR. VINCE WARDEN: Well, as the -- the
14 five (5) year capital plan is provided to INAC, and --
15 and others. I think though -- I was going -- I was going
16 to go on to say we did admit earlier that -- that that
17 communication could be improved on, and that's what we
18 will be endeavouring to do.

19 Nevertheless, the intent is to provide a
20 five (5) year capital plan of capital expenditures,
21 recognizing that there will be expenditures that come up
22 on an emergency basis, in which we will -- we will do our
23 best to consult.

24 But we're not going to at any time
25 compromise safety reliability of the system.

1 MS. GLYNIS HART: Sure. And could we
2 just leave aside emergencies for a moment, and just talk
3 about regu - your regular major capital, or on-going
4 expenditures, and look at that. And I appreciate that
5 you did say that communication could be better. You did
6 say that at one (1) time, and I was encouraged to hear
7 that; however, on the other hand, I have in front of me
8 INAC's rebuttal evidence, September 21st, 2010, just
9 recently, where Manitoba Hydro seems to be challenging
10 INAC's position on what consultation has and hasn't been
11 done.

12 So I think it's really important to look
13 at commitments that have been made, what you're going to
14 do in the future, and I'd like to know more about that,
15 other than just saying, We recognize we have to do
16 better. Let's look -- I'd like to look at some
17 commitments that were made.

18 And would you not agree a commitment was
19 made in 2004 that prior to undertaking a major capital
20 expenditure, and I said let's leave aside emergencies,
21 that you would consult with the First Nations?

22 MS. PATTI RAMAGE: If -- if I could just
23 interject, because I think we have to -- if you want to
24 go down this road, we have to place the umbrella over
25 this entire convers -- discussion. You are saying a

1 commitment was made. I think the parties all have to be
2 cognizant of -- of the message we certainly have heard
3 repeatedly from INAC that the minutes of settlement are
4 not a commitment.

5 So in terms of the language -- I'm
6 concerned about the language of the question, that --
7 that there is no binding commitment until a tentative
8 settlement -- until the settlement agreement is signed.
9 So it's not -- I am not opposing the question, per se,
10 but it's the language of the question in terms of
11 commitment suggests a contract.

12 MR. ROBIN WIENS: I -- I have another
13 problem, because Mr. Warden already has indicated that
14 the -- that that has been refined, and, to some extent,
15 altered in the agreement -- we're not going to talk about
16 in this particular forum, but which we will talk about
17 some time.

18 And understanding Ms. Ramage's objection,
19 and Mr. Warden's comments, I'm wondering how far we can
20 go with this if the minutes of settlement were not
21 binding, and they have been converted into another
22 document, which some of us haven't seen, and some others
23 have.

24

25 CONTINUED BY MS. GLYNIS HART:

1 MS. GLYNIS HART: I'm sorry, right. In
2 2004 when you agreed to this document, was that your
3 intention at that time, to consult with the First
4 Nations?

5 MR. VINCE WARDEN: It -- it was
6 recognized that this document would be the forerunner to
7 an agreement which we would look at this, and -- and each
8 of these points in some detail, and come to some kind of
9 a formal agreement.

10 MS. GLYNIS HART: So because --

11 MR. VINCE WARDEN: Which -- which did
12 happen subsequent. Although not signed, we certainly
13 negotiated an agreement that expanded on each of these
14 points in the minutes of settlement.

15 MS. GLYNIS HART: So because there wasn't
16 agree -- an agreement, you didn't think it was important
17 to consult with the First Nations then?

18 MR. VINCE WARDEN: No, I didn't say that
19 at all. And -- and remember, this is a two-way street.
20 It's not just -- we aren't the only signatories to the
21 min -- minutes of settlement. There was a commitment, if
22 you'd like to call it that, from the other parties to
23 consult as well.

24 MS. GLYNIS HART: But I'm specifically
25 looking at Article 5 just at this point in time because

1 it's Manitoba Hydro I'm speaking to, to ask about your
2 commitments at that time, but --

3 MR. VINCE WARDEN: All I'm pointing out
4 to you is that although I admitted earlier that the --
5 the consultation could have been better, it takes more
6 than one (1) side to consult. And I'm hopeful that INAC
7 will also admit that the -- the consultation on their
8 side could have -- could have been improved as well.

9 MS. GLYNIS HART: Is there anything in
10 the minutes of settlement about INAC consulting?

11 MR. VINCE WARDEN: We -- we all
12 understand that INAC is a party to the -- to the
13 negotiations that took place at that time, and ultimately
14 arrived at -- resulted in the minutes of settlement, and
15 subsequently the draft agreement.

16 MS. GLYNIS HART: What did INAC agree to
17 do as far as consultation?

18 MR. VINCE WARDEN: INAC was a party to
19 the discussions that led to the minutes of settlement, so
20 they were a willing participant in the discussions at
21 that time --

22 MS. GLYNIS HART: Did they --

23 MR. VINCE WARDEN: -- so they would --
24 they would have agreed that consultation was important,
25 as we all did at the time.

1 MS. GLYNIS HART: They would have agreed,
2 but my -- they have agreed that it's Manitoba Hydro who
3 should initially consult with their customers, the First
4 Nation.

5 MR. VINCE WARDEN: With the objective of
6 reaching a mutual understanding of the requirement for
7 expenditures, and I quote from the minutes of settlement,
8 "mutual".

9 MS. GLYNIS HART: Right, but who's to
10 consult? Who's the onus on? It's --

11 MR. VINCE WARDEN: Consult -- well, we're
12 -- we're -- I -- I'm sorry to be repeating myself, but
13 we're -- consult takes more than one (1) party.

14 MS. GLYNIS HART: But who does it say
15 will consult with the other party? And who are the two
16 (2) parties? Isn't it Manitoba Hydro will consult with
17 the First Nations?

18 MR. VINCE WARDEN: But are we ignoring
19 that -- who acts on behalf of those First Nations? I
20 mean, what's the --

21 MS. GLYNIS HART: Your customers. Your
22 customers are the First Nations.

23 MR. VINCE WARDEN: Well, I think we've
24 said that.

25 MS. GLYNIS HART: So, does -- did you not

1 agree that you would consult with your customers, not who
2 funds them --

3 OBJ MS. PATTI RAMAGE: Again, excuse me, I
4 have to object. Manitoba Hydro at this point agreed to
5 nothing, in terms of -- we agreed...

6

7 (BRIEF PAUSE)

8

9 MS. GLYNIS HART: Okay. I --

10 MS. PATTI RAMAGE: Manitoba Hydro agreed
11 to move forward. This is -- it's at -- a point that's
12 been made over and over again: The tentative settlement
13 agreement, until it is -- is ultimately executed, there's
14 no agreement. I'm just -- I'm concerned with the
15 language.

16 MS. GLYNIS HART: You mean this isn't an
17 agreement until the tentative settlement agreement is
18 signed? I -- I'm quite confused, because I know it's
19 signed by Hydro, saying they agree to it, so I -- my
20 question was: In 2004, didn't you agree that you would
21 consult with your customers?

22 MS. PATTI RAMAGE: I am very confused by
23 -- by the question, given Canada's insistence, for
24 example, that, if we look at another:

25 "INAC will seek policy authority to pay

1 \$3.2 million."

2 That is not an agreement that INAC will
3 pay that money until an agreement is ultimately reached.

4 MS. GLYNIS HART: M-hm.

5 MS. PATTI RAMAGE: These are terms on --
6 negotiating terms, and it -- it's the language of
7 agreement.

8 It -- it just appears to me there doesn't
9 appear to be a two-way street here, where Manitoba Hydro
10 seems to have agreed to things under this document, based
11 on this questioning, but other parties to the document
12 say there's no agreement until the tentative settlement
13 agreement is executed, with respect to commitments that
14 have been made in -- in that -- on -- on those principles
15 under the minutes of settlement. And you can't have it
16 both ways.

17 And so we have to arrive at some
18 terminology, because an agreement -- I think all parties
19 have stated quite clearly there is no agreement.

20 MS. GLYNIS HART: So because there was no
21 agreement, you didn't think you had to consult with the
22 First Nations then?

23

24

(BRIEF PAUSE)

25

1 MR. ROBERT MAYER: Ms. Hart.

2 MS. GLYNIS HART: Yes?

3 MR. ROBERT MAYER: We can read.

4 MS. GLYNIS HART: M-hm. No, I --

5 MR. ROBERT MAYER: Now -- now that we
6 have a clean copy of the minutes of settlement, we can
7 read. We understand -- we understand what the document
8 says, so we have your point.

9 What we don't have, however, because there
10 -- and this is our problem -- the agreement is somewhere
11 else, but nobody signed it, and although on Tuesday we
12 were a day away, and now we're apparently no closer than
13 we were six (6) years ago, or maybe a little closer, but
14 we're not there yet.

15 Can you understand the Board's problem?
16 Your -- your point is clear, and we can read those
17 minutes of settlement, and -- and I, for one, am of the
18 view that there was certainly a duty to consult, and I
19 think I heard that being said. And I've also heard Hydro
20 say they didn't do as well as they could have.

21 I also read the part that says that all
22 the parties recognize the need to prior funding before
23 the major capital of funding -- expenditures are
24 undertaken. And I have read the evidence of Manito --
25 Manitoba Hydro and the evidence of INAC.

1 But I'm not sure what you're asking the
2 Board to decide in this, because -- and we have expressed
3 this frustration every day of every diesel hearing that
4 we've had since 2004, that we don't have an agreement and
5 nobody even wants to talk about it, and nobody will show
6 it to us in its final form.

7 And so I don't know where you're going
8 with the rest of it. We can read the -- we can read the
9 agreement. We understand what -- what -- the point
10 you're trying to make with Manitoba Hydro, but we also
11 understand that we don't have an agreement yet.

12

13 (BRIEF PAUSE)

14

15 CONTINUED BY MS. GLYNIS HART:

16 MS. GLYNIS HART: You did advise though
17 that several months ago you started internally to work on
18 a committee where you're going to look at consultation.
19 Can you tell me a little bit more about that.

20 MR. VINCE WARDEN: Can't you -- I can't
21 tell you too much more than what I've already put on the
22 record. As I mentioned earlier, Manitoba Hydro has
23 recognized that there are many parts or many -- many
24 departments within the organization that had in the past
25 been dealing with our customers, the First Nations, and

1 with INAC, and with MKO in an uncoordinated way.

2 The job is getting done, but,
3 unfortunately, ha -- it's not being coordinated as well
4 as it could have been, so Department 1 doesn't always
5 know what Department 2 is doing. So the need for
6 coordination -- better coordination was evidence.

7 So we have formed a committee led by a
8 senior person at Manitoba Hydro that is to address this
9 very issue. It's still in the formative stages. They
10 haven't had their first formal meeting, yet, I don't
11 believe. I -- I think it's scheduled for the first part
12 of November.

13 So it's -- it's still coming together, but
14 we had recognized that improvements in communication
15 coordination are required.

16 MS. GLYNIS HART: So you're not sure who
17 you're looking at consulting with yet? Has that been
18 determined?

19 MR. VINCE WARDEN: No. We know who -- we
20 know that we have to deal the par -- all the parties. We
21 know we have to deal with the First Nations, certainly.
22 And INAC, as much as they seem to like to stand outside
23 of this consistently, they are certainly a party that we
24 will have to consult with going forward.

25 MS. GLYNIS HART: I'd like to look at

1 your rebuttal then that you filed in regard to
2 consultation also.

3 That's a -- page 1. At page 1 of your
4 evidence -- or sorry, of your rebuttal, you refer to Mr.
5 Mills' asser - assertions that he made in regard to
6 consant - consultation about the capital items, and you
7 point out that that was at page 21 of his evidence. And
8 just before that, when Mr. Mills makes certain assertions
9 about Manitoba Hydro not initiating or consulting on
10 capital items, back in the middle of page 20, what Mr.
11 Mills says:

12 "Arrangements were made in the minutes
13 of settlement for future capital
14 expenditures to be cost shared."

15 And he identifies what they were:
16 consulting with the effected First Nation, and then
17 securing the funding. He talks about why they benefit
18 everyone when that goes on. And then he points out, to
19 the best of his knowledge, in most, if not all, cases,
20 Manitoba Hydro did not initiate or consult on the capital
21 items.

22 And if you put it in context, he was
23 talking about consulting with the First Nations,
24 recognizing or believing that the consultation should
25 occur with the customer, not with INAC.

1 And when you turn the page and look at Man
2 -- at Manitoba Hydro's response to Mr. Mills saying that
3 you weren't, in regard to these projects, Hydro responds
4 with:

5 "This conclusion is not based on fact.
6 Below Manitoba Hydro presents evidence
7 of Manitoba Hydro's discussion with
8 INAC that was, or should have been,
9 available to Mr. Mills."

10 And it looks like we've got groups with
11 very different ideas about consultation. Mr. Mills is
12 talking about consultation with the First Nations.
13 That's what his evidence is about. And Manitoba Hydro
14 gets back and says, No, there's lots of consultation with
15 INAC.

16 MS. PATTI RAMAGE: Mr. Chairman, is -- is
17 there a question --

18 MS. GLYNIS HART: Yes.

19 MS. PATTI RAMAGE: -- in this, or --

20 MS. GLYNIS HART: Well --

21 MS. PATTI RAMAGE: -- this appears to be
22 argument.

23

24 CONTINUED BY MS. GLYNIS HART:

25 MS. GLYNIS HART: I'm sorry. Where I

1 wanted to go with that before is I couldn't understand
2 that, and is that because you're looking at consultation
3 with a different party than what INAC understands?

4 Why, when Mr. Mills says there isn't
5 consultation with the First Nations about the projects
6 would you get back and say, Yes, there is, there was
7 consultation with -- there was discussion with INAC?

8 And "discussion", not consultation.

9 MR. VINCE WARDEN: Ms. Hart, I -- I'm
10 only reading from the rebuttal evidence that you've
11 directed us to, but the quote attributed to Mr. Mills on
12 page 1 of 51 of Manitoba Hydro's rebuttal evi -- evi --
13 rebuttal evidence doesn't say that Mr. Bill -- Mills is
14 speaking on behalf of the First Nations. I would assume
15 that Mr. Mills is speaking on behalf of INAC, and that's
16 what this response is -- is certainly assuming.

17 Now, if he -- if he was speaking on behalf
18 of the First Nations, he should -- he should have said
19 so.

20 MS. GLYNIS HART: Well, if you go to the
21 first paragraph in the section that you quoted from --
22 you quote from page 21, but if you can go to the opening
23 paragraph of Mr. Mills' argument -- he refers to the
24 minutes of settlement, and he talks about the
25 arrangements required that Manitoba Hydro would consult

1 with the affect of First Nation.

2 So in his opening paragraph, he clarifies
3 who the consultation is with, and he never then goes on
4 and says -- and talks about consultation with INAC --

5 MR. VINCE WARDEN: I -- I don't know. It
6 -- would you -- I wouldn't necessarily interpret it that
7 way. It goes on to say these discussions are expected to
8 benefit both the First Nations and INAC.

9 MS. GLYNIS HART: Yeah, which
10 discussions? The discussions with --

11 MR. VINCE WARDEN: Well, I don't know.
12 INAC was part of that -- part of the -- in a -- sorry,
13 excuse me for one (1) second.

14

15 (BRIEF PAUSE)

16

17 MR. VINCE WARDEN: Yeah, I just -- as
18 further supporting Manitoba Hydro's position, if you turn
19 to the top of page 21, it refers to INAC as being an
20 integral part of that process.

21 INAC -- and I'll quote you -- from that,
22 if you like:

23 "INAC manages its five (5) year
24 infrastructure investment plan on a
25 cyclical basis. Basically this means

1 that the earlier in the project life
2 that INAC receives the project details
3 [the five (5) year capital plan
4 perhaps] the better the likelihood that
5 it can consider and accept the scope of
6 work, and the cost of the project
7 within its policy parameters."

8 So I think it's very clear that Mr. Mills
9 was referring not only to the First Nations in his
10 evidence.

11 MS. GLYNIS HART: And could it not be
12 that Mr. Mills sees that Hydro consults with the First
13 Nations, who then come to INAC to discuss funding --

14 MR. VINCE WARDEN: Well, you're asking us
15 to read between those lines?

16 MS. GLYNIS HART: Not between the lines.
17 I'm going back to what he talked about at the minutes of
18 settlement, but -- but --

19 MR. VINCE WARDEN: Well, you're going
20 back - - well --

21 MS. GLYNIS HART: Well, also -- even
22 looking a little further on that, I guess my other
23 concern is then when you do go on and talk about the
24 evidence of Manitoba Hydro, and this is on consultation,
25 and you refer to a letter that you sent -- Mr. Warden

1 sent to INAC, and you state that you're planning to file
2 a diesel rate application.

3 Is that consultation in your mind?

4 MR. ROBERT MAYER: Where are you
5 referring to now?

6 MS. GLYNIS HART: Sorry. In the
7 rebuttal. Page 2, I'm sorry. Line 4.

8 MR. ROBERT MAYER: Thank you.

9

10 (BRIEF PAUSE)

11

12 MR. VINCE WARDEN: Would you -- sorry,
13 would you repeat the question.

14 MS. GLYNIS HART: It -- it's saying we
15 need 4.4 million consultation?

16 MR. VINCE WARDEN: No, but I think if you
17 refer to the letter that's attached to that -- so if we
18 look at what is on page 8 of -- of page 51 in the
19 rebuttal evidence, you can see that at the time that I
20 wrote this letter that I was certainly under the
21 impression. I -- I don't -- wasn't personally involved
22 in those consultations, but I -- I do say we would be
23 positive -- positive if we could report on progress
24 toward the signing of an agreement as well as the payment
25 of outstanding capital costs incurred since the initia --

1 the tentative agreement was negotiated.

2 With respect to the outstanding costs, I
3 understand that INAC will be forwarding payment to
4 Manitoba Hydro in the amount of 4.4 million. So, at that
5 point, I was totally of the belief that consultation had
6 been taking place to the point where the 4.4 million
7 cheque was in the mail.

8 MS. GLYNIS HART: Do you have any letters
9 showing that consultation then?

10 MR. VINCE WARDEN: I -- I'm telling you
11 what my understanding was. You referred to this -- this
12 correspondence, and I -- I wanted to give you the
13 background to that correspondence, why that was there,
14 and the understanding that I -- I personally was under at
15 the time.

16 MS. GLYNIS HART: I guess I'm asking this
17 because I read through Volume II looking for any
18 consultation about the three (3) projects at issue in
19 regard to your interest and depreciation request, and I
20 failed to see any correspondence or anything in regard to
21 consultation with the First Nations in regard to any of
22 those projects.

23 If you could point one (1) out, I'd be
24 happy to see that.

25

1 (BRIEF PAUSE)

2

3 MR. ROB COX: Yes, Ms. Hart, I had some
4 dealings with a staff member from INAC, and back in
5 September of 2009 after a telephone conversation, I did
6 send a copy of the five (5) year capital plan to INAC.

7 MS. GLYNIS HART: To INAC. Okay, could
8 we look at the capital plan now. I'd like to do that,
9 actually, to look at the capital plan, in light of what
10 consultation that is. And I believe you'll find one (1)
11 in INAC's evidence, Mr. Mills, at Appendix H. The 2009
12 capital plan.

13 THE CHAIRPERSON: Is that Tab 12 of the --

14 MS. GLYNIS HART: Yes. Yes. In PUB's
15 book of documents.

16

17 CONTINUED BY MS. GLYNIS HART:

18 MS. GLYNIS HART: So this was sent to
19 INAC.

20 MR. VINCE WARDEN: That's correct.
21 Right.

22 MS. GLYNIS HART: And how does it fit
23 under Manitoba Hydro's idea of consultation?

24 MR. ROB COX: The discussion that I did
25 have was on the basis that INAC needed to have some idea

1 of what kind of capital was going to be spent so that
2 they could look at establishing budgets for those capital
3 projects.

4 MS. GLYNIS HART: So consultation is
5 really telling INAC what a project is and how much you
6 estimate it costs?

7 MR. ROB COX: I don't think sending the
8 five (5) year capital plan was intended to be the end of
9 any discussions on these projects. He was strictly
10 looking for some -- some money so he could budget. There
11 was other projects that we did have to provide more
12 breakdown for him, which was provided. So that I would
13 think would be considered consultation, in that we're
14 providing more information so that they have a better
15 idea what the project involves.

16 MS. GLYNIS HART: Is it consultation, or
17 is it providing information? A capital plan is providing
18 information; here's your -- here's the project, here is
19 our estimate.

20 MR. ROB COX: It would be my ex --
21 expectation that after having that submitted, that if
22 there was some questions or discussion or consultation
23 that needed to be have -- had, then that would -- these -
24 - these documents would be the start of that.

25 MS. GLYNIS HART: The start. So when did

1 you start your consultation then on the projects at
2 issue, for instance with -- with Shamattawa for -- the
3 work was it -- I believe was done in 2006; is that when
4 you sent the 2009 Capital Plan?

5 MR. ROB COX: No. As I mentioned this
6 was sent -- sent in September of 2009 and it was projects
7 going forward from that date.

8 MS. GLYNIS HART: And again in the
9 evidence prepared for INAC at Appendix I, Tab 12, in
10 PUB's book of exhibits, the July 7th, 2010 letters to the
11 customers to the First Nations, this would have been
12 after INAC forwarded it -- its IRs and raised
13 consultation issues.

14 Was that a -- a spur maybe or a reminder
15 in regard to these letters, or is this just a
16 coincidence?

17 MR. ROB COX: This -- these letters were
18 sent out as a result, again, of a discussion that I had
19 with INAC, and it was surrounding the length of time that
20 it was taking to get the tentative settlement agreement
21 signed. Recognizing that there was some work that was
22 going to take place in this fiscal year, we wanted to
23 make sure that the First Nation, who we were told was
24 going to have the funds flow through, we wanted to make
25 sure that they were aware of the capital dollars that

1 were going to be spent.

2

3

(BRIEF PAUSE)

4

5

MS. GLYNIS HART: Would you have to have
6 done so even if the tel -- tentative settlement agreement
7 had been signed?

8

MR. ROB COX: If the tent -- tentative
9 settlement agreement would have been signed this would
10 have happened immediately after the signing.

11

MS. GLYNIS HART: So --

12

MR. ROB COX: Because the settlement
13 agreement set out the terms -- oh, I guess I shouldn't
14 talk about the tentative agreement so --

15

MS. GLYNIS HART: Okay. And if we --

16

MR. ROB COX: -- we won't go there.

17

MS. GLYNIS HART: -- if we could look at
18 your letter. What you basically do in the letter is you
19 attach a listing of the capital projects, and at the end
20 of the first paragraph you say:

21

"Keeping with the spirit of the

22

settlement agreement, Manitoba Hydro

23

wishes to advise you that the -- you,

24

the First Nation, are responsible for

25

45.1 percent of each project."

1 So the "spirit of the settlement
2 agreement" then does that mean, I want to tell you that
3 this is how much money you -- the percentage -- this is
4 how much money you owe?

5 MR. ROB COX: No. My intention was this
6 -- these letters were to start again a consultative
7 process, where we were going to make them aware; I
8 expected that we were going to have meetings with them to
9 review the projects and start that process from -- from
10 these letters.

11 MS. GLYNIS HART: Okay. I asked because
12 I saw another Manitoba Hydro official sent out another
13 letter speaking to the spirit of the settlement agreement
14 also, and it was a little different idea about the spirit
15 of the settlement agreement. And I -- I believe it was a
16 Mrs. Kristjanson. She's with Manitoba Hydro.

17 And this is in Manitoba Hydro's Appendix
18 2, Attachment 4, the first page. This letter was sent
19 July 20th, 2009. It was sent to both INAC and the First
20 Nation.

21 Do you have a copy of it? It was sent by
22 Ruth Kristjanson, the Vice President of Corporate
23 Relations.

24 MR. ROB COX: Yes, we do now.

25 MS. GLYNIS HART: In the materials, this

1 is the one (1) letter I found to the First Nations. It's
2 also to INAC, but I'd just like to refer to this, because
3 I thought it was quite interesting and a bit of a
4 contrast to what we've seen in the other materials, but--

5 MS. PATTI RAMAGE: Could we have a
6 question --

7 MS. GLYNIS HART: M-hm.

8 MS. PATTI RAMAGE: -- please.

9 MS. GLYNIS HART: Yes.

10 MS. PATTI RAMAGE: I don't think each
11 question needs -- requires a preamble or argument around
12 it.

13

14 CONTINUED BY MS. GLYNIS HART:

15 MS. GLYNIS HART: Okay. She ref -- in
16 her second paragraph, she refers to the settlement
17 agreement, and it looks to be looking at a different idea
18 of the agreement itself. She talks about, in the second
19 paragraph, basically note -- after noting that the
20 agreement is unsigned, deals with major capital
21 expenditures, and that:

22 "Manitoba Hydro is going to engage the
23 affected diesel First Nations in a
24 meaningful consultation, with the
25 objective of reaching an understanding

1 of a need for the expenditure and to
2 secure requisite funding."

3 It's quite a contrast, and I'm wondering,
4 the -- the different ideas of what Manitoba Hydro is
5 doing with various projects. If you can explain the
6 difference between this approach, where an individual
7 identifies a project, the existing diesel generation
8 station tank farm, and then, in the third paragraphs --
9 paragraph, says why the project needs to be done,
10 starting to give objectives, versus the letter you
11 referred to before, and the reason for the -- the
12 variation. If you can explain to me why here you are
13 consulting with the First Nation.

14 MS. PATTI RAMAGE: This is argument, not
15 question. You -- you've just concluded here in your --
16 in your preamble here that somehow this is consultation.
17 Manitoba Hydro would ask that a question be addressed to
18 the panel.

19

20 CONTINUED BY MS. GLYNIS HART:

21 MS. GLYNIS HART: Okay. And why is there
22 a different approach?

23 MR. VINCE WARDEN: Different authors.
24 Different purposes. I think Mr. Cox, as he indicated,
25 sends out the five (5) year capital plan as a starting

1 point, expecting back and forth dialogue, which he -- he
2 does have with people within the communities and within
3 INAC, as he indicated.

4 So, you know, there -- there's no -- if
5 you like this style, well, that's good. We're -- we're
6 pleased, but there -- there's different purposes and --
7 and different ways of -- of communicating and consulting.

8 MS. GLYNIS HART: Would it not be easier
9 for all involved, though, to have an understanding of
10 whom you're writing to and some consistency, a protocol?
11 Would that make it easier for everyone involved, if
12 Manitoba Hydro had a consistent approach to what it means
13 about consultation?

14 MR. VINCE WARDEN: Well --

15 THE CHAIRPERSON: We -- we don't want to
16 --

17 MR. VINCE WARDEN: -- thank you, Ms.
18 Hart. We'll take that under advisement.

19 MR. ROBERT MAYER: Ms. -- Ms. Hart --

20 THE CHAIRPERSON: We -- we don't want to
21 interject into the -- the discussion between the parties,
22 but the -- we heard Manitoba Hydro express the view that
23 they felt that they could improve their consultative
24 process, that they were developing a different way to
25 coordinate it so that different parts of the or -- I

1 heard Mr. Warden say that different parts of the
2 organization may take a different stance than the other,
3 and they've identified a need to pull it together.

4 The -- the one (1) thing that seems to be
5 in the public interest here is, we've got an electrical
6 service to four (4) diesel communities. And it's im --
7 it would be hoped that the process would bring the -- the
8 parties that are assisting the delivery of that service,
9 in one (1) way or another, to be brought further towards
10 a -- a cooperative spirit than division that we see sort
11 of erupting before us.

12 Like, I mean, what we have right here is a
13 -- is an application for diesel rates, and there's clear
14 differences in view as to how the consultation occurred
15 between Manitoba Hydro and First Nations, and Manitoba
16 Hydro and INAC. And I would just suggest to both parties
17 that we keep the communities in front of mind as we work
18 through this process. Like the -- the long term outcome
19 hopefully would be a process that will help the Board
20 arrive at a proper judgment.

21 I don't know if these words help or not,
22 but it -- it goes back to my comment before of the sense
23 that we have as -- a dysfunctional set of communications
24 between the various parties, and I think it's getting
25 sort of displayed here. And rather than further that,

1 I'm wondering if we can find a way to have a discussion
2 that focuses with the questions that we have to answer
3 through this process.

4

5 CONTINUED BY MS. GLYNIS HART:

6 MS. GLYNIS HART: Maybe what I could go
7 to then is: Do you believe that your consultation on
8 these projects was sufficient, such that you can now ask
9 the Board to include the interest on these projects, and
10 account for the dep -- depreciation, given the
11 consultation that was provided in respect of the three
12 (3) projects that you've included in your rate
13 application?

14 MS. PATTI RAMAGE: Again, the question
15 presupposes that there is an agreement, that consultation
16 has to take place.

17 There -- Manitoba Hydro does not in any
18 way suggest that consultation was an objective, but the
19 question appears to presuppose that this Board's decision
20 is based on whether in fact a consultation at a certain
21 level took place. And -- and perhaps if the question
22 could be reworded, but it's difficult to answer as -- as
23 posed.

24

25 CONTINUED BY MS. GLYNIS HART:

1 MS. GLYNIS HART: Do you be -- believe
2 consultation with the First Nations is a good thing to
3 do? It's the right thing to do?

4 MR. VINCE WARDEN: Ms. Hart, our -- our
5 primary -- primary objective is to provide service to
6 those communities in a safe and reliable manner. We do
7 provide a very technical product. What we provide, the
8 capital expenditures that -- that are necessary to keep
9 our plant operating efficiently, effectively, without
10 interruption, does require technical expertise.

11 Consultation: absolutely. Yes, we should
12 consult; make the communities aware, that these capital
13 expenditures are necessary.

14 I don't think there's much point in
15 debating whether a cap -- a certain capital expenditure,
16 if it -- if it's determined by Manitoba Hydro that a
17 capital expenditure is required for technical reasons,
18 you know, I don't imagine there's going to be a lot of
19 back and forth in ter -- in terms of the technical merit
20 of that capital expenditure.

21 But in terms of what kind of an impact
22 that capital expenditure will have on the rates in those
23 communities: absolutely. They should be aware of that,
24 and know that there are -- there is going to be some
25 impact financially of those expenditures.

1 That's what consultation is -- is all
2 about, and I can tell you from participating in -- back
3 to those minutes of settlement, that was -- that was the
4 -- why consultation was considered to be of value; is to
5 inform those First Nations, our customers, of the impacts
6 on rates, but not to get into the technicalities as to
7 whether or not a capital expenditure was required.

8 And your -- your point as to whether or
9 not the Board should be approving where the -- based on
10 capital expenditure, based on consultations, to me, is
11 totally irrelevant. Those capital expenditures were
12 essential to provide for ongoing, safe and reliable
13 service to those communities.

14 MS. GLYNIS HART: But if you delayed in
15 advising the First Nations though about some of the
16 projects and later you're now -- and you're now coming
17 back with interest charges, is that fair?

18 MR. VINCE WARDEN: It is fair. The --
19 those capital expenditures, had they been paid by way of
20 a contribution, would have -- would not have an interest
21 component. We would have -- we outlay cash, and -- and
22 the longer it takes us to collect that cash, the -- the
23 higher the cost is. There is an interest component and
24 it's real.

25 MS. GLYNIS HART: Then --

1 MR. VINCE WARDEN: It's not something
2 imaginary. It's costs be -- are being incurred, and
3 somebody -- somebody has to pay; either it's the people
4 that are getting the benefit of that service or it's the
5 people that -- that are -- that are represented by -- by
6 counsel for CAC/MSOS.

7 MS. GLYNIS HART: So when did you first
8 consult in regard to the 2006 project at Shamattawa?
9 Because you're asking for interest on it.

10 MR. VINCE WARDEN: The 2006 --

11 MS. GLYNIS HART: The powerhouse.

12 MR. VINCE WARDEN: The 2006 --

13 MS. GLYNIS HART: M-hm.

14 MR. VINCE WARDEN: -- project at
15 Shamattawa; if you give us a minute, maybe we can --

16 MS. GLYNIS HART: M-hm.

17 MR. VINCE WARDEN: -- find that
18 information for you.

19 MS. GLYNIS HART: Thank you.

20 MR. ROBERT MAYER: While -- while they're
21 finding the -- Mr. Warden is finding the information, I
22 notice, Mr. Cox, your letters were consistent to all four
23 (4) First Nations, regrettably, not written till the 7th
24 of July, 2010. But you do indicate in each of the
25 letters:

1 "It is Manitoba Hydro's understanding
2 that Tracy Fleck, ARDG of INAC, will be
3 arranging a meeting of the parties."

4 How did you come by that understanding,
5 sir?

6 MR. ROB COX: Based on a discussion I had
7 with a person from INAC.

8 MR. ROBERT MAYER: Thank you.

9

10 (BRIEF PAUSE)

11

12 THE CHAIRPERSON: Mr. Cox, just further
13 to that, when you say "arranging a meeting of the
14 parties," by "parties," you mean Barren Lands First
15 Nation, as well as INAC and MKO and Manitoba Hydro?

16 MR. ROB COX: That statement was in mind
17 of having all four (4) First Nations, MKO, INAC, and
18 Manitoba Hydro at the same meeting.

19 MS. PATTI RAMAGE: Mr. Vice-Chair, if I
20 could, just -- on your point while the rest of the panel
21 is looking at something else, just to clarify the record
22 because I wasn't sure from your comment, that you were
23 aware -- are aware that in two (2) other places in the
24 materials that are filed as Attachment 2, to Appendix 2,
25 in Volume II there appears other five (5) year capital

1 plans that were forward. I -- I just wanted to clarify
2 for the record that the 2010 was not the only five (5)
3 year capital plan forwarded and there are two (2) others
4 that appear.

5 MR. ROBERT MAYER: I -- I'll -- I'll take
6 that. This is the only document I happen to have with me
7 right now, and I didn't -- I've marked certain documents,
8 and I -- and I didn't bring all. I -- I lost track of
9 how many binders I've got, but the stuff that I
10 understood and the stuff that I had concerns about, I, in
11 fact, dealt with, highlighted, and actually carried them
12 down from Thompson, and I wasn't going to get it all
13 here. But I -- I'll take your point.

14

15 CONTINUED BY MS. GLYNIS HART:

16 MS. GLYNIS HART: Just -- just following
17 up on that, as Ms. Ramage has pointed out, that there is
18 a 2006 capital plan, and if could -- Manitoba Hydro could
19 identify to me where in that capital plan the Shamattawa
20 expenditure is listed, that would helpful that -- now
21 that you've pointed it out. It's in your evidence.

22

23

(BRIEF PAUSE)

24

25

MR. VINCE WARDEN: Ms. Hart, rather than

1 delay things further: To be clear, you -- you are
2 looking for correspondence that supports Manitoba Hydro
3 proceeding with modifications to -- modifications to the
4 Shamattawa powerhouse, is that correct?

5 MS. GLYNIS HART: Yes, I'm looking for
6 consultation with First Nations in regard to that
7 project.

8 MR. VINCE WARDEN: Some of those
9 consultations may have been verbal, but we'll -- we'll
10 confirm that.

11

12 --- UNDERTAKING NO. 9: Manitoba Hydro to produce
13 evidence of consultations
14 with First Nations regarding
15 the Shamattawa Powerhouse
16 Project

17

18 CONTINUED BY MS. GLYNIS HART:

19 MS. GLYNIS HART: You were speaking
20 earlier about the Shamattawa engine failure, and I'd like
21 you just to tell me a little bit more about that. If I
22 recall correctly there was a break-in, some work was
23 done, and then other damage was discovered during --
24 later during routine maintenance.

25

What was the time lag on that?

1 (BRIEF PAUSE)

2

3 MR. ROBIN WIENS: Could you help us out a
4 little bit by what you mean by "time lag". Between which
5 two (2) events?

6 MS. GLYNIS HART: Well -- right, because
7 I understand you were talking about emergencies, so there
8 -- I understand there was a break-in, and was work done
9 immediately as a result of the break-in?

10 MR. ROBIN WIENS: My understanding is
11 not. My understanding is that the problem did not appear
12 immediately after the incident, and it was not discovered
13 until a scheduled minor overhaul.

14 MS. GLYNIS HART: And can you tell me how
15 long there was between those two (2) events?

16 MR. ROBIN WIENS: My understanding is
17 that the break-in occurred in May of 2007, and the work
18 was done in May and June of 2008.

19 MR. ROBERT MAYER: Your previous
20 evidence, Mr. Wiens, was that there was an immediate
21 repair done. Firstly -- I -- we now find out -- or, if I
22 recall your evidence correctly, somebody sprayed the
23 contents of a chemical fire extinguisher all over your
24 equipment, and you discovered that, it was cleaned up
25 virtually immediately, and presumably the break-in door

1 was -- was repaired.

2 And you thought you -- it -- if I recall
3 your evidence, you -- it was thought that the -- that the
4 matter was fixed. It wasn't discovered until sometime
5 later through regular maintenance that, in fact,
6 significant damage had been done by that -- the chemical
7 contents of the fire extinguisher and that was the reason
8 for the delay.

9 MR. ROBIN WIENS: Well, that would have
10 been the reason for the -- the delay between, you know,
11 the incident and actually carrying out that work, yes.

12

13 CONTINUED BY MS. GLYNIS HART:

14 MS. GLYNIS HART: So, in that meantime,
15 think -- well, the -- everything was working though?
16 Power is still being supplied. Things didn't shut down?

17 MR. ROBIN WIENS: Yes, that's correct.

18 MS. GLYNIS HART: Okay. Then once you
19 discovered this, during this routine maintenance, how
20 long then until the repair work was done?

21

22 (BRIEF PAUSE)

23

24 MR. ROBIN WIENS: To the best of my
25 knowledge, the damage would have been discovered in May,

1 2008, and the overhauling plus the emergency repairs
2 related to the damage would have happened right
3 thereafter.

4 MS. GLYNIS HART: That same day, you're
5 saying?

6 MR. ROBIN WIENS: I -- I don't know. I
7 don't know whether it was the same day, and -- but it
8 would have been in a very short time period.

9 MS. GLYNIS HART: Could it have been
10 weeks?

11 MR. ROBIN WIENS: I really don't know.

12 MS. GLYNIS HART: Could you undertake to
13 find out, please?

14

15 (BRIEF PAUSE)

16

17 MR. ROBIN WIENS: Yes, we'll undertake
18 that.

19

20 --- UNDERTAKING NO. 10: Manitoba Hydro to indicate
21 how much time was between the
22 discovery of the damage at
23 Shamattawa due to a break-in,
24 and the repairs to that
25 damage; and also to indicate

1 if the damage was insured

2

3 CONTINUED BY MS. GLYNIS HART:

4 MS. GLYNIS HART: And your view though is
5 that there was no opportunity to tell your customer then
6 about the work that had to be done?

7 MR. ROBIN WIENS: Well, Ms. Hart, this
8 may illustrate in part some of the issues that Mr. Warden
9 was talking about when he said we need to coordinate the
10 different departments that are doing work on this file.
11 Certainly, myself, I was not aware of this until -- until
12 we began looking at the -- the preparation of a diesel
13 cost of service study in 2009. Other people may have
14 been aware, but, obviously, the people that actually
15 prepare the diesels were very much aware it.

16 MS. GLYNIS HART: I'm sorry, aware of
17 what?

18 MR. ROBIN WIENS: Aware of what had
19 happened to the --

20 MS. GLYNIS HART: M-hm.

21 MR. ROBIN WIENS: -- engine and what had
22 to be done in order to -- to complete the -- the repairs.

23 MS. GLYNIS HART: And you don't know if
24 they advised the First Nation or not.

25 MR. ROBIN WIENS: I can't answer that

1 question. I don't know the answer to it.

2 MS. GLYNIS HART: Okay.

3 MR. VINCE WARDEN: Recognizing that the
4 people that would be doing the repairs didn't have a copy
5 of the tentative settlement agreement that references
6 consultation.

7 MS. GLYNIS HART: So no one was looking
8 after that part then, is that what you're saying, about
9 consultation?

10 MR. VINCE WARDEN: Well, I -- I just made
11 a point that when -- when the -- it was recognized that
12 emergency repairs were necessary, the people in Manitoba
13 Hydro would -- their focus would be on executing those
14 repairs.

15 MS. GLYNIS HART: Would they have advised
16 the First Nations about the regular maintenance? Is that
17 a part of your procedure also?

18 MR. VINCE WARDEN: Well, again, recognize
19 that we don't have -- we don't have a signed agreement,
20 so the -- all the protocols may not be totally in place.
21 Once an agreement is signed we'll make sure everybody's
22 aware that consultation should take place whenever
23 practical and possible, but the priority will always be
24 to get the work done as efficiently and as safely as
25 possible.

1 MS. GLYNIS HART: So the reason that
2 consultation wasn't done is because the agreement wasn't
3 signed?

4 MS. PATTI RAMAGE: I don't believe anyone
5 said the consultation wasn't done. I believe it was --
6 or that the -- there was no communication to First
7 Nations. It was -- the was we do not know what the field
8 people said. The people at this table did not
9 communicate --

10 MS. GLYNIS HART: I --

11 MS. PATTI RAMAGE: -- was the answer.

12

13 CONTINUED BY MS. GLYNIS HART:

14 MS. GLYNIS HART: I'm -- I'm talking more
15 generally, as I'm -- I'm talking about the book of
16 documents and all the communication that you've had.

17 Looking at it in a larger part, is the
18 reason that you didn't consult with the First Nations
19 because the agreement wasn't signed?

20 MR. VINCE WARDEN: The signing of the
21 agreement will put certain processes in place. I think
22 that's the point we were trying to make, that let's --
23 let's get the agreement signed, and we'll make sure that
24 we're all complying with that agreement. And hopefully
25 we'll work together more cooperatively in the future.

1 MS. GLYNIS HART: Once it's signed.

2 MS. PATTI RAMAGE: Mr. Chairman, I'd also
3 like to just add a comment from the legal perspective,
4 that this agreement is still under a confidentially agree
5 -- or pursuant to confidentiality. It has been the
6 practice of the corporation not to widely circulate this.
7 I -- I think that's a fair comment, that it isn't widely
8 circulated through the Corporation. And -- and I think
9 that's -- so there seems to be a suggestion that field
10 staff should know, and other people should know, exactly
11 what an unsigned agreement says and I --

12 MR. ROBERT MAYER: Ms. Ramage --

13 MS. PATTI RAMAGE: Yes?

14 MR. ROBERT MAYER: -- this Board is not
15 going to be --

16 MS. PATTI RAMAGE: M-hm.

17 MR. ROBERT MAYER: -- overly concerned
18 that Manitoba Hydro repaired a piece -- a vital piece of
19 equipment in a remote community that was necessary for
20 the reliability of the generation of electric power
21 without bothering to talk to somebody. We're just going
22 through the evidence from yesterday, where this whole
23 thing was already gone through, and explained.

24 THE CHAIRPERSON: It's transcript page
25 121, by the way.

1 MR. ROBERT MAYER: I love it when you can
2 go to the indexed word. You had to go to "chemical" to
3 find that one.

4

5 CONTINUED BY MS. GLYNIS HART:

6 MS. GLYNIS HART: Just to finish off this
7 section: Does Manitoba Hydro believe that the customer's
8 view of the requirement for a capital expenditure is
9 irrelevant?

10 MR. VINCE WARDEN: No.

11 MS. GLYNIS HART: Thank you. I want to
12 look a little bit more about the Brochet soil
13 remediation, and Manitoba Hydro's position.

14 Why is it Hydro's position that the First
15 Nations should bear the costs?

16 MR. ROBIN WIENS: The need for the soil
17 remediation was incurred through the operation of the
18 facility to provide service in the -- in that community.
19 That -- that's, in a nutshell, is the reason why we
20 believe that that cost should be passed onto the
21 beneficiaries of service.

22 MS. GLYNIS HART: What's the future
23 benefit to the customers?

24 MR. VINCE WARDEN: Any expenditure -- any
25 capital expenditure, or any expenditure for that matter,

1 is undertaken solely for the benefit of customers. So
2 the future benefit of any capital expenditure within
3 those communities is to provide an on-going, safe,
4 reliable service to those -- to those customers.

5 MS. GLYNIS HART: So it wouldn't be safe
6 and reliable if the soil was as before, if you didn't do
7 that clean up.

8 MR. VINCE WARDEN: It's -- it's part of
9 the pro -- cost to providing safe and reliable service,
10 yes. Absolutely.

11 MS. GLYNIS HART: Now, is it not the
12 usual course that the landowner gets the future benefits
13 once soil remediation is done?

14 MR. ROBERT MAYER: This is the old diesel
15 site we're talking about, right?

16 MS. PATTI RAMAGE: I think we have to be
17 more specific.

18 MR. ROBERT MAYER: I think you might want
19 the land --

20 MS. GLYNIS HART: At Brochet.

21 MR. ROBERT MAYER: -- owner to own the --
22 to pay for it. I think the old diesel site may have been
23 on the Reserve.

24

25 CONTINUED BY MS. GLYNIS HART:

1 MS. GLYNIS HART: The one we're talking
2 about is off Reserve, on Brochet my -- is my
3 understanding, if that's correct.

4 MR. ROBIN WIENS: Well, it's my
5 understanding, too.

6 MS. GLYNIS HART: M-hm. And my question
7 then would be: Isn't it the usual course that the
8 landowner gets the future benefits when soil remediation
9 work is done?

10 MR. ROBIN WIENS: I guess our position is
11 that -- and -- and I'm just repeating myself, is that the
12 costs were incurred to provide service, that these were
13 in -- part of the normal part of providing service, and
14 that they belong to the entities which received the
15 benefit of that service.

16 MS. GLYNIS HART: And who --

17 MR. ROBIN WIENS: I'm -- I'm not aware
18 myself of what -- what benefits the landowner would get
19 in this particular instance. It may be that there are;
20 I'm not aware of what they are.

21 MS. GLYNIS HART: Contaminated land
22 versus uncontaminated land, would that not be a benefit?

23 MR. VINCE WARDEN: Well, we're not --

24 MS. GLYNIS HART: The other way around --

25 MR. VINCE WARDEN: -- we're not --

1 MS. GLYNIS HART: -- quite a bit. Thank
2 you.

3 MR. VINCE WARDEN: We're not sure what
4 you're suggesting. Are you suggesting the contaminated
5 land should have been left as is?

6 MS. GLYNIS HART: No. I'm asking is
7 contaminated land less valuable than uncontaminated land?

8 MR. VINCE WARDEN: In -- in these
9 communities, I -- I'm not sure what the value of land is.
10 I wouldn't want to even guess at that.

11 MS. GLYNIS HART: So in your view, it
12 might not make any difference whether the land is
13 contaminated or not?

14 MR. VINCE WARDEN: Well, of course, we
15 don't want contaminated land, but the value -- as to the
16 value of that land --

17 MS. GLYNIS HART: M-hm.

18 MR. VINCE WARDEN: -- I just don't know.

19 THE CHAIRPERSON: Are you not required to
20 return the land to the original status? In other words,
21 when you have a contaminated site, to renew -- remove the
22 contaminants?

23 MR. VINCE WARDEN: Ultimately, I believe
24 that to be the case. I think there are certain lands,
25 though, that I'm aware of that, as long as the

1 contamination is not disturbed, that it can be -- as long
2 as it's being monitored, it -- and not causing further
3 damage to the environment, that contamination can remain.

4 MR. ROBERT MAYER: Or the kids. I -- I
5 keep hearing about contaminated soil problems in Winnipeg
6 where they're afraid kids are -- or -- or Flin Flon,
7 where they're afraid kids are going to be playing in the
8 sand and they're going to run into a problem, because the
9 stuff had been contaminated so long ago. I can't believe
10 that -- that contamination by diesel can't be dangerous
11 if kids are playing in it.

12 MR. VINCE WARDEN: I agree.

13

14 CONTINUED BY MS. GLYNIS HART:

15 MS. GLYNIS HART: Were there any
16 remediation orders issued by Manitoba Environment in
17 regard to this soil contamination? Do you know?

18 MR. VINCE WARDEN: Sorry, we -- we don't
19 have the answer to that.

20 THE CHAIRPERSON: Could you take that as
21 an undertaking, please?

22 MR. VINCE WARDEN: Yes, we can do that.

23

24 --- UNDERTAKING NO. 11: Manitoba Hydro to indicate
25 whether there were any

1 remediation orders issued by
2 Manitoba Environment in
3 regard to soil contamination
4

5 CONTINUED BY MS. GLYNIS HART:

6 MS. GLYNIS HART: Why is Hydro's view
7 that the polluters shouldn't pay?

8 MS. PATTI RAMAGE: This is now getting
9 right to a legal issue again that -- I don't think it's
10 appropriate. We've dealt with this already in argument.

11 THE CHAIRPERSON: The difficulty that I
12 think we're having with it is it seemed to go to the
13 essence of why the capital contribution --

14 MS. PATTI RAMAGE: I think it goes --

15 THE CHAIRPERSON: -- did not come -

16 MS. PATTI RAMAGE: -- to the question of
17 liability, and there's no question here that there -- a
18 payment was made. This is a question of cost allocation,
19 so I'm failing to understand the relevance in this forum
20 of who's liable, as opposed to Manitoba Hydro has a cost
21 to pay; who -- who in its customer base is going to pay
22 for that cost? And I think that's what we're here to
23 determine today, not who was original -- the original
24 liability, because that liability's been established.
25 Manitoba Hydro did pay something.

1 THE CHAIRPERSON: Do you have much more
2 on this, Ms. Hart?

3 MS. GLYNIS HART: No.
4

5 (BRIEF PAUSE)
6

7 CONTINUED BY MS. GLYNIS HART:

8 MS. GLYNIS HART: If a transformer blew
9 up on a farmer's land, would you expect the farmer to do
10 the cleanup and pay for it?

11 MR. VINCE WARDEN: Manitoba Hydro would
12 do the cleanup. There would be a cost incurred. The
13 question then becomes: Where is that cost allocated to?

14 And because we have a -- a class of
15 customers that can be identified with each incident, as
16 you described, that cost, theoretically at least, would
17 be allocated back to those customers. It's a necessary
18 part of doing business. Transformers blow up, it's --
19 it's a fact.

20 MS. GLYNIS HART: Is that --

21 THE ROBERT MAYER: So when you have a
22 transformer blow up and there is some problems, it does
23 some damage to somebody's property, you -- Hydro cleans
24 it up, no questions asked, and then it's assessed to,
25 under those circumstances, I suspect, the distribution

1 system or the subtransmission cost, and is allocated to
2 ratepayers?

3 MR. VINCE WARDEN: Exactly, yes.

4

5 CONTINUED BY MS. GLYNIS HART:

6 MS. GLYNIS HART: That's not
7 theoretically? That's actually what's done?

8 MR. VINCE WARDEN: That's what's done,
9 yes.

10 MS. GLYNIS HART: Now, INAC had raised a
11 concern about the capital forecast estimates, speaking
12 about lack of transparency, and Manitoba Hydro in its
13 rebuttal -- I wanted to ask you a bit about the fact that
14 at page 49 of your rebuttal, you speak to Mr. Mills'
15 concern -- And I do have a question, it just takes me a
16 while to get there, to give you the background on this.

17 But you do, at page 49, note that you're
18 diligent, you use your best judgment. And about line 12
19 you give an example of -- preliminary estimates are on a
20 high level and it started about plus or minus 50 percent,
21 and then as assumptions are replaced they're reduced to
22 thirty (30), twenty (20), and finally to ten (10).

23 And my question is: Is this an internal
24 system, Manitoba Hydro's internal rating system?

25 MR. VINCE WARDEN: Yes.

1 MS. GLYNIS HART: Okay. So it's not
2 something that's shared with its customers or INAC? When
3 you produce a number about a capital cost, it's not
4 something that the customers see, is it?

5 MR. VINCE WARDEN: As to the level of
6 preciseness of that estimate, depending -- depending on
7 the circumstances. If we are looking at providing an
8 extension to a customer and the customer is not sure
9 whether or not he or she will be proceeding with that --
10 with that investment -- or with that project, then he
11 might ask for a preliminary estimate because he doesn't
12 want to incur the costs of the detailed estimate. So the
13 preliminary estimate could be plus or minus 25/30
14 percent. So we'll set the parameters around that and
15 communicate with the customer, depending on that
16 customer's interests.

17 MS. GLYNIS HART: You don't do that with
18 INAC and the capital plans though, do you? You just --

19 MR. VINCE WARDEN: Well, you know --

20 MS. GLYNIS HART: -- list a number?

21 MR. VINCE WARDEN: -- the capital plans
22 that we are -- that we provide are -- are five (5) year
23 capital plans and there'll be discussion around those
24 plans. Presumably INAC or the First Nations would -- it
25 would be a reasonable question for them to ask. For that

1 -- that fifth year out, how accurate -- how much
2 confidence do you have in those numbers? Are they plus
3 or minus 20 percent, 30 percent? Are they as accurate as
4 the first year numbers, the numbers that were going --
5 the pro -- the capital that will be spent next year?
6 Obviously, not.

7 I mean, it's -- that's the nature -- we --
8 our business is a long term business and we produce
9 forecasts that go out twenty (20) years by necessity. So
10 the twentieth year of that forecast is not going to be as
11 accurate as the first year; it's the nature of how we
12 produce forecasts. And for those that we're consulting
13 with, dialoguing with, certainly we would share that
14 information.

15 MR. ROBERT MAYER: Mr. Warden, the event
16 referred to on page 49 of your rebuttal evidence you have
17 to admit was, firstly, it had to be a classic screw up
18 when you end up with an end result 10 percent of what
19 your original estimate was. And in my experience it
20 certainly is not what we'd normally run into. Your
21 estimate -- or, your -- your actual cost generally comes
22 in a little bit higher than the -- than the estimate, as
23 we now know with Wuskwatim.

24 I -- I don't know why this has become
25 important, but can't somebody just say, Somebody screwed

1 up somewhere? Our accountants have suggested a
2 possibility that they had the number for -- they had the
3 total number and then multiplied it by fours, because
4 they thought it was for each community. But I have no
5 idea what it is, but when it comes back at 10 percent in
6 the end result, somebody screwed up.

7 MR. VINCE WARDEN: Yes. And there were
8 definitely some underlying circumstances there. I think
9 I was responding to a general question though, as to how
10 capital estimates are put together. By the way,
11 Wuskwatim is right on budget.

12 MS. GLYNIS HART: But --

13 MR. ROBERT MAYER: And you brought
14 Limestone in under budget too.

15

16 CONTINUED BY MS. GLYNIS HART:

17 MS. GLYNIS HART: But given all of these
18 estimate, preliminary estimates then, it really doesn't
19 make sense then for the First Nations to be paying on the
20 basis of early estimates, does it?

21 MR. VINCE WARDEN: And no, we typically
22 wouldn't request them to pay on the basis of an early
23 estimate.

24 MS. GLYNIS HART: Thank you. I'd
25 forgotten to ask you earlier -- I'm backtracking a bit --

1 but when we were talking about the Shamattawa engine
2 repairs, was that an insured accident -- incident when --
3 with the break-in?

4

5 (BRIEF PAUSE)

6

7 MR. VINCE WARDEN: Ms. Hart, are -- we
8 have a -- I'm just trying to recall the deductible now,
9 but it -- this would definitely be below the deductible
10 that we would -- we would typically pay.

11 MS. GLYNIS HART: For that. Thank you.
12 And -- and including the engine failure repairs?

13 MR. VINCE WARDEN: You know, we have a
14 undertaking on this particular issue with respect to
15 Shamattawa. We'll -- we'll include that in our response.

16 MS. GLYNIS HART: Thank you. From the
17 energy management initiatives, who's going to reap the
18 benefits from them?

19 MS. SHANNON JOHNSON: I'll try and stay a
20 little further away this time.

21 If the consumption goes down, it's the
22 individual or the band who's paying the bill that will
23 reap the benefits from a financial standpoint.

24 MS. GLYNIS HART: Right. And who do you
25 think should be implementing the programs?

1 MS. SHANNON JOHNSON: I guess from an
2 implementation standpoint are you talking delivery of the
3 program?

4 MS. GLYNIS HART: That would be a part of
5 it, wouldn't it?

6 MS. SHANNON JOHNSON: Yes, absolutely.
7 And I think, you know, the -- from our standpoint, from
8 energy efficiency, that would be part of our role in the
9 delivery process.

10 MS. GLYNIS HART: So what all does that
11 involve with implementing? I gave one (1) example. What
12 else do you see?

13 MS. SHANNON JOHNSON: From an
14 implementation standpoint?

15 MS. GLYNIS HART: M-hm.

16 MS. SHANNON JOHNSON: Basically what we
17 do with the communities is we go in and we help identify
18 where there's energy efficiency opportunities, put a plan
19 in place, help them secure different materials that might
20 be needed, go in and do the training, and then help
21 execute upon the energy efficiency upgrade.

22 MS. GLYNIS HART: And on that can you
23 tell me a bit more about the ten (10) energy audits that
24 were done in one (1) of the diesel First Nations? What
25 did Manitoba Hydro do there?

1 MS. SHANNON JOHNSON: What we do is we
2 actually -- somebody from Manitoba Hydro goes up to the
3 community, works with the housing manager. We identify
4 different types of housing, where you would have
5 basically your biggest bang for your buck, where there's
6 the best energy efficiency opportunities. We'd go into
7 these houses with the community, look at the different
8 opportunities, and then basically try and find ten (10)
9 houses that'll work, and then work with the community to
10 put a plan together to actually retrofit those homes.

11 MS. GLYNIS HART: And it said there were
12 ten (10) energy audits. What happened? You went into
13 the home; what would you do?

14 MS. SHANNON JOHNSON: Oh, we go in and we
15 look at different opportunities in the attic. How much
16 insulation is in the attic is probably -- looking at the
17 insulation opportunities is -- is really what we look at
18 to see if there's an opportunity in the attic to go above
19 R30. If there's, you know, R30 in there, we look at the
20 crawlspace to see what the insulation situation is there.

21 MS. GLYNIS HART: Is that it, just the
22 attic?

23 MS. SHANNON JOHNSON: And if there's a
24 crawlspace. We look at the insulation opportunities. As
25 well, is there caulking opportunities around the windows,

1 faucet aerators, things along those lines. So we look at
2 the house in conjunction with the community.

3 MS. GLYNIS HART: And -- and the
4 homeowner is there at the same time as you're doing this?

5 MS. SHANNON JOHNSON: Abs --

6 MS. GLYNIS HART: Yes.

7 MS. SHANNON JOHNSON: Absolutely.

8 MS. GLYNIS HART: Yes.

9 MS. SHANNON JOHNSON: We have the -- we
10 have the community secure the visits for us.

11 MS. GLYNIS HART: Right. So are you
12 training the First Nations at the same time as you're
13 doing this?

14 MS. SHANNON JOHNSON: Ideally what we do
15 is when we go in and we do the -- we would do the
16 walkthrough with the housing manager, the idea is is that
17 the next time they can -- it would be easier for them to
18 identify the housing, so that when we go to pursue beyond
19 the ten (10) houses it might mean that we don't
20 necessarily have to send somebody up there -

21 MS. GLYNIS HART: Right.

22 MS. SHANNON JOHNSON: -- and that they
23 would recognize what the opportunities are.

24 MS. GLYNIS HART: Right. Does anyone go
25 back and look at the home after that first walkthrough

1 identification? Is there any follow-up on that?

2 MS. SHANNON JOHNSON: Absolutely. After
3 the retrofits are done in the home, we go back and have a
4 look.

5 MS. GLYNIS HART: And when you have a
6 look, what do you do? You --

7 MS. SHANNON JOHNSON: We go back to
8 ensure that the insulation was put in. We want to make
9 sure that whatever was done in the house is actually
10 going to reap the energy efficient benefits that we're
11 looking for and that will benefit the community.

12 MS. GLYNIS HART: And did that has -- has
13 that been done yet in the diesel communities?

14 MS. SHANNON JOHNSON: It has been done in
15 Lac Brochet.

16 MS. GLYNIS HART: Thank you. Okay.

17

18 (BRIEF PAUSE)

19

20 MS. GLYNIS HART: You said it was in Lac
21 Brochet that some retrofits have been done?

22 MS. SHANNON JOHNSON: Yes.

23 MS. GLYNIS HART: Okay. If we could just
24 have a moment for that. Sorry.

25 MS. SHANNON JOHNSON: They were done. We

1 went back to have a look at them in, I think, August
2 26th. So when we filed the evidence, the work's been
3 done subsequent to the filing, just for your record.

4 MS. GLYNIS HART: Thank you. That's why
5 we didn't see anything on it. Thank you for that
6 clarification then.

7 Do you think it would more successful even
8 if Manitoba Hydro involved the diesel First Nations in
9 the development of a diesel First Nation Power Smart type
10 of program?

11 MS. SHANNON JOHNSON: We launched the
12 overall Lower Income Program, I guess, back in 2007, and
13 the First Nation program is part of that. The program is
14 constantly involving (sic) based on feedback, not just
15 from First Nation communities, but from different social
16 groups.

17 So I think feedback from different
18 communities, and -- and diesel communities as well, is
19 always taken into consideration. We're always looking to
20 improve the program, and provide better benefits, so,
21 yes.

22 MS. GLYNIS HART: Do you -- do you see
23 the diesel First Nations being the same, though, or might
24 they have some unique characteristics, such -- such that
25 a special program would be helpful for them with lowering

1 the cost, given they reap the benefits?

2 MS. SHANNON JOHNSON: I think -- I think
3 every community, including First Nations, is unique, and
4 that's why we developed the First Nation Program in 2008,
5 as we saw the unique -- recognized the unique needs
6 within the First Nation communities.

7 Whether or not we drill it down to diesel
8 communities is something we may or may not look at, but
9 right now, we're -- you know, we're in the preliminary
10 stages of getting into the communities, seeing what we
11 can do, and taking that kind of information back to
12 augment or improve the programs.

13 MS. GLYNIS HART: So you don't have any
14 plans yet for a special one for diesel communities?

15 MS. SHANNON JOHNSON: Not at this time,
16 no.

17 MS. GLYNIS HART: Okay. And do you see -
18 - if you did get the First Nations involved in -- in any
19 program, they -- special program, that that might even
20 make it more successful?

21 Would you see if you did move in that
22 area, involving them?

23 MS. SHANNON JOHNSON: I think we do
24 involve them at this point in time. We talk about the
25 program. We meet with chief -- chief and council. Look

1 at other opportunities in the communities. We also deal
2 with the -- the Assembly of First Nations to see what
3 else they think we could be doing, or a better way to get
4 the program out.

5 So I think we are engaging in those
6 conversations right now.

7 MS. GLYNIS HART: And I -- I'm meaning
8 more of the diesel First Nations, or a program for them,
9 but if you --

10 MS. SHANNON JOHNSON: Specific to diesel,
11 outside of the -- the general conversations, and going in
12 and working with the communities, part of the reason we
13 did the initial ten (10) was to see what we could learn
14 from that, and -- and look at it the next time, and
15 potentially see other opportunities.

16 MS. GLYNIS HART: Do you think if you did
17 involve the diesel First Nations, that the use of space
18 heaters might be substantially reduced, if you could look
19 at that particular issue?

20 MS. SHANNON JOHNSON: I think when we go
21 into the communities -- as I mentioned before, we try and
22 look at it holistically. So it's -- it's -- we look at
23 the energy efficiency. We're also looking at grade
24 around the houses. We look at general maintenance.

25 If we incorporated the space heating in,

1 and it was determined that that was indeed a problem,
2 potentially there might be opportunity there.

3 MS. GLYNIS HART: In Mr. Hildebrand's
4 report, he makes a recommendation. It's Recommendation
5 number 2, and it's about the allocation of the revenue
6 shortfall. It's page 8 of 29 of his report.

7 And he recommends -- or a -- sorry.

8

9 (BRIEF PAUSE)

10

11 MS. GLYNIS HART: What basically he
12 recommends is that:

13 "The unrecovered residential and
14 general service revenue requirement, or
15 the revenue shortfall, be allocated
16 amongst the government and First Nagen
17 (sic) ed -- education accounts, based
18 on the calculations below."

19 Which would be 69 percent for INAC, and 6
20 percent for the other Federal governments. And Man --
21 Manitoba Hydro in their rate application have a different
22 percentage that they're recommending for the revenue
23 shortfall.

24 Is that correct?

25 MR. ROBIN WIENS: Yes, it's correct.

1 MS. GLYNIS HART: And can you explain why
2 you're changing it?

3 MR. ROBIN WIENS: Well, the difference
4 between what -- what Manitoba Hydro is doing, and what
5 Mr. Hildebrand is recommending, is actually very little.

6 Mr. Hildebrand wants us to allocate those
7 costs on the basis of energy shares back in 2004, and
8 we're allocating them based on energy shares today.

9 MS. GLYNIS HART: So you're using -- or I
10 guess I'm wondering, why aren't you using the capital
11 costs?

12 MR. ROBIN WIENS: The capital cost
13 allocation determined in 2004 was based on the energy
14 shares that we looked at at that time. It's -- it's the
15 same principle; it's just a question of the timing.

16 Today, INAC is using a little bit more
17 energy as a proportion of the total energy, or INAC and
18 its -- its client groups are using more energy as a
19 proportion of the total, so we have allocated more of the
20 shortfall to them. It's -- it's really that simple.

21 MS. GLYNIS HART: So you're using one (1)
22 percentage for the capital costs and a different one then
23 for revenue shortfall over the same time period?

24 MR. ROBIN WIENS: We used a percentage
25 back in 2004 to relate it to the undepreciated capital

1 costs on the books, as of March 31st, 2004. And we did
2 an allocation at that time, and it was approximately 69
3 percent to INAC, and they agreed to it at that time.

4 If we were talking about -- if -- if we
5 were talking about sharing capital costs today, say, in a
6 particular community, we would be looking at a different
7 percentage.

8 MS. GLYNIS HART: Did Mr. Warden not say
9 something different yesterday?

10 MR. ROBIN WIENS: Do you have a
11 transcript reference or...?

12 MS. GLYNIS HART: No, we don't. That's -
13 - didn't --

14 MR. VINCE WARDEN: I agree --

15 MS. GLYNIS HART: Didn't --

16 MR. VINCE WARDEN: -- with everything Mr.
17 Wiens has just said.

18 MS. GLYNIS HART: You didn't say it would
19 be the same -- you don't recall saying it would be the
20 same capital contribution percentage today, going
21 forward, as it was --

22 MR. VINCE WARDEN: Well --

23 MS. GLYNIS HART: -- in 2004?

24 MR. VINCE WARDEN: No. As Mr. Wiens has
25 just indicated, the -- the capital allocation that was --

1 that was derived in 2004 was based on the relative energy
2 consumption at that time. That energy consumption has
3 changed today, so if we were going through the same
4 process today, the numbers would be slightly different
5 than they were in 2004, but it was all -- the basis of it
6 was all based on energy.

7 MS. GLYNIS HART: Right. I'm sorry. I -
8 - we just thought you'd said something else, so I wanted
9 to confirm that. We thought you'd --

10 MR. VINCE WARDEN: Okay.

11 MS. GLYNIS HART: -- said --

12 MR. VINCE WARDEN: No.

13 MS. GLYNIS HART: -- that it would --

14 MR. VINCE WARDEN: Well, if I -- if I
15 did, I -- I --

16 MS. GLYNIS HART: Okay.

17 MR. VINCE WARDEN: -- misspoke --

18 MS. GLYNIS HART: Thank you.

19 MR. VINCE WARDEN: -- because that's what
20 I meant to say.

21 THE CHAIRPERSON: Mr. Wiens, this is
22 actually a significant point. Looking out, we're used to
23 Manitoba Hydro's forecasts -- like, CFF, IFF, et cetera,
24 et cetera; given the past historical record and the
25 growth of the population, was it reasonable to assume

1 that if no major change occurs in the delivery system or
2 any of the other major parameters, the energy share will
3 continue to grow?

4 MR. ROBIN WIENS: You mean the energy
5 share that we -- we attribute to INAC or --

6 THE CHAIRPERSON: Yes.

7 MR. ROBIN WIENS: -- to INAC's funding?

8 THE CHAIRPERSON: With population growth.

9 MR. ROBIN WIENS: I -- I'm not sure I
10 could say that. That has been the case over the last
11 five (5) years or so.

12 THE CHAIRPERSON: But you do have the DSM
13 program going now, too, so that's a mitigating factor to
14 some degree?

15 MR. ROBIN WIENS: Correct. Correct.
16 Just -- just to illustrate, perhaps, that principle that
17 we've just been discussing, I -- I'd invite counsel to
18 refer back to Tab 12 of Mr. Peters' book of documents.

19 And now I'm going to have to count the
20 pages going in. Let's go the eighth page in that -- in
21 that tab.

22 And if I'm correct, this is part of the
23 correspondence that was provided by Mr. Cox in November
24 of 2009, and Mr. Cox will correct me if I'm wrong.

25

1 (BRIEF PAUSE)

2

3 MR. ROBIN WIENS: September of 2009. And
4 we have listed out our expectations, in terms of the
5 share of costs that would be borne by INAC funding,
6 relative to other sources.

7

8 (BRIEF PAUSE)

9

10 CONTINUED BY MS. GLYNIS HART:

11 MS. GLYNIS HART: And could you tell me
12 more about that, please, the page you were -- your point.

13 MR. ROBIN WIENS: Well, I -- I -- they're
14 not numbered consecutively, so I -- I tried to --

15 MS. GLYNIS HART: M-hm.

16 MR. ROBIN WIENS: -- count them going in.
17 I think it was --

18 MS. GLYNIS HART: Oh, okay.

19 MR. ROBIN WIENS: -- the eighth page, but
20 it has seven (7) at the bottom of it. You -- from here,
21 I think you have the right page.

22 MS. GLYNIS HART: Okay.

23 MR. ROBIN WIENS: It -- it says:

24 "Capital costs sharing formula by
25 community."

1 MS. GLYNIS HART: Yes.

2 MR. ROBIN WIENS: And when the
3 communication was sent, back in September of 2009, which
4 included the five (5) year capital plan, that's also --

5 MS. GLYNIS HART: Right.

6 MR. ROBIN WIENS: -- a part of this tab,
7 and this lifts out our expectation, in terms of what the
8 percentage shares are in each community.

9 MS. GLYNIS HART: Going forward?

10 MR. ROBIN WIENS: Going forward.

11

12 (BRIEF PAUSE)

13

14 MS. GLYNIS HART: And that's the capital
15 cost sharing formula you're recommending? Is that it?

16 MR. ROBIN WIENS: It's based on a more
17 recent assessment of the shares of energy attributable to
18 the different parties, more recent than the 2004 numbers.

19 MS. GLYNIS HART: Have you discussed this
20 with the First Nations?

21

22 (BRIEF PAUSE)

23

24 THE CHAIRPERSON: Ms. Hart, while they're
25 looking, do you have a lot more? I'm --

1 MS. GLYNIS HART: No.

2 THE CHAIRPERSON: -- not trying to push
3 you.

4 MS. GLYNIS HART: No, I don't.

5 THE CHAIRPERSON: Okay.

6 MS. GLYNIS HART: I --

7 MR. ROBIN WIENS: Has been shared with
8 the First Nations, yes. It has been shared with them.

9

10 CONTINUED BY MS. GLYNIS HART:

11 MS. GLYNIS HART: And you've received
12 comments back, have you?

13 MR. ROBIN WIENS: No.

14 MS. GLYNIS HART: No.

15 MR. ROBERT MAYER: I was wondering if --
16 if Tracy Fleck ever -- ever arranged the meeting that's
17 mentioned in any of those letters.

18 MR. ROB COX: We did go up to The Pas on
19 August 31st hoping to catch the four (4) chiefs at a
20 seminar that they were attending, so there was an attempt
21 to meet. But only one (1) out of the four (4) chiefs
22 were there, so we didn't have a meeting to discuss those.

23 MR. ROBERT MAYER: Okay.

24

25 CONTINUED BY MS. GLYNIS HART:

1 MS. GLYNIS HART: In regard to moving the
2 Provincial Government accounts, transferring to -- them
3 to the general service, I know that Manitoba Hydro had
4 said their position is, they had to be clearly separated.

5 Explain why they have to be clearly
6 separated.

7 MS. PATTI RAMAGE: I'm sorry, could you--

8 MS. GLYNIS HART: What -- what -- it's a

9 --

10 MS. PATTI RAMAGE: -- refer us to where -
11 - what you're -- your reference.

12 MS. GLYNIS HART: I think it's in your
13 rebuttal. It might be at page 3. Nope.

14 THE CHAIRPERSON: While we're looking for
15 the --

16 MS. GLYNIS HART: I'm sorry.

17 THE CHAIRPERSON: -- paper, Mr. Cox, one
18 (1) question. You said that one (1) chief was there of
19 the four (4). Was a representative of INAC there, or
20 MKO?

21 MR. ROB COX: Yes. There was -- I
22 believe there was six (6) from INAC, and two (2) from
23 MKO.

24 THE CHAIRPERSON: But no meeting
25 occurred?

1 MR. ROB COX: There was a discussion
2 between MKO and INAC regarding the tentative settlement
3 agreement.

4 THE CHAIRPERSON: Not involving you?

5 MR. ROB COX: Manitoba Hydro was at the
6 table, but the issues being discussed were between INAC
7 and MKO.

8 THE CHAIRPERSON: Thank you.

9 MR. MICHAEL ANDERSON: Mr. Chair, I -- I
10 hazard to enter -- enter -- make an intervention.

11 I just wanted to add that there were
12 counsellors from the Shamattawa First Nation who had been
13 asked by Chief Napoakesik to attend the meeting, and that
14 Chief Jimmy Thorassie from Sayisi Dene was making an
15 attempt to arrive at the meeting in -- in time to attend
16 it, but was driving by vehicle and was unable to do so;
17 but he was in very close contact with me while he was
18 travelling, hoping he could make it. And Chief Joe
19 Dantouze from the Northlands Denesuline First Nation was
20 unable to travel that day due to weather conditions in
21 Lac Brochet.

22 So, all the leadership were either
23 attempting to attend the meeting, or had delegates
24 travelling on their behalf.

25 THE CHAIRPERSON: Thank you, Mr.

1 Anderson.

2

3 CONTINUED BY MS. GLYNIS HART:

4 MS. GLYNIS HART: Maybe just to even
5 shorten this part, I -- I'll ask you: In Manitoba
6 Hydro's request to have the Provincial Government
7 accounts transferred to the general service, was that
8 decision made for the purpose of forcing the Federal
9 Government to assume more costs?

10 MR. VINCE WARDEN: No. No. I think we
11 responded to that at some point during the -- the
12 proceedings that -- that this will have no impact on the
13 -- on the Federal Government, in terms of cost.

14 MS. GLYNIS HART: Is your position -- was
15 it done for rate relief for provincial accounts?

16 MR. VINCE WARDEN: No. No, it was done
17 to -- to segregate. As I believe I stated in my direct
18 evidence --

19 MS. GLYNIS HART: M-hm.

20 MR. VINCE WARDEN: -- it was done to
21 segregate the Federal agencies into one (1) rate group.

22 MS. GLYNIS HART: But -- but you don't
23 agree that it does provide rate relief to the province?
24 Do you agree with that?

25 MR. VINCE WARDEN: Well, the end result

1 of that method of allocation is that the province will
2 receive lower bills than they otherwise would.

3 MS. GLYNIS HART: I just have a few
4 questions now that are a follow-up to some of the
5 questions that CAC asked, and one (1) of them would be --

6 THE CHAIRPERSON: Sorry to interrupt.

7 MS. GLYNIS HART: Oh, yeah.

8 THE CHAIRPERSON: Is this going to take
9 more than six (6) or seven (7) minutes?

10 MS. GLYNIS HART: It might. It could
11 take --

12 THE CHAIRPERSON: Okay. Then we'll take
13 the break now. Thank you.

14 MS. GLYNIS HART: Thank you.

15

16 --- Upon recessing at 2:48 p.m.

17 --- Upon resuming at 3:12 p.m.

18

19 THE CHAIRPERSON: Okay, Ms. Hart.

20

21 CONTINUED BY MS. GLYNIS HART:

22 MS. GLYNIS HART: Thank you. Get you to
23 look at Manitoba Hydro's rebuttal. At page 9 there is a
24 letter from Ms. Tracy Fleck of Indian Affairs, to Mr.
25 Vince Warden. It's March 15th, 2010, page 9. And it

1 follows up from the letter on page 8, where Mr. Warden
2 had written to Ms. Fleck in regard to the payment of the
3 outstanding capital cost incurred, he says, since the
4 tentative was agreement was negotiated.

5 And in the March 15th letter, when asked
6 for Manitoba Hydro -- when Manitoba Hydro asked for
7 capital costs didn't INAC ask for clarification in this
8 letter? Is that what you understood Ms. Fleck wanted in
9 regard to your request?

10

11 (BRIEF PAUSE)

12

13 MR. VINCE WARDEN: Ms. Hart, I -- I think
14 I have to back you up to the previous letter, in which,
15 as I pointed out earlier, my initial correspondence was
16 more of a formality in terms of my under -- conveying my
17 understanding to Ms. Fleck that the \$4.4 million payment
18 was imminent. So I was actually quite surprised when I
19 received this request, which appeared to set us back, way
20 before I -- I was understood to the -- from the place we
21 were at, so it -- it may very well have been.

22 She -- she say -- in -- in fact, she says,
23 Get a hold of Mr. Paine (phonetic) and get some further
24 discussion, which was a huge surprise to me because I
25 thought we were way beyond that point, and that's what I

1 responded in my letter, dated March the 30th.

2 So in -- in -- I think my interpretation
3 of her correspondence is quite clear in my response.

4 MS. GLYNIS HART: Do you not feel though
5 that the matter is still under discussion?

6 MR. VINCE WARDEN: We were faced with
7 filing a rate application. And, as a matter of fact, we
8 had delayed -- there was a considerable delay from the
9 January 21st board meeting of Manitoba Hydro, after which
10 we had committed to file an application with this Board.
11 So there was a considerable delay while this discussion
12 was going on.

13 The filing couldn't be delayed any
14 further, and that's what I conveyed to Ms. Fleck in my --
15 in my response, is that we had no alternative then, since
16 she was not agreeing, as I thought we had agreed to
17 previously, not agreeing to -- to the 4.4 million, that
18 the interest and depreciation thereon would have to be
19 included in -- in the -- in the rate application.

20 So there wasn't time for discussion at
21 that point.

22 MS. GLYNIS HART: And -- and my question
23 more is: Do you think she was still -- do you think
24 she's still open to discussion?

25 MR. VINCE WARDEN: Well, you know, we can

1 discuss things forever, for sure, but at some point you
2 have to -- we have to take some action, too.

3 MS. GLYNIS HART: And my last question
4 goes to the heat recovery system. I'd just like to
5 follow up on that from your cross-examination before by
6 CAC counsel. And did Manitoba Hydro pay for the
7 installation of the heat recovery system on all four (4)
8 diesel First Nations?

9

10 (BRIEF PAUSE)

11

12 MR. ROBIN WIENS: We are -- no one on
13 this panel actually has the response to that question,
14 and we've consulted the back row and we're not certain,
15 so we're going to have to undertake to provide you a
16 response.

17 MS. GLYNIS HART: Thank you.

18

19 --- UNDERTAKING NO. 12: Manitoba Hydro to advise if
20 it paid for the installation
21 of the heat recovery system
22 on all four (4) diesel First
23 Nations

24

25 CONTINUED BY MS. GLYNIS HART:

1 MS. GLYNIS HART: And last on that same
2 point, doesn't Manitoba Hydro receive an annual fee from
3 the First Nations in regard to the heat recovery system?

4 MR. ROB COX: Yes, Manitoba Hydro does.

5 MS. GLYNIS HART: Thank you. Those are
6 all my questions. Thank you.

7 THE CHAIRPERSON: Thank you, Ms. Hart.

8 Mr. Anderson, do you want to perhaps
9 switch places with this woman, if she wouldn't mind?
10 Might make it easier. Or are you all set up there to go
11 from there?

12 MR. MICHAEL ANDERSON: I have to say, Mr.
13 Chair, I'm spread out here and...

14 THE CHAIRPERSON: Okay. Well, then, stay
15 where you are.

16 MR. MICHAEL ANDERSON: If that would be
17 acceptable to everyone, I -- I'll try to do it from back
18 here.

19

20 (BRIEF PAUSE)

21

22 MR. MICHAEL ANDERSON: And, Mr. Chair,
23 before I begin, I had prepared some handouts, as if oft
24 my practice. It's all -- they're -- the handouts are a
25 collection of -- of findings from Board decisions with

1 Mr. Peters.

2 MR. BOB PETERS: And therefore, you can
3 number them sequentially in the order that pleases the
4 Board. And Mr. Anderson may have a suggestion as to
5 which order he'll refer to them in, but they can be
6 sequentially numbered.

7 THE CHAIRPERSON: I think we'll take Mr.
8 Anderson's suggestion.

9 MR. MICHAEL ANDERSON: Thank you, Mr.
10 Chair and Mr. Peters. My suggestion, Mr. Chair, would be
11 that MKO-1 would be the one (1) page extract marked at
12 the top Order 62/94.

13 THE CHAIRPERSON: Got it.

14

15 --- EXHIBIT NO. MKO-1: One (1) page extract, marked
16 Order 62/94

17

18 MR. MICHAEL ANDERSON: I would then
19 suggest that the MKO-2 be the -- the collection, the
20 thicker document, which at the upper right-hand corner
21 says PUB Order 46/04.

22 THE CHAIRPERSON: So be it.

23

24 --- EXHIBIT NO. MKO-2: PUB Order 45/04

25

1 MR. MICHAEL ANDERSON: And then the brief
2 transcript reference from the record of January 8th, 2004
3 in the diesel rate application at that time, MKO-3

4 THE CHAIRPERSON: Thank you.

5

6 --- EXHIBIT NO. MKO-3: Transcript reference from
7 January 8, 2004, Diesel Rate
8 Application

9

10 MR. ROBERT MAYER: Where do we find the
11 date, Mr. Anderson, on MKO-3?

12 MR. MICHAEL ANDERSON: The extract on
13 MKO-3 --

14 MR. ROBERT MAYER: Oh, got it. Got it.

15 MR. MICHAEL ANDERSON: But I would like
16 to thank you for that housekeeping matter. If -- I
17 apologize for not having included the dates in the
18 handouts prior to them being copied, but if the -- if the
19 Board and the participants would work with me, I'll
20 provide some dates that are missing on these documents.

21 The first document, Order 62 -- 62/94, the
22 order is dated April 8th, 1994.

23 At page 1 of MKO-2, PUB Order 4 -- 46/04
24 is dated March 25th, 2004.

25 And Mr. Chair, you'll note it that the

1 thicker document, for convenience I've added large page
2 numbers at the upper right-hand corner for reference
3 purposes.

4 And if you would go with me then, please,
5 to page 8 of MKO-2, Order 176/06 is dated December 21st,
6 2006. And the head notes for the remainder of the
7 material is dated. Thank you.

8

9 CROSS-EXAMINATION BY MR. MICHAEL ANDERSON:

10 MR. MICHAEL ANDERSON: Mr. Chair, I'll --
11 there's been good coverage by all preceding parties of a
12 fair number of my questions, and I've indicated they've
13 been asked and answered.

14 I'm just looking for some clarifications
15 on some of the things that have been raised, and the
16 assistance of the panel would be greatly appreciated.

17 And if I happen to have missed an answer
18 that was provided yesterday afternoon while I was away, I
19 apologize for that, and thank the panel for their
20 response.

21 There was just a discussion with Ms. Hart
22 regarding the -- the reference at -- in the Application
23 at Volume I regarding the -- the changes in the
24 Application, page 6.

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(BRIEF PAUSE)

MR. MICHAEL ANDERSON: One (1) of the --
the items there in paragraph 2, it's noted that:

"As noted previously, this Application differs from those in the past. Manitoba Hydro has added a provision for unfunded capital expenditures since 2004. The provision is calculated as 79 percent of the annual cost of interest and depreciation expense of approximately 5.5 million, which excludes the Tadoule Lake contribution and the fall arrest facilities incurred by Manitoba Hydro since March 31st, 2004."

Now the focus of my question centres on
the next sentence, which is:

"The 79 percent represents the portion of which Federal Government and agencies and First Nations education accounts are responsible."

Why are only the interest and depreciation expense of the Federal and First Nation accounts included within the cost of service and -- and, therefore, to be

1 payable in rates?

2 MR. ROBIN WIENS: Mr. Anderson, it has
3 been, as I think you are familiar, the practice with
4 respect to capital has been that Manitoba Hydro assumes
5 responsibility for about 21 percent of the capital costs.
6 So that amount has been excluded in arriving at the
7 figure of a five (5) -- approximately five hundred and
8 eighty-one thousand (581,000) in interest and
9 depreciation.

10 Now, I'll just add a further
11 clarification. The 79 percent would also include the
12 portion for which the province would be responsible, it
13 would -- 4 percent of the 79 percent. Which I -- you
14 know, and I apologize for that, that's not apparent from
15 what's included in here.

16 But the effect of -- of Manitoba Hydro's
17 assuming the provincial liability for surcharges in
18 effect means that Manitoba Hydro has assumed
19 responsibility for 25 percent of the interest and
20 depreciation.

21 MR. MICHAEL ANDERSON: Thank you, Mr.
22 Wiens. Now without trotting on the portion of the record
23 built carefully by Ms. Bowman, I recall that this exact
24 item was discussed with Mr. Warden yesterday. The -- the
25 evidence is that -- is exactly as you said, that 25

1 percent of the capital contribution is now assumed by
2 Manitoba Hydro.

3 Did I understand that correctly?

4 MR. ROBIN WIENS: I -- I'm not saying
5 that -- that the -- the provincial share of the
6 contribution is being assumed by Manitoba Hydro, but
7 because this has been put into rates in this manner, the
8 effect is that the interest and depreciation that would
9 have redounded to the account of the province is being
10 assumed by Manitoba Hydro in this application.

11 MR. MICHAEL ANDERSON: Thank you, Mr.
12 Wiens. And just so I understand, the -- these costs are
13 -- the interest and depreciation costs that Manitoba
14 Hydro is including in the cost of service for the diesel
15 zone arise as a result of delay in Manitoba Hydro
16 receiving capital contributions from those that are
17 required to make such a contribution. Is that correct?

18 MR. ROBIN WIENS: That is correct.

19 MR. MICHAEL ANDERSON: And just to -- so
20 I understand the discussion that all parties have taken,
21 the total cost of the Tadoule Lake diesel upgrade is
22 presented in Manitoba Hydro's evidence as 2.2 million.
23 Is that correct?

24 MR. ROBIN WIENS: Yes.

25 MR. MICHAEL ANDERSON: And that's at

1 paragraph 1 of page 6 of the Application. How much
2 then, taking out or subtracting the contribution that has
3 been received from Indian and Northern Affairs Canada on
4 behalf of the Sayisi Dene First Nation, how much remains
5 of the capital contribution for the Tadoule Diesel
6 Project?

7 How much is outstanding that needs to be
8 received by Manitoba Hydro?

9 MR. ROBIN WIENS: Mr. Anderson, I believe
10 the contribution from the -- the First Nation and I --
11 INAC was \$1.1 million. So that leaves a million dollars
12 that -- for which no contribution was received. I
13 believe we had a discussion with Ms. Bowman about that
14 yesterday afternoon.

15 MR. MICHAEL ANDERSON: You did, Mr.
16 Wiens. As I understood correctly, there has not been an
17 effort raised yet to date to recover this million dollars
18 from other parties who must contribute that share of the
19 capital cost?

20 MR. ROBIN WIENS: I guess more precisely
21 there has not been an effort to recover what would be
22 their appropriate share of the cost.

23 MR. MICHAEL ANDERSON: And if I
24 understand correctly, Mr. Wiens, that these costs arise
25 as a result of delay, what is Manitoba Hydro's intention

1 in respect of the treatment given to the interests and
2 depreciation costs for this remaining million dollars for
3 which Manitoba Hydro has yet to pursue recovery?

4 MR. ROBIN WIENS: Well, I believe we
5 discussed this issue, or discussed around this issue
6 yesterday again with Ms. Bowman, that, to date, those
7 costs, to the extent they are being recovered, they're
8 being recovered from Manitoba Hydro's grid customers.

9 MR. MICHAEL ANDERSON: In the interim --
10 but would this remain -- would Manitoba Hydro also assess
11 and include in rates the interest and depreciation
12 related to the delay in receiving the \$1 million
13 remaining and outstanding contribution for Tadoule
14 diesel?

15 MR. ROBIN WIENS: There is nothing in
16 this Application to collect this in rates, either the
17 capital amount or the interest and depreciation thereon.

18 MR. MICHAEL ANDERSON: Mr. Wiens, I'm
19 just wondering, is it Manitoba Hydro's intention to
20 assess interest and depreciation to whomever is being
21 looked to to pay this outstanding million dollars?

22

23

(BRIEF PAUSE)

24

25 MR. ROBIN WIENS: Manitoba Hydro will

1 attempt first to approach those other parties in respect
2 of a contribution and, depending on the outcome of that,
3 it may be appropriate to seek interest and depreciation
4 on the amount on recovery.

5 MR. MICHAEL ANDERSON: Would it -- would
6 it be Manitoba Hydro's expectation, recognizing that
7 you've just described discussions in negotiations, and --
8 and I heard that answer, Mr. Wiens, to treat this --
9 these other customers in the same manner in which the
10 contribution received from IN -- Indian and Northern
11 Affairs Canada on behalf of the Sayisi Dene First Nation,
12 calculated and treated in the same way in terms of the
13 recognition of when the capital expenditures were
14 actually incurred by Manitoba Hydro?

15 MR. ROBIN WIENS: Yes.

16 MR. MICHAEL ANDERSON: Thank you.

17

18 (BRIEF PAUSE)

19

20 MR. MICHAEL ANDERSON: I'd like to
21 explore the Tadoule diesel project a bit, Mr. Wiens and
22 Mr. Warden. And if you could go with me to Volume II.
23 It'll be a little bit to get it, and I'll try to describe
24 its location as well as -- well as possible. It's Volume
25 II, Appendix 2, Attachment 2. And you'll note that

1 there's a series of -- of emails regarding the
2 discussions regarding the Tadoule diesel plant that was
3 discussed by several parties.

4 What I'm asking you to look for, if you
5 would, is -- the best I can describe it, I think, is
6 about 3 -- 2 millimetres up from the tab marked
7 "Attachment 3." I have to say, Mr. Chair, that one of
8 the reasons I page number my large attachment is because
9 I'm often in front of the chiefs of assembly saying,
10 "Chiefs, please turn to tab," page, and then try and get
11 to it.

12 It says "Questions from Michael Anderson."
13 And it's a portrait layout -- a landscape layout page
14 that says "Questions from Michael Anderson" at the upper
15 lefthand corner. And when everyone has found that, I'd
16 be pleased to proceed, Mr. Chair. That's Volume --
17 Volume II, Appendix 2, Attachment 2. That's it, Ms.
18 Bowman.

19 Do you have that, Mr. Warden, Mr. Wiens?
20 Mr. -- is Mr. Cox still on?

21 MR. ROBIN WIENS: I -- I think we have.
22 And -- and I think the -- the for -- the format is
23 landscape.

24 MR. MICHAEL ANDERSON: Yes, I did say
25 portrait, and it is landscape. Thank you.

1 You'll note that, at the very top, we were
2 dealing with a -- an earlier estimate at \$1.5 million.
3 Is that correct, Mr. Wiens?

4 MR. ROBIN WIENS: Yes.

5 MR. MICHAEL ANDERSON: And this
6 discussion, in describing the -- the core, one of the
7 rationale, important rationale for this particular
8 generator, was answered at question 2, and it was
9 described as requiring service for a cold load pickup of
10 two point o (2.0), or two (2) times. Could -- would you
11 please explain that, Mr. Wiens, what a cold load pickup
12 of two (2) times is? Or Mr. Cox?

13 MR. ROBIN WIENS: Cold load pickup refers
14 to the capacity that has to be available following a loss
15 of generation in the community in order to be assured
16 that when the normal diversity among electricity-using
17 appliances is not in place because everybody's coming
18 back on at once, that the equipment has to be -- have the
19 capacity in order to be able to sustain that load.

20 MR. MICHAEL ANDERSON: So as I understand
21 that, Mr. Wiens, if the community is completely blacked
22 out due to a generator shutdown, it's literally meaning
23 to turn everything in the community on times two (2), is
24 that correct? That is, a startup load twice the actual
25 connected load in the community?

1 MR. ROBIN WIENS: No, Mr. Anderson, and
2 we're getting into some technical ground here, so I may
3 struggle a bit with it, but my understanding of that is
4 that the normal peak load -- if you take the normal peak
5 load under normal conditions, the normal peak load of the
6 system, and you multiply that by two (2) in order to come
7 up with the requirement to meet cold load pickup
8 requirements.

9 MR. MICHAEL ANDERSON: Thank you, Mr.
10 Wiens.

11

12 (BRIEF PAUSE)

13

14 MR. MICHAEL ANDERSON: Now I'm going to
15 go back to cold load pickup in a minute. I just had
16 wanted to characterize that this load was to meet a
17 service requirement as distinct from ongoing average
18 loads or peak loads in the community, is that correct?

19 MR. ROBIN WIENS: It's to be able to meet
20 the reliability requirements.

21 MR. MICHAEL ANDERSON: All right. Thank
22 you. As distinct from meeting the anticipated existing
23 load?

24 MR. ROBIN WIENS: Yes, that -- that is
25 correct. Every electrical system has to be able to have

1 some reserve capacity over and above the anticipated peak
2 load, and in the case of diesel generation, it's -- it's
3 quite a bit more than it is on the integrated system.

4

5

(BRIEF PAUSE)

6

7

MR. MICHAEL ANDERSON: Okay, Mr. Wiens.

8

I just wanted to -- to understand the -- the core

9

elements of the cost of this installation. If we go to

10

the second page, which is marked page 3 at the bottom,

11

item 3 at the top, it -- it begins at paragraph:

12

"Steve advised that the generator..."

13

By the way, for the clarity of those that

14

are reading this table, all of the text in black I had

15

written in an email, and the responses are in blue.

16

So I just wanted to be clear that this

17

generator was -- had been previously sited in Shamattawa.

18

Is that correct, Mr. Wiens?

19

MR. ROBIN WIENS: Yes.

20

MR. MICHAEL ANDERSON: And the

21

distinction between it not installed and then removed

22

referred to in the answer, being held in Shamattawa as an

23

-- as a spare, can you describe what that means? Was it

24

available to serve load in Shamattawa? Was it connected

25

to the Shamattawa service?

1 (BRIEF PAUSE)

2

3 MR. ROBIN WIENS: My understanding is
4 that it was not providing service at the time.

5 MR. MICHAEL ANDERSON: Thank you, Mr.
6 Wiens. The next question was regarding the -- that
7 particular unit status as a capital asset, and could you
8 read the answer to 3(a) for me, please, Mr. Wiens?

9 MR. ROBIN WIENS: The answer?
10 "The cost for the Tadoule Lake
11 generator unit is already in Manitoba
12 Hydro's diesel asset inventory."

13 MR. MICHAEL ANDERSON: Meaning then -- do
14 I understand correctly then that the capital cost of that
15 unit, it was zero because it was already within Hydro's
16 system and paid for?

17 MR. ROBIN WIENS: The capital cost of
18 that unit, as it stood in Shamattawa at that time, was
19 already in -- in Manitoba Hydro's -- had already been
20 taken into Manitoba Hydro's books, yes.

21 MR. MICHAEL ANDERSON: Thank you. So it
22 was fully depreciated for which there was no
23 undepreciated capital amount remaining?

24 MR. ROBIN WIENS: You know, I'd have to
25 go back in the records. I really have no idea of that.

1 MR. MICHAEL ANDERSON: Subject to check,
2 would it be fair to say that the undepreciated capital
3 amount that was incorporated in the tentative settlement
4 agreement would have incorporated any remaining
5 undepreciated capital associated with this generator set?

6 MR. ROBIN WIENS: I would expect so, yes.

7 MR. MICHAEL ANDERSON: So in essence we
8 were taking a generator that we had already had in the
9 system that was paid, or about to be fully paid, and
10 refurbished, and then shipped to Tadoule Lake.

11 Is that correct, Mr. Wiens?

12 MR. ROBIN WIENS: Generally speaking,
13 yes. The -- the unit was, as you say, refurbished. It
14 was shipped to Tadoule Lake. It was integrated into the
15 power house system at Tadoule Lake.

16 MR. MICHAEL ANDERSON: Okay. And -- and
17 without going through in -- in detail each of the steps
18 in each of my questions, if we go to the next page, I ask
19 at item (f) to have the -- the core costs of this process
20 itemized.

21 And could then you read the answer to (f)
22 into the record, please?

23 MR. ROBIN WIENS: Well, the question
24 related to the capital cost associated with the
25 installation of a refurbished unit already in Manitoba

1 Hydro's inventory, and you asked:

2 "...would therefore be expected to be
3 comprised of..."

4 And you quoted certain types of costs.

5 And the response was:

6 "Approximately seventy-two thousand
7 (72,000) in refurbishment cost, ten
8 thousand dollars (\$10,000) approximate
9 transportation cost, six hundred and
10 three thousand dollars (\$603,000)
11 installation and commissioning costs,
12 for a total of six hundred and eighty-
13 five thousand dollars (\$685,000)."

14 MR. MICHAEL ANDERSON: And as clarified
15 in Item G, it was my understanding that the generator was
16 being installed in a -- a generator plant in Tadoule Lake
17 that was already designed and pre-built to receive the
18 generator unit.

19 Is that correct, that there was no
20 additional plant cost required?

21 MR. ROBIN WIENS: It says:

22 "There was no additional cost
23 associated with fuel storage, tanks,
24 lines, et cetera, as they were not
25 required."

1 MR. MICHAEL ANDERSON: So the answer to
2 (f) then is the cost of installing and bringing up to
3 operational status the generator at Tadoule Lake?

4 MR. ROBIN WIENS: It relates to the costs
5 that are described in the response to the question.

6 MR. MICHAEL ANDERSON: Mr. Wiens, then if
7 you could help me, because as we have broken this down
8 into the -- the core costs, could you please explain what
9 commissioning is?

10 I had asked the question, and you had
11 answered, but I just wanted to understand that these
12 costs describe the refurbishment, the transportation, the
13 installation, and commissioning.

14 And I understand commissioning to mean
15 bringing it into a state of operational service at
16 Tadoule Lake.

17 MR. ROBIN WIENS: That would be correct.

18 MR. MICHAEL ANDERSON: Thank you. If we
19 look at the next page, which is marked at the top,
20 "Questions from Fred Mills," we have a series of other
21 costs that are not broken down in the same fashion that
22 total \$1.577 million.

23 Can you please explain the difference
24 between the numbers in the response to bring the unit to
25 service capacity -- you know, into service in Tadoule

1 Lake at approximately six hundred and ninety thousand
2 dollars (\$690,000), and the \$1.5 million totalled at the
3 bottom of the -- page 5 of that series?

4 MR. ROBIN WIENS: I'm -- I'm sorry, I
5 cannot give you an explanation of that without further
6 consultation.

7 MR. MICHAEL ANDERSON: Would you please
8 undertake to provide a reconciliation of the answers
9 given to me at page 4 of that series of documents that
10 we've gone through at my 3(f) and the numbers provided to
11 Mr. Mills in the table that appears at page 5?

12 MR. ROBIN WIENS: We'll undertake to do
13 that.

14 MR. MICHAEL ANDERSON: Thank you.

15
16 --- UNDERTAKING NO. 13: Manitoba Hydro to provide a
17 reconciliation of the answers
18 given to Mr. Anderson on page
19 4 of the series of documents
20 gone through at 3(f), and the
21 numbers provided to Mr. Mills
22 in the table that appears at
23 page 5

24
25 MR. MICHAEL ANDERSON: Mr. Chair, if I

1 might have a brief moment just to ask -- I wanted to ask
2 a question of my colleague, Ms. Hart. Thank you.

3

4

(BRIEF PAUSE)

5

6 CONTINUED BY MR. MICHAEL ANDERSON:

7

MR. MICHAEL ANDERSON: Thank you, Mr.
8 Chair. There's been a number of documents and questions
9 raised, and I must confess, I've been in and out and
10 working on things. If you could please just for a moment
11 refer to INAC-5, Mr. -- Mr. Warden and Mr. Wiens, which,
12 of course, is the April 1st, 1997 diesel remediation
13 agreement, as we've called it in short form.

14

15

16

17

18

19

20

21

(BRIEF PAUSE)

22

23

24

25

MR. MICHAEL ANDERSON: It has the stamp
upper right-hand corner, "Received March 27th, 1997,
Manitoba Hydro construction."

1 (BRIEF PAUSE)

2

3 MR. MICHAEL ANDERSON: You have it now,
4 Mr. Wiens?

5 MR. ROBIN WIENS: I do.

6 MR. MICHAEL ANDERSON: Thank you. With -
7 - I don't intend to get into details on the items on
8 Schedule 'A', but if you could briefly bring your
9 attention to Schedule 'A'.

10 And, for the record, Mr. Wiens, can you
11 just briefly describe what Schedule 'A' represents of
12 this Agreement, just as a general description so that the
13 record is clear?

14 MR. ROBIN WIENS: Well, without having
15 read completely the Agreement, I would look at this and I
16 would say that this is a listing of the sites that were
17 intended to be covered by it.

18 MR. ROBERT MAYER: That is set out in the
19 definition section on page 3 of the Agreement.

20 MR. MICHAEL ANDERSON: Thank you, Mr.
21 Vice-Chair.

22

23 CONTINUED BY MR. MICHAEL ANDERSON:

24 MR. MICHAEL ANDERSON: And if we look at
25 the column in the centre marked "Canada percentage,"

1 would you just accept the simple description that it also
2 divides the portions of which each remediation project
3 will be assumed by either Canada or Hydro? If we follow
4 the column that says "Canada" down under the bottom
5 column, it has Hydro's share.

6 MR. ROBIN WIENS: Yes, I see that and
7 I'll agree to that.

8 MR. MICHAEL ANDERSON: Thank you. In
9 general, can you describe the status of those projects on
10 this list in terms of whether they're at the beginning
11 stages, whether they're complete, in a general sense?

12 MR. ROBIN WIENS: I can't give you a
13 definitive answer to that, Mr. Anderson, but I believe
14 that most of them would be completed.

15 MR. MICHAEL ANDERSON: Thank you. That,
16 essentially, in general terms, is what I was wanting. If
17 you could please turn the page to Schedule 'B'. And if
18 you could -- realizing that you've indicated that you're
19 not -- haven't had an opportunity to read this agreement,
20 the title of the document is "Principles in Respect to
21 Community Participation."

22 Would you accept that in general this also
23 describes the mechanisms by which the parties, with
24 Canada and Manitoba Hydro, will consult and communicate
25 with each First Nation affected by the projects

1 identified at Schedule 'A'?

2 MR. ROBIN WIENS: That would appear to be
3 the intent.

4 MR. MICHAEL ANDERSON: Are you aware
5 whether or not the processes as set out on Schedule 'B'
6 were followed in respect of the projects identified on
7 Schedule 'A' in respect of communication and consultation
8 with the First Nations affected by the projects?

9 MR. ROBIN WIENS: Personally I don't have
10 knowledge of it, no.

11 MR. MICHAEL ANDERSON: I would ask if
12 possible if Manitoba Hydro would make an undertaking to
13 provide a general description of the application of the
14 community participation process under Schedule 'B' for
15 the projects in which it was involved.

16 MR. ROBERT MAYER: Excuse me, Mr.
17 Anderson, could you please tell us the relevance of that
18 in light of the only community that is subject matter of
19 these proceedings is -- that is mentioned in Schedule 'A'
20 is Tadoule Lake, which shows that the project was
21 completed sometime ago.

22 MR. MICHAEL ANDERSON: Yes, Mr. Mayer, I
23 appreciate that. I also thank you for your bringing to
24 everyone's attention the exclusion -- or the exception to
25 the release at Item 10.

1 The purpose of my comments is simply that
2 there has been considerable discussion about mechanisms
3 for engaging in community consultation regarding capital
4 projects. We have identified in this proceeding that the
5 cost of remediation is one (1) of the highest cost
6 capital projects in the diesel service.

7 This appears to provide -- although I'm
8 making this statement without an endorsement by MKO
9 because we were not involved in the drafting of this
10 agreement. Having said that, this does provide a
11 mechanism, a rather robust mechanism for engagement of
12 communities to which Manitoba Hydro is a signatory and
13 has made agreements. This is a commitment of Manitoba
14 Hydro.

15 MR. ROBERT MAYER: I understand. Thank
16 you.

17 MR. MICHAEL ANDERSON: Yes. You're
18 welcome. Thank you for the question, Mr. Vice-Chair.

19 MS. PATTI RAMAGE: If I can interject
20 though, you requested an undertaking. And following up
21 on Mr. Mayer's comments, while I understand where you're
22 going, this is an agreement between Manitoba Hydro and
23 INAC and I don't understand what the relevance -- because
24 we are dealing with, in terms of time frames, in terms of
25 getting back undertakings, it's not clear to me what the

1 relevance of what this is to our proceedings --

2 MR. MICHAEL ANDERSON: Well --

3 MS. PATTI RAMAGE: -- today and why --

4 MR. MICHAEL ANDERSON: -- that --

5 MS. PATTI RAMAGE: -- that undertaking is
6 required.

7 MR. ROBERT MAYER: I thought I got the
8 answer because the -- the -- in Section 10, there's a
9 clear reference to the four (4) that -- that you haven't
10 released INAC from responsibility for the four (4)
11 existing sites that are mentioned today. And you have
12 relied on this agreement in your argument, rebuttal
13 argument, to deal with the -- the whole -- as one of the
14 reasons that you did not -- let me get this straight.

15 It's one of the rea -- you thought you
16 were dealing with remediation differently than it what --
17 and it wasn't likely to be part of the, quote,
18 "settlement agreement", negotiated settlement, the one
19 that hasn't been signed, but you were relying on the
20 provisions of this agreement because you thought that was
21 still -- it was still an open issue. That is I -- is how
22 I understood your argument in the -- in your rebuttal.
23 And I -- I can point out...

24 MS. PATTI RAMAGE: No, I think there's
25 been a misunderstanding.

1 MR. ROBERT MAYER: Well, okay.

2 MS. PATTI RAMAGE: If I could just
3 address that. I -- I believe what went in the rebuttal
4 was in response to a statement in Mr. Mills' evidence
5 that suggested that INAC did not have knowledge of the
6 project and then we -- that Manitoba Hydro filed some
7 correspondence dealing with it that referenced this
8 agreement.

9 I don't think the intent was today to
10 suggest that Manitoba Hydro intends to rely on this
11 agreement to require Canada to pay the Brochet soil
12 remediation costs.

13

14 (BRIEF PAUSE)

15

16 MS. PATTI RAMAGE: It's page --

17 MR. ROBERT MAYER: The rebuttal evidence
18 is on page -- the issue is on page 34 of 51, it starts,
19 and we get the mention of the 1997 diesel remediation
20 site agreement on page 35, I think, for the first time.

21 MS. PATTI RAMAGE: No, I think what --
22 that's under a different topic. That's just dealing with
23 how remediations in general, the past remediations, were
24 dealt with. I think where you're looking for is back at
25 page 4.

1 MS. MARY ANN THOMPSON: If it may assist
2 the Board and counsel. The first reference, I believe,
3 starts at page 3.

4 MR. MICHAEL ANDERSON: Ms. Thompson, do I
5 have that at line 15, beginning at line 15? Is that your
6 reference, of page 3 of the rebuttal evidence?

7 MS. MARY ANN THOMPSON: I have it at --

8 MR. ROBERT MAYER: I'm talking -- I see
9 it at -- well, 31 I --

10 MS. MARY ANN THOMPSON: Line 31.

11 MR. ROBERT MAYER: Yeah.

12 MS. MARY ANN THOMPSON: It's in regard to
13 the matter of consultation in that part of the rebuttal
14 evidence.

15 MS. PATTI RAMAGE: That's correct, and --
16 and it's not -- Manitoba Hydro's not suggesting that the
17 Brochet soil remediation is covered by that 1997
18 agreement. I believe the staff at the time may well have
19 thought -- we're explaining how they thought it was under
20 a separate track. We're not proposing today -- we
21 certainly didn't issue a claim under the 1997 agreement,
22 or there was no litigation under that agreement.

23 MS. MARY ANN THOMPSON: I believe Mr.
24 Anderson's point is that the agreement does provide quite
25 a bit of information about the subject of consultation

1 that was obviously known and understood.

2 MS. PATTI RAMAGE: At that time, and my
3 point is that we have a new process developed under a new
4 agreement, so I'm not sure why this old agreement, the
5 consultation under that agreement, is relevant.

6 MR. ROBERT MAYER: Maybe because we
7 haven't seen it, the new agreement.

8 MS. PATTI RAMAGE: I'm hoping tomorrow.

9 MR. ROBERT MAYER: This is getting a
10 little confusing, you understand this. We can't see this
11 thing until we all go into closed session.

12

13 (BRIEF PAUSE)

14

15 MS. PATTI RAMAGE: To what extent its
16 relevant is it not on the page is what I'm simply -- if
17 there is -- and I don't think there is, but if there is,
18 there's -- it's described in the page to have -- require
19 Manitoba Hydro to go back and -- and look at what
20 happened. I'm just concerned with the efficiency.

21 MR. ROBERT MAYER: If you have a new one
22 of these in an agreement that you and Mr. Anderson and
23 INAC have seen, then I don't suppose this is relevant.
24 But I don't know that. And if you didn't, then I would
25 consider that to be a relevant document to be looking at

1 if you were designing one and if this was what was
2 holding up the signing of this agreement that we haven't
3 seen yet.

4 But if it's in it, and you are assuring us
5 that it is, then, of course, the old one probably isn't
6 relevant.

7 MS. PATTI RAMAGE: I am -- what I am
8 suggesting is the -- that the tentative -- terms of the
9 tentative settlement agreement, when you see it tomorrow,
10 should speak for itself.

11 As to what was agreed going forward, we
12 shouldn't be looking at old agreement that do not apply
13 to these sites, and that have, in fact, I believe, well,
14 expired or terminated. They're no longer applicable.

15 THE CHAIRPERSON: Well, we have tomorrow
16 to look forward to.

17 Mr. -- Mr. Anderson, do you want to carry
18 on?

19 MR. MICHAEL ANDERSON: Thank you, Mr.
20 Chair. I'm -- I'm almost of a mind to ask to reserve
21 some additional questions on this matter after we see the
22 other agreement, to return to comments --

23 THE CHAIRPERSON: That's not a --

24 MR. MICHAEL ANDERSON: -- on its
25 relevance, but I will --

1 THE CHAIRPERSON: That's not an
2 unreasonable position to take, Mr. Anderson.

3 MR. MICHAEL ANDERSON: Thank you.
4 Because there are some -- some questions -- without
5 having asked and been granted that, I'll defer my
6 questions. Perhaps I'll make the request.

7 I would like to make the request that I
8 defer some of my questions on this agreement until after
9 we've had the opportunity to review the tentative
10 settlement agreement in camera .

11 THE CHAIRPERSON: Okay.

12 MR. MICHAEL ANDERSON: Thank you, Mr.
13 Chair.

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: How much time, Mr.
18 Anderson, are you going to -- do you think you'll
19 require, leaving aside this one (1) issue?

20 MR. MICHAEL ANDERSON: I have a -- a
21 little ways to go. I have -- I think probably about half
22 an hour to forty-five (45) minutes. I'm happy to have
23 served in the role of facilitator for the discussion.
24 It's one (1) I'm comfortable with having, and I'm
25 grateful for your interventions on -- on all parties.

1 THE CHAIRPERSON: Okay.

2 MR. MICHAEL ANDERSON: However --

3 THE CHAIRPERSON: All right. Abse -- or

4 --

5 MR. MICHAEL ANDERSON: -- having said
6 that, I have family responsibilities that I would
7 otherwise need to attend to within that forty-five (45)
8 minute framework, so I leave that to the Board's
9 discretion.

10 Ordinarily the Board rises approximately
11 now until about ten (10) to quarter after. I'm -- I can
12 accommodate that, certainly.

13 MR. ROBERT MAYER: Mr. Anderson, are you
14 telling us you want to go to quarter after, or you want
15 to go forty-five (45) minutes?

16 MR. MICHAEL ANDERSON: Mr. Ch -- Mr.
17 Vice-Chair, if I had a choice I would prefer to be able
18 to go for fifteen (15) minutes --

19 THE CHAIRPERSON: So be it.

20 MR. MICHAEL ANDERSON: -- and then attend
21 to my family responsibilities.

22 THE CHAIRPERSON: So be it.

23 MR. MICHAEL ANDERSON: Thank you, Mr.
24 Chair. And thank you for asking.

25

1 CONTINUED BY MR. MICHAEL ANDERSON:

2 MR. MICHAEL ANDERSON: I was interested
3 in the discussion I -- I'm still on back in thinking
4 about the Shamattawa costs.

5 And in this one (1), again without going
6 over the ground Ms. Hart had travelled in respect of the
7 repairs to the generator caused, as I understand, by an
8 inadvertent ingestion of fire extinguishing material into
9 the generator while it was under service.

10 Is that correct?

11 MR. ROBERT MAYER: It wasn't inadvertent,
12 Mr. Anderson. It appears to have been a criminal act.

13

14 CONTINUED BY MR. MICHAEL ANDERSON:

15 MR. MICHAEL ANDERSON: Is -- well,
16 without asking for a legal opinion on its criminality, is
17 that correct that it -- the entire event was as result of
18 a -- a breaking beyond the control of Manitoba Hydro?

19 MR. ROBIN WIENS: That's what I'm
20 informed, yes.

21 MR. MICHAEL ANDERSON: And it was in no
22 way part of any ordinary operations? No employee
23 discovered the generator in a certain state, and applied
24 the fire extinguishing material?

25 MR. ROBIN WIENS: To my knowledge, no.

1 MR. MICHAEL ANDERSON: Well, the
2 discussion that certainly came to my -- the thought that
3 came to my mind in listening to Ms. Hart is, would that
4 not ordinarily be an insurable event for which the
5 damages would be covered by insurance?

6 MS. PATTI RAMAGE: Mr. Anderson, we have
7 an undertaking on this. If you recall, Mr. Warden
8 indicated our deductible is -- is quite high, and that it
9 wouldn't -- this would likely not meet that threshold,
10 but we would confirm that.

11 MR. MICHAEL ANDERSON: So the
12 undertaking, as I recall then, was the amount of the
13 deductible, and how a claim might be applicable in the
14 cir -- may or may not be applicable in the circumstance?

15 MR. VINCE WARDEN: Yes.

16
17 --- UNDERTAKING NO. 14: Manitoba Hydro to provide the
18 amount of insurance
19 deductible, and how a claim
20 may or may not be applicable
21

22 CONTINUED BY MR. MICHAEL ANDERSON:

23 MR. MICHAEL ANDERSON: I have been
24 listening to -- with interest to the discussion on the
25 transfer of Provincial Government accounts to general

1 service, and the use of the term segregate all Federal
2 Government customers into one (1) rate class for the
3 purpose of this Application as it appears in the
4 Application.

5 I don't know if I heard clearly, or under
6 -- I certainly don't understand the policy basis being
7 applied by Manitoba Hydro to segregate the Federal
8 customers into a class that continues to pay the
9 government rate, and to reclassify, in effect, the former
10 Provincial Government customers that paid the equivalent
11 of a government rate to general service.

12 Would -- would you please assist me in
13 understanding the policy rationale applied for Manitoba
14 Hydro to make such a distinction by segregating Federal
15 customers?

16 MR. VINCE WARDEN: Well, Mr. Anderson, it
17 simply recognizes the responsibility of the Federal
18 Government to those First Nations. I think, as requested
19 by the Chair at the outset, the -- perhaps the
20 constitutional response -- the constitutional
21 responsibility of the province versus the Federal
22 Government might make this a little bit clearer to you,
23 and it may not.

24 MR. MICHAEL ANDERSON: That was going to
25 be my next question, Mr. Warden, and I would look for --

1 forward to further elaboration on this matter in what I
2 understand to be a written submission on the duty to
3 serve that's forthcoming, is that correct?

4 MR. ROBERT MAYER: We're going to be
5 really interested to hear your position --

6 MS. PATTI RAMAGE: It's not on the duty
7 to serve.

8 MR. ROBERT MAYER: -- on it, Mr.
9 Anderson.

10 MS. PATTI RAMAGE: It's on the
11 constitutional question. There were -- there's nothing
12 to do with duty to serve in that question.

13

14 CONTINUED BY MR. MICHAEL ANDERSON:

15 MR. MICHAEL ANDERSON: Then if you could
16 assist me, Mr. Warden. The position that is forthcoming
17 that will be presented by Manitoba will describe what in
18 respect to --

19 MR. VINCE WARDEN: We're talking about --
20 Mr. Anderson, we're talking about responsibility for
21 costs. And we believe that the Federal Government has a
22 higher responsibility than does the Provincial
23 Government.

24 MS. PATTI RAMAGE: If I can help you, Mr.
25 Anderson, I'll quote back what the Chair requested us

1 reply. And it says:

2 "With respect to the matter of
3 responsibility, we seek your views of
4 the constitutional responsibility or
5 responsibilities of the Federal and
6 Provincial Governments."

7 MR. MICHAEL ANDERSON: Thank you, Ms.
8 Ramage. That is my recollection. I'll look forward to
9 reading Manitoba Hydro's further comments in this matter.

10

11 CONTINUED BY MR. MICHAEL ANDERSON:

12 MR. MICHAEL ANDERSON: In respect of
13 understanding the change, the impact of it, I -- I had
14 one (1) question about the -- the customers affected that
15 are self-evident, I think, from some material, and just a
16 moment I'll make a reference.

17

18 (BRIEF PAUSE)

19

20 MR. MICHAEL ANDERSON: I'm working
21 through the giant -- the -- the considerably thick
22 unmarked pieces of material in -- in Volume II. I
23 apologize. It's Volume II, Attachment -- Volume II,
24 Appendix 2, Attachment 1, and it's one (1), two (2),
25 three (3), four (4) -- it's the fifth, sixth, and seventh

1 pages. It's a la -- landscape layout table.

2 I'll repeat that. It's Volume II,
3 Appendix 2, Attachment 1, the fifth, sixth, and seventh
4 pages in.

5

6 (BRIEF PAUSE)

7

8 MR. ROBIN WIENS: Yes, Mr. Anderson, I am
9 on the fifth page.

10 MR. MICHAEL ANDERSON: And the table is
11 entitled "Diesel Community Electricity Usage Kilowatt
12 Hour by Community for Fiscal Years Ending March 31,
13 2005," is that correct, Mr. Wiens?

14 MR. ROBIN WIENS: Yes.

15 MR. MICHAEL ANDERSON: All right. If we
16 look at these columns, and particularly where I'm going
17 with this is the -- the information provided for
18 Provincial Government accounts, with the exception of
19 Brochet, Mr. Wiens, are all of the Provincial Government
20 accounts totalling less than 2 percent of total
21 consumption in those communities?

22 MR. ROBIN WIENS: Yes.

23 MR. MICHAEL ANDERSON: And then, as you
24 have averaged it at the bottom of the sixth page, the
25 average consumption -- four (4) year average consumption

1 for the Provincial Government accounts as 3.6 percent?

2 MR. ROBIN WIENS: Yes.

3 MR. MICHAEL ANDERSON: If we go -- if we
4 go to the top of the sixth page, which, if we flip back
5 one (1), we'll note is the information for Brochet, we
6 note that the Provincial Government accounts consume
7 about 12 percent of the electricity over those four (4)
8 year periods. Is that correct, Mr. Wiens?

9 MR. ROBIN WIENS: Yes.

10 MR. MICHAEL ANDERSON: Am I correct in
11 understanding that this distinction -- that this
12 consumption is primarily Frontier School at Brochet?

13 MR. ROBIN WIENS: Well, the school is a
14 part of it, and perhaps a substantive part. I'm not able
15 to say whether it is primarily the school division.

16 MR. MICHAEL ANDERSON: I'm interested,
17 Mr. Wiens, if it's -- if it's possible, given that all
18 four (4) of the other communities appear to have a very
19 similar consumption at something less than 2 percent, to
20 ask that the Provincial Government accounts that give
21 rise to this 11 -- 6. -- 11.6 percent, 12 percent, be
22 identified, without necessarily identifying the
23 individual other customers, but I'm interested in the
24 consumption of Frontier School.

25 And since we know that they're a customer

1 in Brochet and they're one of the accounts, it would seem
2 not to act contrary to Manitoba Hydro's information,
3 except perhaps in respect of the percentage of
4 consumption that they share.

5 MR. ROBIN WIENS: We -- we don't normally
6 make available on the public record consumption data from
7 individual customers. It's not our practice.

8 MR. MICHAEL ANDERSON: Including as a
9 percentage of total consumption for --

10 MR. ROBIN WIENS: Well, that can easily
11 be --

12 MR. MICHAEL ANDERSON: Interpolated.
13 Well, I would hazard to say there's a room full of people
14 who could easily interpolate the correct information from
15 that percentage.

16 Having said that, then, Mr. -- Mr. Wiens,
17 are -- are you -- do you recall the testimony that -- or
18 the submission that the Frontier School officials gave
19 during the prior diesel rate proceeding in respect of the
20 manner in which they raised the funds to pay their costs?
21 That is, do you recall that Frontier School Division
22 raises the money to pay for its costs through school
23 taxes?

24 MR. ROBIN WIENS: I don't recall the
25 details of that presentation by Frontier School, but the

1 record is there and I can go back and check it, so I -- I
2 will take -- I will accept what you're saying, subject to
3 check.

4 MR. MICHAEL ANDERSON: Thank you, Mr.
5 Wiens. And would it then not follow that an additional
6 benefit of the reclassification of Provincial Government
7 accounts to general service is that it would have
8 presumably an effect on the taxes raised by Frontier
9 School Division, that it would reduce the costs necessary
10 to be raised through tax, through a general mill rate
11 charged to all persons in the Frontier School Division?

12 MR. ROBIN WIENS: I -- I -- I expect,
13 other things being equal, that would follow, but there's
14 a lot of other things that I'm not aware of.

15 MR. MICHAEL ANDERSON: In terms of the
16 interests certainly of the diesel First Nations and the
17 item of transmission interconnect to the Manitoba Hydro
18 or other grid -- and I will address that later,
19 Saskatchewan in particular -- does this not affect any --
20 by reducing the costs being faced by Frontier School and
21 other provincial customers, would not another effect be
22 that the price signal being sent to these customers
23 causes them to be, shall we say, less vocal regarding
24 insisting on reduced rates in the diesel zone? Would
25 that be a reasonable assumption to make?

1 MR. ROBIN WIENS: Sorry, Mr. Anderson.
2 Could you repeat the -- the last part of your question?

3 MR. MICHAEL ANDERSON: In that we've
4 agreed in principle, subject to check on the evidence --
5 or the submission of the Frontier School Division that
6 they raise fees through taxes, and that they would have
7 less money to collect through tax.

8 Wouldn't -- would it now follow that the
9 Frontier School Division might also become less vocal
10 about insisting on mech -- methods to reduce the cost of
11 service in the diesel First Nation, particularly as it
12 affects their bills in Brochet?

13 MR. ROBIN WIENS: I can't really speak
14 for the Frontier School Division, as to whether they
15 would be more or less vocal. They're still subject to a
16 tail rate of forty-five (45) cents a kilowatt hour, which
17 is a fairly substantial price signal.

18 MR. MICHAEL ANDERSON: But it's
19 considerably less as a price signal than the rates that
20 they were previously charged, and that would otherwise
21 appear in this applic -- had the government rate
22 equivalent been charged to Frontier School?

23 MR. ROBIN WIENS: Yes, of course, it is
24 less.

25 MR. MICHAEL ANDERSON: I leave -- I leave

1 it for Frontier School to -- to present its position
2 otherwise.

3 On the same sort of issue though, if the
4 Provincial Government were doing a benefit cost analysis
5 of the construction of a transmission line to these four
6 (4) communities, would not reclassifying into general
7 service have a -- an effect on a positive benefit cost
8 analysis, i.e., that it would reduce the -- the benefit
9 to the province of building a transmission line due to
10 their reduced rate?

11 MR. ROBERT MAYER: The province doesn't
12 build transmission lines. And the province doesn't pay
13 for transmission lines.

14 MR. MICHAEL ANDERSON: Mr. Mayer, if I
15 recall, the cost sharing arrangement for the North
16 Central transmission line was Manitoba, Manitoba Hydro,
17 and Canada.

18 MR. ROBERT MAYER: And that's what
19 happened in the North Central transmission line. I
20 haven't seen anybody suggesting we have one (1) of those
21 yet.

22 MR. MICHAEL ANDERSON: I understand.

23 MR. ROBERT MAYER: Mr. Anderson, what I
24 was really going to say, you had mentioned something
25 about family responsibilities. It's now twenty (20)

1 after 4:00.

2 MR. MICHAEL ANDERSON: Thank you, Mr.
3 Mayer. With permission, I -- I would close my questions
4 at this point.

5

6 (PANEL RETIRES)

7

8 THE CHAIRPERSON: Very good. We look
9 forward to seeing you all again tomorrow morning --

10 MR. ROBERT MAYER: Has -- has --

11 THE CHAIRPERSON: -- at nine o'clock.

12 MR. ROBERT MAYER: -- has everybody been
13 told to bring their diaries tomorrow?

14 THE CHAIRPERSON: And, again, tomorrow
15 will be 9:00. We'll be back to the normal start time.

16

17 --- Upon adjourning at 4:18 p.m.

18

19

20 Certified Correct,

21

22

23

24 _____
Cheryl Lavigne, Ms.

25